

Tuesday, September 20, 2022, 7:00 P.M.

Tracy City Hall Chambers, 333 Civic Center Plaza, Tracy

Web Site: www.cityoftracy.org

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

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

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

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

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

Remote Public Comment:

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

- *Comments via:*
 - **Online by visiting** <https://cityoftracyevents.webex.com> and using the following **Event Number: 2554 865 6238** 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 25548656238#8722922#** Press *3 to raise the hand icon to speak on an item.
- *Protocols for commenting via WebEx:*
 - *If you wish to comment on the "Consent Calendar", "Items from the Audience/Public Comment" or "Regular Agenda" portions of the agenda:*
 - *Listen for the Mayor to open that portion of the agenda for discussion, then raise your hand to speak by clicking on the Hand icon on the Participants panel to the right of your screen.*
 - *If you no longer wish to comment, you may lower your hand by clicking on the Hand icon again.*

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

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

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

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

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

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

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

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

CALL TO ORDER
PLEDGE OF ALLEGIANCE
INVOCATION
ROLL CALL
PRESENTATIONS

1. Certificate of Appointment – San Joaquin County Mosquito Abatement District Board
2. Proclamation – National Hispanic Heritage Month

1. CONSENT CALENDAR

- 1.A. APPROVAL OF SEPTEMBER 6, 2022 CLOSED SESSION AND REGULAR MEETING MINUTES
- 1.B. WAIVE SECOND READING OF FULL TEXT AND ADOPT AN ORDINANCE OMNIBUS AMENDMENT OF THE TRACY MUNICIPAL CODE TO (A) UPDATE CHAPTER 4.16, "REGULATIONS PERTAINING TO THE USE OF PARK AND RECREATION AREAS AND FACILITIES" AND CHAPTER 5.12, "CAMP CARS AND TRAILERS," AND (B) ADD PROVISIONS PROHIBITING CERTAIN ACTS, CAMPING, AND STORAGE OF PERSONAL PROPERTY IN PARKS AND PUBLIC AREAS
- 1.C. ADOPT A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH TOWNSEND PUBLIC AFFAIRS, INCORPORATED, FOR THE PERFORMANCE OF FEDERAL ADVOCACY, INTERGOVERNMENTAL, AND GRANT SERVICES FOR AN INITIAL TERM OF FIVE-YEARS, SUBJECT TO THREE 5-YEAR EXTENSIONS, FOR AN ANNUAL AMOUNT NOT TO EXCEED \$60,000 PER YEAR, A MAXIMUM TOTAL AGREEMENT AMOUNT NOT TO EXCEED \$1,200,000, AND AUTHORIZING THE CITY MANAGER TO EXECUTE FUTURE AGREEMENT EXTENSIONS
- 1.D. ADOPT A RESOLUTION AUTHORIZING THE PURCHASE OF VEHICLES AND EQUIPMENT IN THE AMOUNT OF \$1,606,536

2. ITEMS FROM THE AUDIENCE

3. REGULAR AGENDA

- 3.A. INTRODUCE AN ORDINANCE AMENDING SECTION 3.08.580 REGARDING SPECIAL SPEED ZONES OF THE TRACY MUNICIPAL CODE TO UPDATE SPEED LIMITS AS REQUIRED BY THE CALIFORNIA VEHICLE CODE
- 3.B. ADOPT THE FOLLOWING RESOLUTIONS TO FURTHER COMPLY WITH THE JUDGMENT AND PEREMPTORY WRIT OF MANDATE IN *MITRACOS V. CITY OF TRACY, ET AL.*, SAN JOAQUIN COUNTY SUPERIOR COURT CASE NO. STK-CV-UWM-2018-5531: (1) A RESOLUTION RESCINDING RESOLUTION NO. 2020-154 APPROVING FINAL AQUATIC CENTER CONCEPTUAL PLAN WITH A NOT-TO-EXCEED AMOUNT OF \$65 MILLION INCLUDING CONTINGENCY AND SOFT COSTS; (2) A RESOLUTION RESCINDING RESOLUTION NO. 2019-78 APPROVING THE AGREEMENT FOR DEFERRAL OF CERTAIN IMPACT FEES FOR ELLIS GARDENS PHASE 1- 3 (TRACT 3877, TRACT 3906, AND TRACT 3907); AND (3) A RESOLUTION RESCINDING RESOLUTION NO. 2021-116 APPROVING THE AGREEMENT FOR DEFERRAL OF CERTAIN IMPACT FEES FOR ELLIS TOWN AND COUNTRY (TRACT 4007)

- 3.C. ADOPT A RESOLUTION APPROVING THE PROPERTY TRANSFER OPTION AND SALE AGREEMENT WITH JOINT ESCROW INSTRUCTIONS GRANTING TRI-VALLEY – SAN JOAQUIN VALLEY REGIONAL RAIL AUTHORITY A TEN YEAR OPTION TO PURCHASE, FOR INDEPENDENT CONSIDERATION OF \$100 FOR APPROXIMATELY 200 ACRES OF CITY-OWNED EXEMPT SURPLUS LAND LOCATED AT 15580 AND 15178 WEST SCHULTE ROAD (APNs 209-230-029 AND 209-230-030)
- 3.D. ADOPT A RESOLUTION APPROVING THE MAYOR’S COMMUNITY YOUTH SUPPORT NETWORK (MCYSN) RECONNECTING OUR YOUTH (ROY) GRANT PROGRAM FOR FISCAL YEAR 2022-2023 IN THE TOTAL AMOUNT OF \$175,000 TO EIGHT LOCAL NON-PROFIT ORGANIZATIONS AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE FUNDING AGREEMENTS.
- 3.E. ADOPT A RESOLUTION DECLARING CITY OWNED PROPERTY LOCATED AT 729/741 N. CENTRAL AVENUE (APN 235-068-06) AS SURPLUS PROPERTY UNDER GOVERNMENT CODE SECTION 54222 AND ISSUE NOTICE OF AVAILABILITY FOR LEASE OR PURCHASE TO PARTIES DESIGNATED IN THE SURPLUS LANDS ACT
- 3.F. ADOPT A RESOLUTION DECLARING, AS EXEMPT SURPLUS PROPERTY UNDER GOVERNMENT CODE SECTION 54221(G), THE FOLLOWING TWO PROPERTIES OWNED BY THE CITY OF TRACY: 1) 275.43 ACRES OF LAND LOCATED AT 5749 SOUTH TRACY BLVD, APN 25311031/25311016 AT COMMONLY KNOWN AS THE TRACY AIRPORT; AND 2) 393.99 ACRES OF LAND LOCATED AT 505 E. DURHAM FERRY ROAD, APN 25527008 AND COMMONLY KNOWN AS THE NEW JERUSALEM AIRPORT
- 3.G. APPOINT, BY MOTION, A SUBCOMMITTEE OF TWO COUNCIL MEMBERS, AND AN ALTERNATE, TO INTERVIEW APPLICANTS TO FILL ONE TERM VACANCY ON THE TRANSPORTATION ADVISORY COMMISSION
4. ITEMS FROM THE AUDIENCE
5. STAFF ITEMS
6. COUNCIL ITEMS
7. ADJOURNMENT

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

September 6, 2022, 6:30 p.m.

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

1. Mayor Young called the meeting to order at 6:32 p.m.
2. Roll call found Council Members Arriola, Bedolla, Davis and Mayor Pro Tem Vargas present. Mayor Young absent from roll call.
3. ITEMS FROM THE AUDIENCE – None
4. Request to Conduct Closed Session

A. Conference with Legal Counsel – Existing Litigation (Gov. Code Section 54956.9(d)(1))

- i. Case Title: MARY MITRACOS, v. CITY OF TRACY, and SURLAND COMMUNITIES, LLC, CASE NO. C093383; COURT OF APPEAL, STATE OF CALIFORNIA THIRD APPELLATE DISTRICT

Council Member Davis announced she will be recusing herself from discussion on Agenda Item 4.A due to real property in close proximity to the project.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Bedolla to recess to closed session. Roll call found Council Members Arriola, Bedolla, Davis and Mayor Pro Tem Vargas in favor; all in favor; passed and so ordered. Mayor Young absent from roll call. Time: 6:36 p.m.

Mayor Young joined the meeting at 6:56 p.m.

5. Reconvened to Open Session – Time: 7:19 p.m.
6. Report of Final Action – None
7. Council Items and Comments – Mayor Young acknowledged Corporal Bancroft's birthday.

8. Adjournment – Time: 7:21 p.m.

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

The above agenda was posted at the Tracy City Hall on September 1, 2022. The above are action minutes. A recording is available at the office of the City Clerk.

ATTEST:

Mayor

City Clerk

September 6, 2022, 7:00 p.m.

City Hall, 333 Civic Center Plaza, Tracy

Web Site: www.cityoftracy.org

Mayor Young called the meeting to order at 7:21 p.m.

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

Mayor Young led the Pledge of Allegiance.

Pastor Doug Diestler, Mission City Church offered the invocation.

Michael Rogers, City Manager presented the Employee of the Month Award for September to Lacy Starling, Police Department.

Mayor Young presented a Certificate of Recognition to outgoing Transportation Advisory Commissioner Rajnish Khanna.

Mayor Young read a proclamation for Tracy Connects Day.

Mayor Young called for a moment of silence for Dino Margaros, Tracy City Center Association Executive Director who passed away.

1. CONSENT CALENDAR – Following the removal of Consent Item 1.G by Mary Mitracos motion was made Mayor Pro Tem Vargas and seconded by Council Member Arriola to adopt the consent calendar. Roll call found all in favor, passed and so ordered. Council Member Davis abstained from voting on agenda item 1.H.
 - 1.A ADOPTION OF AUGUST 16, 2022 CLOSED SESSION AND REGULAR MEETING MINUTES – **Minutes were adopted**
 - 1.B ADOPT A RESOLUTION MAKING FINDINGS AND RE-AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE CITY COUNCIL AND ALL LEGISLATIVE BODIES OF THE CITY OF TRACY FOR THE PERIOD FROM SEPTEMBER 7, 2022 THROUGH OCTOBER 6, 2022 PURSUANT TO THE BROWN ACT – **Resolution 2022–123** adopted the findings and re-authorized remote teleconferencing.
 - 1.C ADOPT A RESOLUTION AUTHORIZING THE ACCEPTANCE OF \$255,000 FROM THE UNITED STATES DEPARTMENT OF JUSTICE BYRNE DISCRETIONARY COMMUNITY PROJECTS GRANT FOR FUNDING THE POLICE DEPARTMENT'S LICENSE PLATE READER PROGRAM, APPROVING THE APPROPRIATION TO THE POLICE DEPARTMENT'S OPERATIONAL BUDGET FOR FISCAL YEAR 22/23, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AWARD ACCEPTANCE– **Resolution 2022-124** authorized the acceptance of the Grant.

- 1.D STAFF RECOMMENDS THAT THE CITY COUNCIL ADOPT A RESOLUTION APPROVING AMENDMENT NO. 1 TO THE MASTER PROFESSIONAL SERVICES AGREEMENT WITH HDR ENGINEERING, INC. FOR ON-CALL PUBLIC OUTREACH SERVICES WITH A NOT-TO-EXCEED AMOUNT OF \$200,000 PER YEAR AND EXTENDING THE AGREEMENT FROM ONE YEAR TO THREE YEARS – **Resolution 2022-125** approved Amendment No. 1 to the Master Services Agreement with HDR Engineering, Inc.
- 1.E ADOPT A RESOLUTION AUTHORIZING SUBMISSION OF THE BETTER CITIES FOR PETS GRANT APPLICATION FOR THE PROJECTED AMOUNT OF \$20,000 TO PROVIDE LOW COST ALTERATIONS FOR CERTAIN DOG BREEDS AND TO SENIOR CITIZEN OWNERS OF FELINES, AND AUTHORIZING THE CITY MANAGER TO ACCEPT AND EXECUTE THE GRANT AGREEMENT, IF AWARDED– **Resolution 2022-126** authorized the submission of the Better Cities for Pets Grant Application.
- 1.F ADOPT A RESOLUTION APPROVING A TWO-YEAR MASTER SERVICES AGREEMENT WITH FLOCK GROUP, INC. FOR THE INSTALLATION, OPERATION, AND MAINTENANCE OF AUTOMATED LICENSE PLATE READER TECHNOLOGY FOR A NOT TO EXCEED AMOUNT OF \$255,000 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND ANY AMENDMENTS– **Resolution 2022-127** approved a two-year Master Services Agreement with Flock Group, Inc.
- 1.H WAIVE SECOND READING OF FULL TEXT AND ADOPT TWO ORDINANCES 1) RESCINDING ORDINANCE 1253 APPROVING SECOND AMENDMENT TO AMENDED AND RESTATED DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF TRACY AND SURLAND COMMUNITIES, LLC. AND 2) RESCINDING SECOND AMENDMENT TO AMENDED AND RESTATED DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF TRACY AND SURLAND COMMUNITIES, LLC – **Ordinance 1330** rescinded Ordinance 1253 approving second amendment to amended and restated Development Agreement. Council Member Davis abstained. **Ordinance 1331** approved rescinding second amendment to amended and restated Development Agreement. Council Member Davis abstained.
- 1.I ADOPT A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH TRINE INTEGRATED SERVICES, INC. FOR SECURITY SERVICES FOR A TOTAL AMOUNT NOT TO EXCEED \$280,000 (\$45,000 MONTHLY) FOR A TERM OF SIX MONTHS AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND ANY EXTENSIONS OR AMENDMENTS FOR UP TO ONE YEAR – **Resolution 2022-128** approved a Professional Services Agreement with Trine Integrated Services, Inc.
- 1.G STAFF RECOMMENDS THAT THE CITY COUNCIL ADOPT A LIST OF PROPOSED PROJECTS FOR FISCAL YEAR 2022-2023 FUNDED BY SENATE BILL 1 (SB 1): THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017 – **Resolution 2022-129** adopted a list of proposed projects for FY 2022-2023 funded by Senate Bill 1.

Mary Mitracos stated Beverly Place to Carlton Way and Walnut Street from 11th Street to Highland Avenue are both dead end streets and both streets extend beyond Beverly Place and Highland Avenue and asked if the pavement rehabilitation will extend in the half block of those streets.

Robert Armijo, City Engineer responded yes.

There were no Council comments.

City Council amended the previous motion made by Mayor Pro Tem Vargas and seconded by Council Member Arriola to adopt the Consent Calendar to also include adoption of Consent Item 1.G. Roll call found all in favor; passed and so ordered. Council Member Davis abstained from voting on Consent Item 1.H.

Michael Rogers, City Manager requested Item 3.B be moved to after 3.G.

2. ITEMS FROM THE AUDIENCE – Ruth Esther spoke in support of Mayor Nancy Young.

Meena Saiprasad spoke in support of Mayor Nancy Young.

Robert Tanner stated Council has failed citizens because of homeless, shelter delay, Aquatics Park, cost of trash for seniors, and cannabis. Going to have cannabis stores in the City with no rules and needs to be restricted in the downtown area. Mr. Tanner shared his concerns about sending Mayor Pro Tem Vargas to Miami when she is terming out.

Mayor Pro Tem Vargas disagreed with the previous speaker.

Dan Evans stated Council failed residents on the cannabis issue, is not against cannabis but is against terrible planning. The homeless situation is a terrible disaster. People are upset, and families at risk. Mr. Evans spoke about a mailer from an opponent regarding Council Member Davis and spoke in support of Council Member Davis.

Alice English echoed Mr. Tanner's comments, stated Council has failed Tracy, shared concerns about the waste rate increase, spoke in support of Council Member Davis, added the City needs a policy for homeless and Council failed by not putting a policy on zoning in the cannabis ordinance. Ms. English urged Council to move item 3.E to second on the regular agenda.

Wilson Truong, California Mortgage Relief Program managed by California Mortgage Relief Corporation and part of California Housing and Finance Authority spoke about a State mortgage relief program. More information is available at: camortgagerelief.org

Karen Moore stated she couldn't reset password on Tracy App and asked to have the main page of the website to link to more information and who to contact when having problems with GoTracy App. Also asked staff to look into the link to the most recent Instagram and Facebook posts. Ms. Moore stated Council voted to increase the waste pickup in July, have gotten nothing but have been paying for increased costs since July. More education for the community is needed.

Tony spoke about the homeless and safety issues at El Pescadero Park, asked Council to provide solutions, and spoke about traffic hazards on Kavanagh at night with no Policing and suggested moving cars to cul-de-sac where it is much safer. Tony requested when the homeless are moved that the areas that homeless people have been living on be barricaded or remediated as the soil has biohazards, drugs, needles.

Jagadeesh stated his home is near a community park and asked if the Council meeting was the right place to request for a tennis court in the park or is it the builder.

Kalyan stated he is also a first-time homeowner in Tracy and spoke about changing pickleball court and opting for a tennis court.

Andrea Brown spoke about a meeting she had with the City Manager about what is happening in the park and enforcing the ordinances at the park, and was told he had never heard of these items before even though he has been to Council meetings. Ms. Brown shared several situations with the homeless residents in the park that the children at North School are exposed to and asked if anyone cares adding the City should be arresting these people that are committing these crimes.

Council Member Bedolla asked if there was any interest in seeing how many members of the public are wanting to speak on certain items so Council can prioritize the items, so people do not have to wait. Council Member Davis supported the request.

James Osborne requested 3.E be moved to the top of the agenda.

Council Member Bedolla motioned to hear item 3.E first. Motion was seconded by Council Member Arriola.

Mayor Young confirmed item 3.A will be heard first and she will consider moving 3.E.

3. REGULAR AGENDA

3.A ADOPT A RESOLUTION: (1) APPROVING ANNEXATION OF PROPERTY INTO IMPROVEMENT AREA NO. 2 OF THE CITY OF TRACY COMMUNITY FACILITIES DISTRICT NO. 2016-1 (TRACY HILLS) (CFD); (2) CONFIRMING THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF BONDS AND OTHER DEBT AND THE ANNUAL APPROPRIATIONS LIMIT FOR IMPROVEMENT AREA NO. 2 AS \$50,000,000; (3) CONFIRMING THE RATE AND METHOD OF APPORTIONMENT OF THE SPECIAL TAX FOR IMPROVEMENT AREA NO. 2; AND (4) APPROVING, CONFIRMING, ORDERING AND DIRECTING RELATED IMPLEMENTATION ACTIONS

Guadalupe Pena, Senior Accountant provided the staff report.

Council questions and comments followed.

There was no public comment.

Chris Lynch, Jones Halls Consultant responded to questions.

ACTION: Motion was made by Council Member Bedolla and seconded by Council Member Arriola to adopt **Resolution 2022-130** (1) Approving Annexation of Property into Improvement Area No. 2 of the City of Tracy Community Facilities District No. 2016-1 (Tracy Hills) (CFD); (2) Confirming the maximum aggregate principal amount of bonds and other debt and the annual appropriations limit for Improvement Area No. 2 as \$50,000,000; (3) Confirming the Rate and Method of Apportionment of the Special Tax for Improvement Area No. 2; and (4) Approving, confirming, ordering and directing related implementation actions. Roll call found all in favor; passed and so ordered.

DEVIATION

3.E ADOPT AN URGENCY ORDINANCE MAKING FINDINGS AND ESTABLISHING A TEMPORARY MORATORIUM PURSUANT TO GOVERNMENT CODE 65858 ON THE PROCESSING OF CONDITIONAL USE PERMITS FOR CANNABIS ESTABLISHMENTS UNDER CHAPTER 10.08 OF THE TRACY MUNICIPAL CODE, TO TAKE EFFECT IMMEDIATELY UPON ADOPTION

Council Member Davis and Council Member Bedolla provided the staff report.

Council questions and comments followed.

William Dean, Assistant Development Services Director and Victoria Lombardo, Senior Planner responded to questions.

Cherise Bradley and dance students shared signs that show proximity to the dance studio, read out a letter from her niece and shared concerns regarding putting a cannabis dispensary next to dance studio.

Karen Moore stated if we were going with four, density would not be an issue, but Council increased the number of dispensaries. Mr. Tanner expressed concerns previously about downtown density. Ms. Moore referred to previous discussion by Council and stated she was confused why now when Planning Commission can make decisions on density, we are asking for a moratorium. Does not seem like an emergency.

Council Member Bedolla responded to Ms. Moore's comment.

Arabella McCreary shared information about retailers and urged Council to take into consideration and do retail only and not the other retail types. Stick to downtown area and limit to permit types, retail will address the concern about the concentration in the downtown area and exposure to the public and children.

Marcus Medina, downtown businessowner shared his concerns regarding the dispensary density issue downtown adding it is our job to protect youth. Shared concerns regarding sensitive use stating it contradicts the code and suggested the last portion of code be removed so it can be addressed with the Planning Commission.

Zoe Schreiber, GOE Tracy provided information about the cannabis process and urged Council to reject the moratorium and rely on the City's land use process to play out and grant approval and denial of individual projects based on the merits of the operation.

Joshua Dean stated there seems to be confusion about retail sites and some of applicants are delivery services. The four that have been approved have not yet opened. It is still a myth that it is drugs; it is natural medicine.

Chris Phillips, owner of Devonport Extracts stated they had to reach out to other areas to open their business because this is being stalled. The Council keeps adding more CUPs, should not have 12. Open four and get it going and move from there. Operators are bleeding us dry waiting for decisions that could have been made 18 months ago.

Dale Schafer, Attorney for three cannabis candidates in Tracy stated they have been following the rules, it has been difficult to find real estate and is against the moratorium but send to Planning Commission to address density. Children are not allowed in the businesses and urged Council not to adopt the ordinance.

Devon Julian, Inside the Culture Triangle stated there were four permits originally. On October 15, 2021, the number was increased from four to 11. Spoke about it being an election period and those running introducing this emergency ordinance to hold back companies that have invested, and urged Council not to move forward with the moratorium.

Quinn Brady, Megan's Organic Market, one of the original permit winners stated their team is listening and have made amendments to their project, shared information about Megan's and experience with cannabis and hoped to keep the process fair and supported the original permit winners.

A caller stated a lot of the emotions being expressed are not facts. Need to educate your own children and need to let people that applied open their business.

Devon stated there are a few working diligently with staff through the CUP process that are not located in the downtown area and requested to not stop the processing of locations that are compliant and properly zoned outside of the downtown area. A moratorium would be an additional delay.

James Osborne, Attorney disputed the order of business, stated his firm represents Byron Alvarez, asked Council to consider a 45-day moratorium or longer. Mr. Osborn does not oppose dispensaries, but zoning ordinance should address density issues and location, proposed a one-mile buffer between dispensaries and 500-1000 feet from youth centered locations and change the definition.

Elizabeth Villarreal shared her concerns regarding dispensaries downtown stating it is going against the City's mission, and do not want cannabis row downtown.

Troy Ermish stated it is disturbing that after 30 meetings Council has gained no traction. It is unfortunate that staff is unable to foresee these issues; the problem is density and he hoped 45 days is enough time to come up with a plan to eliminate density.

Michaela Toscas, Inspire Positive LLC aka Higher Elevation stated they received a permit from the City. Have been open for seven years and are happy to relocate facility to Tracy but have been paying rent for two years while waiting to open a warehouse in Tracy. Concerns regarding the downtown dispensaries should have been addressed in the ordinance and requested if Council decides to adopt a moratorium not to affect other business who are trying to locate elsewhere in the City.

Deborah Skinner, Academy of Performing Arts owner stated this is a colossal mistake. Have 500 students through her studio a week and does not think it will be safe downtown now, and shared concerns about bringing dispensaries downtown.

Faith Roe read a letter from Katie Borncamp: DARE envisioned a world against violence, substance use and other dangerous behavior. Should be adding family friendly things and keep away from family spaces.

Daniel Helm stated he did not think cannabis facilities are appropriate for downtown. Dispensaries deal in cash; do we want armed robberies going on.

Council Member Arriola objected to Mr. Helm's characterization.

Andrew Wood appreciated the concerns about introduction of cannabis dispensaries, but people may not have visited dispensaries, and shared the process of entering a dispensary stating they are secure and did not support the moratorium.

Rachael Knight Scott asked Council about their long-term intentions for the downtown area, shared her concerns regarding density of dispensaries downtown and spoke about tax revenue for City.

Greg Cose, TCCA spoke about the loss of Dino Margaros and reiterated what Dino had said at the Planning Commission meeting. People who started paying rent did so at their own risk. Mr. Cose asked Council to consider adding perimeters of spacing and capping the number of dispensaries in the central business district at two.

Dan Evans stated he is not against cannabis but is against poor planning and talked about coming up with zoning ordinance. If five liquor stores go up in the downtown, they should also have restrictions and asked Council to implement the moratorium.

Ken Cefalo, Main Street Music stated he did not want retail sales of cannabis in downtown Tracy. He voted for Council and hoped they would make good decisions for the City. Need to look at definition of youth center and requested Council consider the moratorium.

Robert Tanner stated there was a moratorium before under Mayor Rickman at the 205 for 45 days. Hope this Council does the same thing so we can get something done within 90 days and spoke about mortgages on locations. There is too much concentration downtown or central business district and suggested to take time to do it right.

Mike Shoher stated the City needs to take the time because children are involved. Need to protect children and get it right.

Hailey Andrew, Operator of a dispensary in Dixon shared her experience with going before the Dixon City Council, and opposition from the community. Have been there 4.5 years, have won awards in Dixon because of community commitment and urged Council to look at who your operators will be.

Mike Souza asked Council to be fair to those who want to be part of this business and not be downtown and not penalize those that are not trying to go downtown and asked if the Planning Commission can continue items that are downtown so Council can continue to look at it to come back with emergency ordinance.

Nick Andre, Megan's Organic Market stated they are one of the four original permit winners. Issue of density is going from four to 11. Let the four original winners proceed and deal with density issues for the remaining. Mr. Andre added they made an application to amend the CUP with a revised plan to move the entry to B Street and are trying to solve the problem.

Dana stated Livermore is thriving and there are zero dispensaries downtown and asked why the Planning Commission and Council doesn't have the guts and common sense to say no to six dispensaries in our downtown. Dana stated she is not opposed to dispensaries in Tracy, only in the downtown.

Alice English stated they are going to move the entrance on B Street but what about residents; families that live on 9th Street and who is protecting them. Council failed in June. Need the 45 days, to protect residents and need buffer, and zoning. The store on 11th Street is more than enough to serve downtown and need a moratorium for our community.

Erwin asked what the amount of sales tax and impacts are of having a dispensary in certain locations and asked what the impacts on residents are, crime rates, business impacts. Eleven is too much.

Dotty Nygard, Co-partner Megan's Organic Market stated there is a large population in town that look forward to this opening up for health reasons. Understand safety concerns and addressed what they heard at Planning

Commission. Ms. Nygard stated they came to Council before about density issues and offered solutions.

Tim Silva stated the bigger issue is how did we get to this point. Had over 30 meetings and we're still talking about zoning and density. How is it fair to business people and residents to endure this and how are we so ineffective and not able to come up with comprehensive resolution for everyone.

Jennifer Toscas stated cannabis has replaced all her pharmaceutical, is not in favor of a moratorium and delaying opening of cannabis stores and is tired of having to travel outside of Tracy.

Megan Roe stated she is not against cannabis or dispensaries but there are better locations for them and shared concerns regarding dispensaries downtown and requested Council take into consideration the 45-day moratorium.

Deanna Garcia stated by removing regulated and legal cannabis you are removing the education that is needed as well as safety, security, and tax dollars. They are scheduled for their CUP hearing next week. The process has cost \$240,000 so far. Let's keep this item going as is with no postponement and requested Council vote no on a moratorium.

Alex Monceaux stated he was pro cannabis. His business is not store front or downtown and would love to move back but with tax rates it is better to keep in other towns. This is a knee jerk reaction from four to 11 because of inadequate scoring process.

Burnell Shull stated she was not against cannabis but against it being downtown and asked who is in charge of seeing who is paying taxes since it is all cash. Ms. Schull was upset that the City would give a corporation the first cannabis store when people from Tracy have wanted to open a store.

Michele True, Tracy Cannabis Collective shared events and benefits of cannabis, understands the public concerns. Their location is outside of TCCA district and they do not want the moratorium.

Cecile Hines stated she is not against dispensaries but totally against being downtown. Modesto has a buffer around their downtown. Council needs to put the community first as they are talking about changing the culture of downtown and take the time the moratorium gives you.

Megan Souza, Megan's Organic Market stated they invested significant resources based on the ordinance that Council approved. The ordinance works for four dispensaries, it does not work for 11 or 12 and agreed overconcentration is an issue. This is a concern that Council considered potential solutions but went ahead anyway. Two would be appropriate.

Kimberly Cargile, Tracy Cannabis Collective asked Council to vote no on the moratorium. Heard concerns from other towns because people are afraid of unknown.

Dennis Chang, Tracy Cannabis Collective spoke about the security and safety of employees and community is paramount and provided highlights of cannabis businesses. This is a highly regulated industry.

Mayor Young clarified with staff which items can be moved to the next Council meeting due to the late hour.

Kevin Sheridan, Valley Link suggested item 3.F be taken as it starts the 30 day clock and the other item can be handled later.

Motion was made by Council Member Arriola and seconded by Council Member Bedolla to table all items other than 3.D and 3.F to the next meeting. Roll call found all in favor; passed and so ordered.

Karin Schnaider, Assistant City Manager confirmed Council will come back and finish the discussion and action on Item 3.E. and then go to Item 3.D and Item 3.F and that will be all for the evening.

Mayor Young called for a recess at 11:45 p.m.

Mayor Young reconvened the meeting at 12:04 a.m. September 7, 2022.

Council questions and comments continued.

Council Member Arriola supported directing staff to bring back three specific proposed ordinance amendments that considers 1) Limited number of permits for business district 2) Buffer zones including density applicant proximity to one and another and 3) Definition of youth center. Council Member Bedolla supported the suggestion.

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

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Bedolla to waive the reading of the full text and adopt proposed Ordinance and also direct staff to return with specific proposed ordinance amendments 1) Limited number of permits for business district, 2) Buffer zones including density applicant proximity to one and another and 3) Definition of youth center.

Mayor Pro Tem Vargas made a second motion to direct staff to do an amendment to Title 10 to look into the amendment of limited amount of dispensaries per district, to define buffer zones and also define the youth center with the same timeline and not do a moratorium. Mayor Young seconded the motion. Roll call found Mayor Pro Tem Vargas and Mayor Young in favor. Council Members Arriola, Bedolla and Davis opposed. Motion failed.

Roll call on the first motion on the item found Council Members Arriola, Bedolla and Davis in favor. Mayor Pro Tem Vargas and Mayor Young opposed. Motion failed.

- 3.B STAFF RECOMMENDS THAT THE CITY COUNCIL INTRODUCE AN ORDINANCE AMENDING SECTION 3.08.580 REGARDING SPECIAL SPEED ZONES OF THE TRACY MUNICIPAL CODE TO UPDATE SPEED LIMITS AS REQUIRED BY THE CALIFORNIA VEHICLE CODE – Item moved to September 20, 2022 Council meeting.
- 3.C STAFF RECOMMENDS THAT THE CITY COUNCIL ADOPT THE FOLLOWING RESOLUTIONS TO FURTHER COMPLY WITH THE JUDGMENT AND PEREMPTORY WRIT OF MANDATE IN *MITRACOS V. CITY OF TRACY, ET AL.*, SAN JOAQUIN COUNTY SUPERIOR COURT CASE NO. STK-CV-UWM-2018-5531: (1) A RESOLUTION RESCINDING RESOLUTION NO. 2020-154 APPROVING FINAL AQUATIC CENTER CONCEPTUAL PLAN WITH A NOT-TO-EXCEED AMOUNT OF \$65 MILLION INCLUDING CONTINGENCY AND SOFT COSTS; (2) A RESOLUTION RESCINDING RESOLUTION NO. 2019-78 APPROVING THE AGREEMENT FOR DEFERRAL OF CERTAIN IMPACT FEES FOR ELLIS GARDENS PHASE 1- 3 (TRACT 3877, TRACT 3906, AND TRACT 3907); AND (3) A RESOLUTION RESCINDING RESOLUTION NO. 2021-116 APPROVING THE AGREEMENT FOR DEFERRAL OF CERTAIN IMPACT FEES FOR ELLIS TOWN AND COUNTRY (TRACT 4007) – Item moved to September 20, 2022 Council meeting.
- 3.D STAFF RECOMMENDS THAT CITY COUNCIL INTRODUCE AN ORDINANCE EFFECTUATING AN OMNIBUS AMENDMENT OF THE TRACY MUNICIPAL CODE TO (A) UPDATE CHAPTER 4.16, “REGULATIONS PERTAINING TO THE USE OF PARK AND RECREATION AREAS AND FACILITIES” AND CHAPTER 5.12, “CAMP CARS AND TRAILERS,” AND (B) ADD PROVISIONS PROHIBITING CERTAIN ACTS, CAMPING, AND STORAGE OF PERSONAL PROPERTY IN PARKS AND PUBLIC AREAS

Sekou Millington, Police Chief introduced Ana Contreras, Code Enforcement Manager, and Lieutenant Miguel Contreras who provided the staff report and responded to questions.

A resident shared her concerns regarding the homeless community at El Pescadero. Tracyites helping them by giving food, water, shelter, laundry service, birth control is perpetuating a lifetime of bad choices and not teaching them to be survivors. The code needs to be enforced immediately.

Damian Gray shared her experiences and concerns with living near El Pescadero Park. The City has allowed the behavior at the park. People being accountable for their illegal actions will make them accountable.

Karen Moore stated when a law is made people find a way around it, is concerned that people may think this is going to be a solution, but it may not and believes the City is working diligently on a solution.

John Oh stated the ordinance has been worked on for some time and appreciated the Police Department's involvement and spear heading of this directive. Dealt with vagrancy downtown for quite some time. Eventually our vendors may take away certain activities or events downtown and they may not want to come back.

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

ACTION: Motion was made by Council Member Bedolla and seconded by Council Member Davis to waive the reading of the full text and introduce an Ordinance making an omnibus amendment to Tracy Municipal Code to (A) update Chapter 4.16. "Regulations Pertaining to the Use of Park and Recreation Areas and Facilities" and Chapter 5.12, "Camp Cars and Trailers," and (B) Add provisions prohibiting certain acts, camping, and storage of personal property in parks and public areas. Roll call found all in favor; passed and so ordered.

3.F ADOPT A RESOLUTION DECLARING 200 ACRES OF CITY-OWNED LAND LOCATED AT 15580 AND 15178 WEST SCHULTE ROAD (APNs 209-230-029 AND 209-230-030) AS EXEMPT SURPLUS PROPERTY UNDER GOVERNMENT CODE SECTION 54221(F)(1)(D)

Karin Schnaider, Assistant City Manager provided the staff report.

Council questions and comments followed.

Daniel Helms spoke about the City giving away 200 acres and asked if the City is hoping to get a maintenance yard or something with economic impact or just right of way.

Mary Mitracos provided a history on how the City acquired the property and the restriction on the uses and stated if the City can get rid of this land, do it.

Alice English stated it is not up to us to use for other purposes. That location, Ellis Development, maybe Redbridge that connection is the biggest pipeline in California. This should not be approved and asked how can the City think of putting hydrogen plant over that big pipeline. Let's wait until we have more information.

Karen Moore stated she lives close to the piece of land and have been attending Valley Link meetings and is excited to see Tracy on the map about green energy. Whoever gets that land will have to work with PG&E and hoped that Council votes for this.

ACTION: Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Vargas to adopt **Resolution 2022-131** declaring 200 acres of City-owned land located at 15580 and 15178 West Schulte Road (APNs 209-230-029 and 209-230-030) as exempt surplus property under Government Code Section 54221 (F)(1)(D). Roll call found Council Members Arriola, Bedolla, Mayor Pro Tem Vargas and Mayor Young in favor; passed and so ordered. Council Member Davis opposed.

- 3.G ADOPT A RESOLUTION APPROVING THE PROPERTY TRANSFER OPTION AND SALE AGREEMENT WITH JOINT ESCROW INSTRUCTIONS GRANTING TRI-VALLEY – SAN JOAQUIN VALLEY REGIONAL RAIL AUTHORITY A TEN YEAR OPTION TO PURCHASE, FOR INDEPENDENT CONSIDERATION OF \$100 FOR APPROXIMATELY 200 ACRES OF CITY-OWNED EXEMPT SURPLUS LAND LOCATED AT 15580 AND 15178 WEST SCHULTE ROAD (APNs 209-230-029 AND 209-230-030) – Item moved to September 20, 2022 Council meeting.
4. ITEMS FROM THE AUDIENCE – Karen Moore stated during the different agenda items emails were not asked about and asked if they are not part of the discussion anymore.
- Mayor Young responded we do have them on the dais and do make mention of them.
- Alex Monceaux apologized for swearing and was just frustrated.
5. STAFF ITEMS – Michael Rogers, City Manager stated the heat warning is still in effect until Friday at 8:00 p.m. If anybody needs to, they can call 211 for the nearest cooling station and a ride with the Tracer bus which will be free to beat the heat. Mr. Rogers also announced there is a vacancy on Transportation Advisory Commission. We would like for those who are residents of the City who have a background in mobility and transportation to consider this particular commission.
6. COUNCIL ITEMS – Council Member Arriola requested a second look at incentives for cannabis applicants to move to another location. Mayor Pro Tem Vargas seconded the request.
7. ADJOURNMENT – Time: 1:47 a.m. Wednesday, September 7, 2022.

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 1, 2022. The above are action minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk

Agenda Item 1.B

RECOMMENDATION

Staff recommends that the City Council waive second reading of full text and adopt an ordinance omnibus amendment of the Tracy Municipal Code to (a) update chapter 4.16, “regulations pertaining to the use of park and recreation areas and facilities” and chapter 5.12, “camp cars and trailers,” and (b) add provisions prohibiting certain acts, camping, and storage of personal property in parks and public areas

EXECUTIVE SUMMARY

The proposed amendments to the Tracy Municipal Code will update Chapter 4.16, “Regulations Pertaining to the Use of Park and Recreation Areas and Facilities” and Chapter 5.12, “Camp Cars and Trailers” to current language and practices. The amendments will also expand the City of Tracy’s enforcement tools for unlawful acts in parks and public areas, camping, and storage of personal property. Lastly, the amendments will increase penalties for certain violations to misdemeanors.

BACKGROUND AND LEGISLATIVE HISTORY

At the regular City Council meeting on May 17, 2022, City staff provided an informational report to City Council previewing proposed amendments to the Tracy Municipal Code to update and expand Chapter 4.16, Regulations Pertaining to the Use of Park and Recreation Areas and Facilities, and Chapter 5.12, Camps Cars and Trailers. On August 4, 2022, the proposed amendments were presented at the Parks and Community Services Commission meeting for input and discussion. During that time, the Parks and Community Services Commission provided feedback on the proposed amendments. On August 22, 2022, the Homeless Advisory Committee also reviewed and commented on the proposed amendments. Upon conclusion of its discussion, the Homeless Advisory Committee voted to forward the draft amendments for City Council consideration. The objective of these amendments is to clarify prohibited acts regularly encountered by the City and establish related enforcement authority currently not provided for in the Tracy Municipal Code.

ANALYSIS

Amendments to Chapter 4.16, Regulations Pertaining to Use of Park and Recreation Areas and Facilities

The proposed amendments to Chapter 4.16 expand application to all public areas, update existing regulations that currently apply to parks to also include public areas, and prohibit additional acts in parks and public areas. In addition, certain acts will be subject to a misdemeanor. A summary of the amendments to Chapter 4.16 are as follows:

- Prohibits open fires in parks and public areas.
- Prohibits storage and disposal of wastewater and sewage water in parks and public areas.
- Prohibits storage and dumping of personal items in parks and public areas.
- Restricts unpermitted electrical and gas connections in parks and public areas.

Amendments to Chapter 5.12, Camp Cars and Trailers

The proposed amendments will more clearly define and prohibit camping in parks and public areas. The amendments will also prohibit camping within certain distances of certain areas and restrict storage of personal property in parks and public areas. Violations of certain sections will be subject to a misdemeanor. The City's ability to enforce the proposed amendments prohibiting camping will be subject to the satisfaction of relevant constitutional and state laws. The following is a summary of the amendments to Chapter 5.12:

- Prohibits any person to enter or remain in a City park between the hours of 10:00 p.m. and 6:00 a.m.
- Prohibits camping within certain distances to specific locations, including, driveways, building entrances/exits, public or private property fencing, fire hydrants or other fire department connections, and restricts camping within 1,000 feet of schools, day care centers, recreational facilities or sports fields, shelters, and areas that obstruct or interfere with City activities. A violation of this section shall be charged as a misdemeanor offense.
- Prohibits storage of personal property in parks or public areas and allows the City to immediately remove personal property in certain circumstances (such as when the property is evidence of a crime or immediate threat to health and safety of the public).
- Provides the procedure for the City's removal and storage of personal property.

FISCAL IMPACT

This item has no direct fiscal impact to the General Fund. However, there are undetermined costs and staff time associated with the enforcement of the proposed amendments. Each call for service related to the proposed amendments will be absorbed within existing operations and budgets.

PUBLIC OUTREACH/INTEREST

The proposed ordinance was presented to the City's Parks and Community Services Commission and Homeless Advisory Committee meetings for public input.

COORDINATION

Preparation of this item involved coordination between the Police Department, Code Enforcement Division, Parks and Recreation Department, Public Works Department, City Manager's Office, and City Attorney's Office.

CEQA DETERMINATION

The proposed amendments are exempt under Sections 15307 and 15308 of the Guidelines for the Implementation of the California Environmental Quality Act and under Section 15061(b)(3) of the California Code of Regulations.

STRATEGIC PLAN

This item relates to the City Council's strategic plan in the area of Public Safety.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council waive second reading of full text and adopt an ordinance omnibus amendment of the Tracy Municipal Code to (a) update chapter 4.16, “regulations pertaining to the use of park and recreation areas and facilities” and chapter 5.12, “camp cars and trailers,” and (b) add provisions prohibiting certain acts, camping, and storage of personal property in parks and public areas.

Respectfully submitted,

Necy Lopez
Deputy City Clerk

Attachments:

Attachment A: Ordinance Amending Chapter 4.16 and Chapter 5.12 with Notice and Digest

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

ORDINANCE NO. _____

OMNIBUS AMENDMENT OF THE TRACY MUNICIPAL CODE TO (A) UPDATE CHAPTER 4.16, "REGULATIONS PERTAINING TO THE USE OF PARK AND RECREATION AREAS AND FACILITIES" AND CHAPTER 5.12, "CAMP CARS AND TRAILERS," AND (B) ADD PROVISIONS PROHIBITING CERTAIN ACTS, CAMPING, AND STORAGE OF PERSONAL PROPERTY IN PARKS AND PUBLIC AREAS

WHEREAS, certain unlawful acts, camping, and unlimited storage of personal property in parks and public areas create unsafe and unsanitary conditions throughout the City of Tracy; and

WHEREAS, these conditions interfere with the use of parks and public areas for their intended purpose and impact the health and safety of the public; and

WHEREAS, these conditions cause blight throughout the community and damage to public property; and

WHEREAS, throughout the last several years, the City has experienced an increase in illegal activity, camping, and storage of personal property throughout parks and public areas, and the Tracy Municipal Code provides limited enforcement opportunities to address these growing issues; and

WHEREAS, in order to protect the health and safety of the community and the conditions of parks and public areas, amendments to the Tracy Municipal Code are necessary to provide the City with additional enforcement tools; and

WHEREAS, the proposed amendments will allow the City to address specific activities within parks and public areas that are currently not prohibited under the Tracy Municipal Code, and will increase penalties for certain activities to misdemeanors; and

WHEREAS, these changes will increase enforcement opportunities and deter illegal activities in parks and public areas; and

WHEREAS, such additional enforcement tools are specifically amendments to Chapter 4.16, "Regulations Pertaining to the Use of Park and Recreation Areas and Facilities" and Chapter 5.12, "Camp Cars and Trailers" of the Tracy Municipal Code, as more specifically described in **Exhibit A** attached hereto and incorporated herein (**Amendments**); and

WHEREAS, the City’s Parks and Community Services Commission considered and provided input on the Amendments to Chapter 4.16 on August 4, 2022; and

WHEREAS, the City’s Homeless Advisory Committee considered and provided input on the entirety of the Amendments on August 22, 2022; and

WHEREAS, the Amendments are necessary to expand the City’s enforcement tools to address unlawful acts, camping, and storage of personal property in parks and public areas in order to protect the health and safety of the community and conditions of parks and public areas in the City; and

WHEREAS, as supported by substantial evidence in the record and for the reasons set forth in this Ordinance, and, each as a separate and independent basis, that the actions authorized by this Ordinance are exempt from additional review and analysis under the California Environmental Quality Act (“CEQA”) and the CEQA Guidelines (Cal. Code Regs., title 14, section 15000 et seq.) under CEQA Guidelines Section 15307 (Protection of Natural Resources), Section 15308 (Protection of the Environment), and/or Section 15061(b)(3) (Common Sense Exemption), and/or Section 15321 (Enforcement Actions); and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TRACY DOES ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals/Findings. The City Council finds and determines the foregoing recitals are true and correct and are hereby incorporated herein as findings and determinations of the City.

SECTION 2. Full Text. The City Council hereby approves the Amendments to Chapter 4.16, “Regulations Pertaining to the Use of Park and Recreation Areas and Facilities” and Chapter 5.12, “Camp Cars and Trailers” of the Tracy Municipal Code, which are specifically described on **Exhibit A**.

SECTION 3. CEQA Determination. That the City Council hereby finds and determines, after independent review and consideration, as supported by substantial evidence in the record and for the reasons set forth in this Ordinance, and, each as a separate and independent basis, that the actions authorized by this Ordinance are exempt from additional review and analysis under the California Environmental Quality Act (“CEQA”) and the CEQA Guidelines (Cal. Code Regs., title 14, section 15000 et seq.) under CEQA Guidelines Section 15307 (Protection of Natural Resources), Section 15308 (Protection of the Environment), and/or Section 15061(b)(3) (Common Sense Exemption), and/or Section 15321 (Enforcement Actions). Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance.

SECTION 4. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 5. Effective Date. This ordinance shall become effective upon the thirtieth (30th) day after final adoption.

SECTION 6. Publication. The City Clerk is directed to publish this ordinance in a manner required by law.

SECTION 7. Codification. This ordinance shall be codified in the Tracy Municipal Code.

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the 6th day of September 2022, and finally adopted on the ___ day of _____, 202_, by the following vote:

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

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

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

Date of Attestation: _____

NOTICE AND DIGEST

OMNIBUS AMENDMENT OF THE TRACY MUNICIPAL CODE TO (A) UPDATE CHAPTER 4.16, "REGULATIONS PERTAINING TO THE USE OF PARK AND RECREATION AREAS AND FACILITIES" AND CHAPTER 5.12, "CAMP CARS AND TRAILERS," AND (B) ADD PROVISIONS PROHIBITING CERTAIN ACTS, CAMPING, AND STORAGE OF PERSONAL PROPERTY IN PARKS AND PUBLIC AREAS

This Ordinance (Ordinance) amends Chapter 4.16, "Regulations Pertaining to the Use of Park and Recreation Areas and Facilities" and Chapter 5.12, "Camp Cars and Trailers" and adds provisions prohibiting certain acts, camping, and storage of personal property in parks and public areas. The Ordinance will provide the City of Tracy with additional enforcement tools to protect the health and safety of the community and conditions in parks and public areas. Lastly, the Ordinance will increase the penalties for violations of certain sections to misdemeanors.

EXHIBIT A

OMNIBUS AMENDMENT OF THE TRACY MUNICIPAL CODE TO (A) UPDATE CHAPTER 4.16, "REGULATIONS PERTAINING TO THE USE OF PARK AND RECREATION AREAS AND FACILITIES" AND CHAPTER 5.12, "CAMP CARS AND TRAILERS," AND (B) ADD PROVISIONS TO PROHIBIT CERTAIN ACTS, CAMPING, AND STORAGE OF PERSONAL PROPERTY IN PARKS AND PUBLIC AREAS

Chapter 4.16 REGULATIONS PERTAINING TO THE USE OF PARKS AND RECREATION AREAS PUBLIC AREAS AND FACILITIES

Sections:

4.16.010 Name of chapter.

This chapter shall be known as the "Tracy Parks and Public Areas Ordinance".

(Prior code § 4-4.01)

4.16.020 Purpose.

The purpose of this chapter is to regulate the use of City parks and other public areas, and establishes the standards for issuance of park permits so that all persons may enjoy and make use of such parks and public areas and to protect the rights of those in the surrounding areas.

(Prior code § 4-4.02)

4.16.030 Definitions as used in this chapter.

"*Amplified sound*" means music or speech projected or transmitted by electronic equipment, including but not limited to amplifier, loudspeakers or any similar device.

"*City Manager*" means and refers to the City Manager or his their designee.

"*Director*" means and refers to the Director of the ~~Department of~~ Parks and Recreation Department or his their designee.

"*Exclusive use*" means the right to use a park or public area, or area thereof, for any activity at a specified time, to the exclusion of all others.

"*Facility permit*" means written permission by the Director for a specified use of a park or public area or area thereof, including a community building, community ground, barbecue pit area, City pool, athletic facility or any other ~~park~~ public facility.

"*Parade*" means an organized march or procession of persons, animals or vehicles or combination thereof whose march route crosses park or public property.

"*Park*" means all City parks, community buildings and grounds, athletic facilities, open space areas and other grounds and facilities owned or operated by the City for park, recreation or open space purposes.

"Parks and Recreation Department" means the Parks and Recreation Department of the City of Tracy.

"Permit application fee" means the nonrefundable fee to be paid by an applicant for a facility permit. The fee shall be set by the City Council and shall cover the full cost (or portion thereof) of processing and investigating the application, and administering the park facility permit program.

"Permittee" means the person or group which has been granted a facility permit.

"Public," "Public Property," "Public Area" or "Public Areas" means all real property that is owned or controlled by the City of Tracy and shall include, but not be limited to, any street, median strip, sidewalk, parking lot, building, or structure.

"Publicize" means to inform the public of a planned activity by means of newspaper articles, notices, radio or television notices, announcements at public places, leafletting, posting signs or written notices in places used by the public, social media, or by any other means calculated to notify the public of any activity.

(Prior code § 4-4.03)

4.16.040 Certain park and public areas restricted to specific users.

The Director may designate in writing and/or by posting at the site, certain parks, park facilities, public areas, or areas thereof, which are available for exclusive use only upon obtaining a facility permit pursuant to Section 4.16.050.

(Prior code § 4-4.04)

4.16.050 Facility permit required.

A facility permit must be obtained from the Parks and Recreation Department prior to sponsoring or conducting any of the following activities in a park or public area:

- (a) For the exclusive use of any park ~~area or~~ facility, or public area which has been designated by the Director pursuant to Section 4.16.040 as requiring a facility permit;
- (b) For any organized activity in which fifty (50) or more persons are expected to participate or attend, or which is publicized prior to the date of the activity, or which requires special City services. Such activity includes, but is not limited to the following: A picnic, rally, group meeting, festival, fair, parade, play, musical event, art show or other show or exhibition;
- (c) Any activity involving the erection or placement on park or public property of stages, booths, platforms, sculptures and other art works, or other similar structures;
- (d) For the sale or barter of any goods, wares, merchandise, food or beverages (see Section 4.16.140);
- (e) For any activity involving the use of amplified sound (see Section 4.16.150); or
- (f) A permit is required to possess or consume any alcoholic beverage in ~~designated~~ City parks or public areas and may only occur in designated parks and public areas.

(Prior code § 4-4.05)

4.16.060 Facility permit applications.

- (a) Any person applying for a facility permit shall file an application on a form provided by the ~~Director~~ Parks and Recreation Department, not less than twenty (20) days, nor more than one year (365 days) prior to the proposed use of the park or public area. The Director may waive the application deadline for good cause if sufficient time remains to process the application, and for the City to prepare for the requested use. Good

cause can be demonstrated by the applicant, and shall be determined by the Director, showing that the circumstances which gave rise to the permit application did not reasonably allow the participants to file within the time prescribed and the proposed activity is for the purpose of exercising the right of free speech.

- (b) All applications for the facility permit must be signed or cosigned by a person twenty-one (21) years of age or older who shall agree to be responsible for the requested use of the park or public area.

(Prior code § 4-4.06)

4.16.070 Facility permit application.

The application for a park facility permit shall be completed on a form provided by the Parks and Recreation Department and shall provide the following information:

- (a) The name, address, and telephone numbers of the permit applicant, organization sponsoring the activity (if any) and person who shall be in charge of the activity;
- (b) Park, public area, or facility or area thereof requested;
- (c) Any additional ~~park~~ equipment or personnel requested;
- (d) The type of activity planned;
- (e) The starting and finishing time of the activity;
- (f) The number of persons expected to attend the activity;
- (g) The type of equipment or structures (if any) which shall be erected or placed on park or public property;
- (h) Whether the activity will involve amplified sound and the nature thereof;
- (i) Type and amount of insurance coverage for the event; and
- (j) Any supplemental information the Director shall find reasonably necessary to determine whether to approve the permit application pursuant to Section 4.16.160.

(Prior code § 4-4.07)

4.16.080 Action or permit application.

The Director shall approve, conditionally approve or deny a facility permit application for any of the grounds specified in section 4.16.090. Such action shall be taken no later than seven (7) days after receipt of a completed application. Notice of the Director's decision shall be mailed or emailed to the applicant's address or email address. If the application is denied the Director shall state the grounds for denial in writing and inform the applicant of ~~his/her~~ their right of appeal. If a change in the time or location of the proposed activity would allow approval of the application, the Director shall propose an alternative location or time for the activity.

(Prior code § 4-4.08)

4.16.090 Grounds for permit denial.

The Director may deny a facility permit application if they determines from a consideration of the application or other pertinent information, that any of the following conditions exist:

- (a) Information contained in the application or supplemental information requested from the applicant, is found to be false in any material detail;

- (b) The applicant failed to complete the application form after having been notified of the additional information or documents required;
- (c) The proposed activity would conflict with a previously planned City-sponsored activity;
- (d) The applicant refuses in writing to comply with all terms and conditions of the permit;
- (e) A prior application for a permit to use the same location at a conflicting time has been received and such application has been or will be approved;
- (f) The nature or size of the activity would be reasonably likely to injure persons or damage park or public property, or property adjacent to the park or public property; provided, that the Director shall not consider the content of expression which is proposed or anticipated at the activity;
- (g) The proposed activity is prohibited by law;
- (h) The proposed activity is inconsistent with the purpose for which the facility, ~~or~~ park, or public area has been established or designated pursuant to section 4.16.040;
- (i) The sole purpose of the activity is advertising or sale of any product, goods, wares or merchandise and is designed to be held for private profit and not for First Amendment expression; or
- (j) That the proposed activity would require the assignment of so great a number of City police officers to properly police the park or public area activity, or areas contiguous thereto, as to prevent normal police protection to the rest of the City. Nothing herein authorizes denial of a permit because of the need to protect participants from the conduct of others, if reasonable permit conditions can be imposed to allow for adequate protection of event participants with the number of police officers available to police the event. The determination as to whether a park permit shall be denied for this ground shall be made by the Chief of Police after conferring with the Director.

(Prior code § 4-4.09)

4.16.100 Park Facility permit conditions.

The Director may impose reasonable conditions on approval of a ~~park facility~~ permit application respecting the time, place, and manner of use of the park or public area. Such conditions may be imposed to ensure the safety of persons, public and private property, the control of noise, and to ensure that other activities ~~at the park~~ will not be unduly disturbed by the proposed activity of the applicant. Such conditions, however, shall not unreasonably restrict the right of free speech. Permit conditions may include, but are not limited to the following:

- (a) Alteration of the time or location of the proposed activity;
- (b) Requirements for the use of security personnel or monitors;
- (c) Requirements that the applicant obtain any legally required permit or license;
- (d) Requirements for notifying the activity participants of park and public area rules and the terms and conditions of the permit;
- (e) Inspection and approval by City personnel of stages, booths or other structures erected or placed in the park or public area in connection with the activity; and
- (f) Restrictions on the use of alcohol.

(Prior code § 4-4.10)

4.16.110 Fees and deposits.

Upon the granting of a permit under this chapter, any fees or deposits which are adopted by the City for the use of City personnel, buildings, equipment, parks, public areas and facilities, shall be contained in the permit and the fees and deposits shall be paid by the applicant prior to the receipt of the permit.

(Prior code § 4-4.11)

4.16.120 Indemnification.

Prior to the issuance of the facility permit, the permit applicant and authorized officer of the sponsoring organization (if any) must sign an agreement to reimburse the City for all costs incurred by it in repairing damage occurring in connection with the permitted activity and caused by the permittee/sponsoring organization, its officers, employees or agents, or any other person who was or reasonably should have been under the permittee's or sponsoring organization's control. The agreement shall also provide that the permittee/sponsoring organization shall indemnify the City against, and indemnify and hold the City harmless from, any loss, damage, liability or expense which may arise in any way in connection with the permitted activity caused by the actions of the permittee/sponsoring organizations, its officers, employees or agents, or any person who was or reasonably should have been under the permittee's or sponsoring organization's control.

(Prior code § 4-4.12)

4.16.130 Insurance.

- (a) The applicant/sponsor of any activity which requires a facility permit pursuant to section 4.16.050 must possess or obtain liability insurance to protect against loss from liability imposed by law for damages on account of bodily injury and property damage arising from the activity.

Such insurance shall name on the policy or by endorsement as additional insured the City, its officers, employees and agents. Insurance coverage must be maintained for the duration of the activity.

- (b) Coverage shall be a comprehensive general liability insurance policy in an amount prescribed by City resolution. The insurance coverage afforded by the policy shall provide at a minimum the equivalent of insurance coverage provided by Insurance Services Office (ISO) comprehensive general liability insurance coverage. If food or non-alcoholic beverages will be sold or distributed at the activity the comprehensive general liability coverage must include products liability coverage. If alcoholic beverages will be sold or distributed at the activity, the policy must also include coverage for liquor liability, along with the required Alcoholic Beverage Control permit as required by the permit process.
- (c) A copy of the policy or certificate of insurance along with all necessary endorsements must be filed with the Director no less than twenty (20) days prior to the event, unless the Director for good cause waives the filing deadline.

(Prior code § 4-4.13)

4.16.140 Sale of goods and merchandise.

No person, other than a concessionaire with a current and valid contract with the City for the provision of concession services, shall sell or offer for sale any goods, wares, merchandise or beverages without the prior written approval of the Director. The Director shall determine whether to approve, conditionally approve or deny an application for a vendor permit within seven (7) days after receiving a completed application on a form prescribed by the Director. Written permission shall not be granted by the Director excepting for sales by non-profit organizations in connection with an organized activity whose primary purpose is First Amendment

expression and not private profit. The ~~Park~~ Director may impose reasonable conditions of the issuance of a permit as authorized by section 4.16.160 of this chapter. This section shall not apply to the solicitation of donations for distribution of material by individuals for the primary purpose of First Amendment expression and not private profit.

(Ord. 1096 § 1, 2006; prior code § 4-4.14)

4.16.150 Amplified sound.

The use of amplified sound in a park or public area is forbidden unless a facility permit has first been obtained pursuant to section 4.16.050. The Director, upon granting a permit for use of any amplified sound system, may impose reasonable conditions concerning the location of the sound system, and the maximum decibel level for the sound system to minimize the amount of amplified sound audible in adjacent park and public areas and neighborhoods.

(Prior code § 4-4.15)

4.16.160 Appeal procedure.

- (a) The applicant shall have the right to appeal to the Parks and ~~Recreation~~ Community Services Commission a permit denial, permit condition, the Director's refusal to waive the filing deadline, or the Director's decision pertaining to fees or insurance coverage required under this chapter. Notice of appeal shall be made on a form prescribed by the Parks and Recreation Director and shall be filed with the Parks and Recreation Director stating the grounds for appeal. Regular meetings of the Parks and ~~Recreation~~ Community Services Commission are scheduled in accordance with section 2.04.020 of this Code (~~usually the first Thursday of each month~~). The appeal must be filed no later than noon on Thursday a week preceding the Parks and ~~Recreation~~ Community Services Commission meeting to be placed on the next regular meeting's agenda. The decision of the Parks and ~~Recreation~~ Community Services Commission may be appealed to the City Council, ~~whiche~~ has final authority.
- (b) If there is insufficient time for a timely appeal to be heard by the Parks and ~~Recreation~~ Community Services Commission prior to the date on which the event is scheduled, the applicant may, at ~~his or her~~ their option, request the ~~Parks and Recreation~~ Director to schedule the appeal to be heard before the City Manager under section 1.12.010. The City Manager shall attempt to hold a hearing no later than three (3) business days after the filing of the appeal, and shall render ~~his~~ their decision no later than two (2) business days after hearing the appeal. If the appeal is heard before the City Manager, the City Manager's decision is final.

(Ord. 1111 § 4 Exh. A (part), 2007: prior code § 4-4.16)

4.16.170 Duties of permittee/sponsor.

- (a) Each permittee/sponsor of an activity shall comply with all terms and conditions of the permit issued under this chapter.
- (b) Each permittee/sponsor of an activity shall ensure that the person in charge of the activity shall carry the permit issued under this chapter on his person during the duration of the activity.
- (c) Each permittee/sponsor of an activity shall ensure that the park or public area or building used for the permitted activity is cleaned and restored to the same condition as existed prior to the activity.

(Prior code § 4-4.17)

4.16.180 Unlawful acts in parks and public areas.

No person, other than authorized City personnel, shall do any of the following unless written permission has been obtained from the Director:

- (a) Play or engage in any game or contest in any park or public area except in such places suited, ~~specially~~ specifically provided or designated for that purpose;
- (b) Play upon any tennis courts wearing shoes other than those having vulcanized soles and heels, commonly known as tennis shoes. In-line skating, skateboards, or other wheeled items and dogs are prohibited on tennis courts, basketball courts or similar multi-use courts;
- (c) Use any tennis courts for tennis tournaments, team practices or other special events of any kind without the prior written permission of the Director;
- (d) Cut, break, injure, deface or disturb any plant, rock, building, cage, pen, monument, fence, bench or other structure, apparatus or property; or pluck, pull up, cut, take or remove any shrub, bush, plant or flower; or make or write upon any building, monument, fence, bench or other structure;
- (e) Cut or remove any wood, turf, grass, soil, rock, sand or gravel, or any found object, whether above or below the ground;

- (f) Lead or let loose any farm animals of any kind. Dogs are permitted subject to regulations and section 5.08.130 of this Code. Owners are responsible for picking up after their animals while on/in parks, parkways, trails or other public areas;
- (g) Post, place or erect any bills, notice, paper or advertising device of any kind on park or public equipment;
- (h) Tear down, deface or destroy any sign posted pursuant to this chapter;
- (i) Willfully tamper with or damage any water or gas pipes, hydrant, stopcock, sewer, basin or other construction in any park or public area;
- (j) Carry any firearms, air gun, slingshot or archery equipment;
- (k) Make or kindle any open fire, such as camp fires, bonfires, burning of garbage, or portable outdoor fireplaces in any public area, except in picnic stoves permanent charcoal grills provided for that purpose by the City. Users of permanent charcoal grills must extinguish charcoal in the grill after use. The City will remove leftover charcoal and ashes as needed; ~~(or camp, except in places designated as such by official action of the City;~~
- (l) Ride or drive any horse or other animal or any motorized vehicle, cycle, go cart or scooter elsewhere than on the roads or drives provided for such purpose, or drive a motor vehicle in an erratic or hazardous manner on any park roads, public areas, paths or parking areas;
- (m) Enter, remain or stay in the swimming pools in the public parks or the enclosures surrounding the pools at any time when the pools are not open to the public with a lifeguard on duty;
- (n) Play or engage in model aircraft flying or boats, driving of golf balls, archery, hardball or any similar games of a hazardous nature except at such places as are especially set apart for such purposes;
- (o) Throw or place on or in any park or public area any paper, rubbish, garbage or refuse matter of any kind, unless in ~~or adjacent to~~ a receptacle designed for the purpose; but no person shall deposit household rubbish and garbage in any City park, public area, rubbish receptacles or in garbage receptacles;
- (p) Urinate or defecate in a park, public area, or recreation facility except in proper fixtures in a restroom facility designed for the purpose;
- (q) To sell refreshments, food stuffs or novelties in any park or on any street immediately adjacent thereto without the prior written permission of the Director or the City Council;
- (r) Use or possess any glass beverage container within the boundaries of any park or public area;
- (s) Alcoholic beverages are prohibited in mini and neighborhood parks adjacent to joint use areas of elementary schools. It shall be unlawful and a misdemeanor to consume any alcoholic beverage, in any park without first obtaining the permission of the City Council or a permit from the Parks and Recreation Department. It shall be unlawful to possess any can, bottle or other receptacle containing any alcoholic beverage as defined by the Alcoholic Beverage Control Act of the State of California that has been opened, or a seal broken or the contents of which have been partially removed in any park without first obtaining the permission of the City Council or a permit from the Parks and Recreation Department. Signs will be posted and shall read "ALCOHOL CONSUMPTION OR POSSESSION PROHIBITED IN CITY PARK WITHOUT A PERMIT BY T.M.C. 4.16.180(s)";
- (t) No person shall go upon any surface in a park with any skateboard, roller skate, rollerblade, in-line skate, coaster, or any similar device, when appropriate signs giving reasonable notice thereof are posted at the park;
- (u) A person shall be permitted to use a skateboard in a park only if: (1) the City Council has adopted a resolution which identifies the park at which skateboarding is permitted; and (2) signs are posted at the park affording reasonable notice that: (i) any person riding a skateboard in the park is undertaking

a "hazardous recreational activity" pursuant to California Health and Safety Code section 115800; and (ii) the person must wear a helmet, elbow pads, and knee pads; and (iii) that any person failing to do so will be subject to citation pursuant to this section;

(v) Under no circumstances may persons store or dispose of waste water (i.e. from baths, sinks, washing machines, and/or other kitchen appliances) or sewage water onto parks or public areas not intended for such disposal;

(w) Parks and public areas shall not be used for storage or a dumping location for any personal items, including without limitation, car parts, bicycle parts, bicycles, furniture, appliances, generators, propane tanks, or combustible materials; and

(x) Under no circumstances may persons create unpermitted electrical or gas connections.

The following subsections under this section shall be a misdemeanor: subsections (d), (e), (h), (i), (j), (k), (l), (o), (p), (v), (w).

(Ord. 1074 § 2, 2005; Ord. 990 § 1, 1999; prior code § 4-4.18; Ord. No. 1229, § 1, 1-3-2017)

4.16.190 Park closing hours.

It is unlawful and a misdemeanor for any person to enter or remain in a City park, whose closing times have been posted pursuant to section 4.16.200, between ~~dusk and dawn~~ 10:00 pm and 6:00 am, or such other time as is posted by the City Manager or ~~his or her~~ their designee. The City Manager is authorized to designate those parks which shall be closed between the hours of ~~dusk and dawn~~ 10:00 pm and 6:00 am, or such other time as determined by the City Manager, to allow for optimal park use, to prevent potential destruction of public property, to prevent potential nuisance to the residents of adjoining areas, or to prevent hazards to persons using park property. This section shall not apply to the following:

- (a) Any Peace Officer or City employee acting within the course and scope of ~~his~~ their employment;
- (b) Any City-sponsored functions or programs; or
- (c) Any person who has received a facility permit or other written authorization from the Director for use of the park after closing hours.

(Ord. 1109 § 1, 2007; prior code § 4-4.19)

(Ord. No. 1204, § 1, 12-15-2015)

4.16.200 Posting of signs.

- (a) The signs posting closing hours shall be not less than one square foot in area and upon which, in lettering not less than one-half inch in height, appear the time the park is closed with words such as "ENTERING OR REMAINING IN THIS PARK BETWEEN ~~DUSK AND DAWN~~ 10:00 PM AND 6:00 AM FORBIDDEN BY LAW TMC 4.16.190" or such other times as the City Manager may designate pursuant to section 4.16.190 of this Code. Any area to remain open shall be posted on a separate sign located within such area.
- (b) Each park shall be posted in the following manner:
 - (1) If the park does not contain any lineal dimension exceeding 350 feet, by posting signs at each corner of the area and at intervals not exceeding 150 feet, and, if such property has a definite entrance or entrances, at each such entrance;

- (2) If the park has lineal dimensions exceeding 350 feet, by posting signs at each corner of the area and at intervals not exceeding 300 feet, and if such property has a definite entrance or entrances, at each such entrance.
- (c) For alcoholic restriction, each park shall be posted as follows: "ALCOHOL CONSUMPTION OR POSSESSION PROHIBITED IN CITY PARK WITHOUT A PERMIT BY TMC 4.16.180(s)".

(Ord. 1109 § 2, 2007: prior code § 4-4.20)

Chapter 5.12 CAMP CARS AND TRAILERS, TENT SPACES, AND STORAGE OF PERSONAL PROPERTY IN PARKS AND PUBLIC AREAS

Sections:

5.12.010 Definitions.

For the purpose of this chapter, certain words and phrases are defined as follows and certain provisions shall be construed as herein set forth, unless it shall be apparent from their context that they have a different meaning:

- (a) "Camp car and/or trailer" is any unit used for living or sleeping purposes and which is equipped with wheels or similar devices used for the purpose of transporting it from place to place, whether by motive power or other means, and said unit, so equipped, shall be capable of being safely operated as a vehicle over the public thoroughfares of the States. Any such vehicle that is incapable of such safe operation, as aforesaid, is hereby declared to be a dwelling as defined in the State Housing Act and shall be subject to the provisions thereof relating to dwelling;
- (b) "Campground" is defined to mean any place, area or tract of land upon which is located any camp car and/or trailer;
- (c) "Personal Property" means any tangible property used by any person, and includes, without limitation, sleeping bags, tents, clothes, toiletries, furniture, storage containers, and bicycles;
- (d) "Public Area" or "Public Areas" means all property that is owned, managed, or maintained by the City and shall include, but not be limited to, any park, street, parking lot, median strip, sidewalk, building, or structure;
- (e) "Tent" means a collapsible shelter made of any material, including fabric or plastic, used for living habitation and/or storage of personal property; and
- ~~(e)(f)~~ "Tent space" is defined as any place, area or tract of land upon which is located any tent. ~~used for living or sleeping purposes.~~

(Prior code § 5-3.01)

5.12.020 Building Inspector.

It shall be the duty of the Building Inspector to enforce all the provisions of this chapter and for the purpose of securing enforcement thereof, the Building Inspector or any of his duly authorized representatives or agents, shall have the right and are hereby empowered to enter upon the premises of any campground or tent space now operating or which may hereafter be operated within the City to inspect the same and all accommodations connected therewith.

(Prior code § 5-3.02)

5.12.030 Permit to locate a campground or tent space required.

No campground or tent space hereafter established shall be located within the City until the location thereof is approved by the Council.

Upon completion of any such campground or tent space, and prior to the use thereof, the owner or tenter of such campground or tent space shall make application to the Building Inspector for a permit to occupy or use such campground or tent space. The application to occupy shall be in writing upon a form provided by the Building Inspector and shall contain such information as may be required by said Building Inspector with respect to the operation of the campground or tent space. It shall be filed with the City Clerk not less than five (5) days, nor more than fifteen (15) days before the campground or tent space is made ready for use, and it shall be accompanied by an inspection fee of Five (\$5.00) Dollars.

The Building Inspector shall thereupon make an inspection of the campground or tent space referred to in said application, and if it is found to be in conformity with the requirements of this and all other laws of the City and the laws of the State, said Building Inspector shall issue to the owner or operator thereof a written permit to occupy, which permit shall at all times be posted at a conspicuous place in said campground or tent space. The permit to occupy shall expire one calendar year from date of issue, and may be renewed upon written application, accompanied by an inspection fee of Five (\$5.00) Dollars, to the City Clerk.

It shall be unlawful for any person to operate or maintain any campground or tent space within the confines of the City, as herein set forth without first applying for and receiving from the Building Inspector a permit to occupy and without complying with all of the provisions of this chapter and the laws of the State.

(Prior code § 5-3.03)

5.12.040 Money to city treasurer.

All moneys received by the City Clerk under provisions of this chapter shall be paid into the City Treasury and placed in the General Fund.

(Prior code § 5-3.04)

5.12.050 Revocation or suspension of permit.

Whenever it is found that any campground or tent space is not being conducted in conformity with the provisions of this chapter or the laws of the State, the permit to operate same shall be subject to revocation or suspension by the Council in the following manner, to wit:

Upon instruction of the Council a notice shall be served by the Building Inspector on the person holding said permit, specifying wherein ~~he~~ they ~~has~~ have failed to comply with this chapter, and ordering ~~him~~ them to appear before the Council, at a day and hour therein specified, not less than five (5) days after the service of said notice on such permit holder, requiring him to show cause at said time and place why said permit should not be revoked or suspended.

The notice shall be sent by registered mail, postage prepaid, return receipt requested, to the person owning or operating the campground or tent space as such person's name and address appears on the last equalized assessment roll or as known to the Building Inspector. A copy of said notice shall also be posted conspicuously on the campground or tent space alleged to be in violation of this or any other law of the City or of the State. The Building Inspector upon giving notice as aforesaid, shall file an affidavit thereof with the City Clerk certifying to the time and the manner in which such notice was given. There shall also be filed therewith any receipt cards which may have been returned in acknowledgement of the receipt of such notices by registered mail. The failure of any owner or operator to receive notice shall not affect in any manner, the validity of any proceedings taken hereunder. At the time and place mentioned in said notice, the person holding said permit shall have the right to appear in person or by counsel, and to introduce such evidence as ~~he~~ they may desire, and the Council shall

confront said permit holder with any charges that said Council may have against ~~him~~ them, and after said hearing, the Council may at its discretion, revoke or suspend the permit.

(Prior code § 5-3.05)

5.12.060 Responsibility of owner or operator.

Every person owning or operating a campground or tent space shall maintain such campground or tent space, and all permanent equipment in connection therewith, in a clean and sanitary condition and shall maintain said equipment in a state of good repair.

(Prior code § 5-3.07)

5.12.070 Ground area for camp cars and/or trailers and tents.

No camp car and/or trailer or tent used for living or sleeping purposes in any campground or tent space now existing, or that may hereafter be established, shall be located within ten (10') feet of any other camp car and/or trailer, tent, or structure, nor shall any camp car and/or trailer or tent be located within eight (8') feet of any lot line. Camp cars and/or trailers and tents, as aforesaid, shall be arranged in rows abutting or facing on a driveway or clear unoccupied space of not less than fifteen (15') feet in width, which space shall have unobstructed access to a public street or alley.

(Prior code § 5-3.08)

5.12.080 Drainage of premises.

Every campground or tent space hereafter established shall be located on a well drained area and the premises of every such ground or tent space or any existing campground or tent space shall be maintained in a sanitary condition and shall be properly graded so as to prevent the accumulation of storm or casual waters.

(Prior code § 5-3.09)

5.12.090 Water supply.

An adequate supply of pure water for drinking and domestic purposes shall be supplied to meet the requirements of said campground or tent space. Said water supply shall be obtained from faucets only conveniently located in said campground and no dipping vessels or common cups shall be permitted.

(Prior code § 5-3.10)

5.12.100 Removal of wheels or similar devices.

It shall be unlawful for any person owning or operating a camp car and/or trailer located in a campground to remove or cause to have removed the wheels, or any similar transporting devices from said camp car and/or trailer or to otherwise permanently fix it to the ground in a manner that would prevent the ready removal of said camp car and/or trailer, or to alter it in any way so as to make it incapable of being safely operated over the public thoroughfares of the State without first obtaining a permit so to do from the Building Inspector. Any alteration to any camp car and/or trailer, as above set forth, shall be construed as removing it from the requirements of this chapter and converting it into a dwelling and it shall thereupon be subject to the requirements of the Building Code of the City and the State Housing Act of California.

(Prior code § 5-3.11)

5.12.110 Dogs not allowed at large.

Dogs shall not, at any time, be permitted to run at large in any campground or tent space.

(Prior code § 5-3.12)

5.12.120 Water closets.

There shall be provided in every existing campground or tent space and every campground or tent space which may hereafter be established, one water closet for each sex, one of such water closets shall be distinctly marked "For Men" and one of such water closets shall be distinctly marked "For Women" and there shall be provided an additional water closet for each sex for every ten (10) tents, camp cars and/or trailers or fractional part thereof in excess of ten (10) tents, camp cars and/or trailers.

(Prior code § 5-3.13)

5.12.130 Baths.

There shall be provided in every existing campground or tent space and every campground or tent space which may hereafter be established, a stationery bathtub or shower bath equipped with hot and cold running water for each sex. Such bathtubs or shower baths shall be installed in a separate compartment from any water closet unit and there shall be provided additional bathtubs or shower baths for each sex, for every twenty (20) tents, camp cars and/or trailers or fractional part thereof in excess of twenty (20) tents, camp cars and/or trailers in said campground and/or tent space.

The Building Inspector may exempt any campground or tent space existing September 1, 1942, from fully complying with the provisions of sections 5.12.120 and 5.12.130 when, in his discretion, such deviation will not be detrimental to the health of persons occupying said campground or tent space or to the proper sanitation of the premises. The floors of every water closet, bathtub or shower bath compartment hereafter installed shall be constructed of cement or some other nonabsorbent material; the walls shall be a smooth waterproof material, and the interiors of all water closets, bathtub or shower compartments shall be maintained in a sanitary condition at all times.

(Prior code § 5-3.14)

5.12.140 Garbage receptacles.

There shall be provided in every campground or tent space heretofore or hereafter established, such number of metal receptacles with close fitting metal covers, or other receptacles satisfactory to the Building Inspector for garbage, refuse, ashes and rubbish as may be deemed necessary by the Building Inspector and such receptacles shall at all times be maintained in a clean and sanitary condition.

(Prior code § 5-3.15)

5.12.150 Slop sinks.

There shall be provided in every campground or tent space heretofore or hereafter established one or more slop sinks properly connected with the City sewer system or a cesspool or septic tank, such sinks to be conveniently located at no greater distance than one hundred (100') feet from any camp car and/or trailer, or tent.

(Prior code § 5-3.16)

5.12.160 Refuse and sewage disposal.

It shall be unlawful to deposit any waste water, drainage or material from plumbing fixtures, including any such fixtures within any camp car and/or trailer on the surface of any campground or tent space. All such fixtures, when in use, must be connected to the City sewer system, or, in lieu thereof, they may be connected to a cesspool or septic tank constructed in a manner satisfactory to the Building Inspector.

(Prior code § 5-3.17)

5.12.170 Lighting.

Every campground or tent space heretofore or hereafter established shall be provided with means of lighting the same at night and all public water closets and bath units shall be provided with sufficient lighting facilities which shall be kept lighted during the time from one-half hour after sunset until one-half hour before sunrise.

(Prior code § 5-3.18)

5.12.180 Facilities now available not to be construed with any hereafter required.

Any water faucets, toilets, garbage receptacles, or other equipment required by the provisions of this chapter in campgrounds or tent spaces or which may hereafter be required by any rules and regulations of the Building Inspector pertaining to campgrounds or tent spaces shall not be construed to mean water faucets, toilets, garbage receptacles or other equipment now or hereafter located in or adjacent to campgrounds or tent spaces and which may already or hereafter be required under provisions of other laws or regulations.

(Prior code § 5-3.19)

5.12.190 Fire protection.

Every campground shall be equipped with at least one fire extinguisher for each ten thousand (10,000) square feet of campground area and such additional extinguishers as may be required by the Chief of the Fire Department. Location and type of extinguishers shall be approved by the said Fire Chief.

(Prior code § 5-3.20)

5.12.200 Use of camp cars and/or trailers or tents.

- (a) It shall be unlawful to occupy any camp car and/or trailer or erect and/or occupy a tent for living or sleeping purposes in any public area, the City for a period longer than twenty-four (24) hours unless the same is located upon a campground or tent space licensed under the provisions of this chapter. ~~provided, however, that temporary permits therefor, limited to seventy-two (72) hours including the first twenty-four (24) hour period, may be granted by the Building Inspector. No permits shall be issued for any camp car and/or trailer or tent occupancy which will constitute a nuisance or a health menace.~~
- ~~(b) It shall be unlawful to occupy a camp car and/or trailer or tent for living or sleeping purposes on in any public area public streets, alleys, or ways in the City at any time.~~
- (b) Without limiting the application of subsection (a) above, it shall be unlawful to occupy a camp car and/or trailer or erect and/or occupy a tent as follows:

- (1) Within twenty (20) feet of any driveway;
- (2) Within five (5) feet of any building entrance or exit;
- (3) Within ten (10) feet of any fence located on public or private property;
- (4) Within two (2) feet of any fire hydrant, fire plug, or other fire department connection;
- (5) Within (1,000) feet of any public building, park playground, homeless shelter facility, school, day care center, recreational facility, or sports field; and
- (6) In an area that obstructs or interferes with an activity for which the City has issued a permit.

(c) Any person who violates the provisions of this section is subject to criminal prosecution of a misdemeanor.

(Prior code § 5-3.21)

5.12.210 Unlawful Storage of Personal Property.

- (a) No person shall store any personal property in a public area that constitutes an immediate threat to the health or safety of the public or is evidence of a crime or contraband, which may include, but is not limited to:
 - (1) Personal property that obstructs or interferes with the flow of pedestrian, bicycle, or vehicle traffic, on any portion of any street, sidewalk, or other public right of way; and
 - (2) Attachment of any personal property to any public area or public property, including but not limited to, a building, bus shelter, the ground, a bench, a fence, pole, trash can, mailbox, sign, tree, or plant, without the City's prior written consent.
- (b) The City may remove personal property that is in violation of this Chapter without prior notice. Any person that obstructs or interferes with the City's removal of property under this Chapter will be subject to a misdemeanor.

5.12.220 Property Storage and Disposal.

- (a) The City shall store impounded personal property for a period of time reasonably determined by the Director of the Public Works Department. If the personal property is not claimed within such designated time frame, it may be discarded. The City shall not be required to undertake any search for, or return of, any impounded personal property stored for longer than the period of time reasonably determined by the Director of the Public Works Department.
- (b) The City shall maintain a record of the date any impounded personal property was discarded.

Agenda Item 1.C

RECOMMENDATION

Adopt a Resolution Approving a Professional Services Agreement with Townsend Public Affairs, Incorporated, for the Performance of Federal Advocacy, Intergovernmental, and Grant Services for an initial term of Five-Years, Subject to Three 5-year Extensions, for an Annual Amount Not to Exceed \$60,000 Per Year, a Maximum Total Agreement Amount Not to Exceed \$1,200,000 and Authorizing the City Manager to Execute Future Agreement Extensions.

EXECUTIVE SUMMARY

Adopting the proposed resolution will provide federal advocacy, intergovernmental, and grant services that protect and promote the City's interests before the Congress of the United States and federal funding agencies. If adopted, a Professional Services Agreement (see Attachment No. 1) with Townsend Public Affairs, Inc., (TPA) will be executed by the Mayor, and at the direction of the City Manager TPA shall assist the City in preparing its annual legislative priorities and platform; advise, counsel, and represent the City in legislative matters; and may be called upon to pursue federal funding by assisting the City with grant writing services (see Exhibit A to Attachment No.1).

BACKGROUND AND ANALYSIS

Each year since 2008, the City of Tracy City Manager has entered into Professional Services Agreements (PSA) with Patricia Jordan and Associates to assist the City with furthering its interests regarding transportation, social welfare, housing, environment, and other municipal interests at the federal level.

Desiring to further enhance the City's presence with federal agencies and legislators in order to effect legislation that will either positively or negatively impact the City's objectives; and to enhance the City's opportunities to position itself in an ever-increasing competitive environment of federal funding and grants, a Request for Qualifications and Proposals (RFQ/P) was issued to provide, not only federal advocacy services, but also for federal grant procurement services—something that the City already utilizes at the state level.

On June 3, 2022, notices for services were advertised in multiple locations including the Tracy Press and the City's Website. The original deadline for responses was June 30, 2022, but was extended on June 30th to July 7, 2022 by an amendment to the solicitation notice.

The City received twelve inquiries to its solicitation notice and qualifications and proposals were received by six firms:

Townsend Public Affairs	California, Washington D.C.
The Ferguson Group	Washington D.C.
C.J. Lake, LLC	Washington D.C.
Tai Ginsberg & Associates, LLC	Washington D.C.; Chicago, Illinois
Foley & Lardner, LLP	Washington D.C.
Rojas Communications Group	California

Following reviews and evaluations by Assistant City Managers Karin Schnaider and Midori Lichtwardt, Development Services Department Director Kris Balaji, and Finance Department Management Analyst II, Anne Bell, three firms stood out as having provided superior qualifications and proposals. Townsend Public Affairs, C.J. Lake, LLC., and The Ferguson Group were invited to partake in interviews with the evaluation panel. The interviews took place on July 20, 2022.

A qualification-based process considered the following criteria when evaluating the proposals and interviewing the shortlisted candidates:

- Experience, expertise, and knowledge of legislative process
- Experience representing cities and/or counties
- References indicating ability to work effectively with legislators from both political parties and with clients
- Record of no legal/regulatory violations
- Familiarity with the City of Tracy
- Ability to represent Tracy on a broad range of issues without significant conflicts of interest
- Experience, expertise, and knowledge of grant procurement
- Fee Proposals (although fees could be considered, they were not considered as a deciding factor)

Townsend Public Affairs (TPA) was selected after the interviews. Since May of 2019, the City of Tracy has been under a separate contract with TPA for State lobbying and grant writing services. This PSA has the added benefit of efficiencies and economies of scale by utilizing TPA for both State and Federal lobbying and grant services.

FISCAL IMPACT

The Agreement allows for an initial term of five-years, subject to three 5-year extensions, for an annual amount not to exceed \$60,000 per year, a maximum total agreement amount not to exceed \$1,200,000. The funding is provided through Central Administrations operating budget in the General Fund.

TPA currently serves as the City of Tracy's State Advocate. For the duration of the Agreement in which TPA provides both Federal and State Advocacy and Grant Writing services, TPA will offer a bundled discount price for Federal Services of \$2,000 per month (\$24,000 per Year). If TPA serves only as the City of Tracy's Federal Advocate and provides only Federal Grant Writing services, the monthly fee shall at that time revert to the prorated undiscounted amount

of \$60,000 per year (\$5,000 per month). TPA chooses not to include an annual inflationary escalator.

PUBLIC OUTREACH/ INTEREST

Not Applicable.

COORDINATION

Assistant City Managers Karin Schnaider and Midori Lichtwardt; Development Services Department Director, Kris Balaji; and Finance Department Management Analyst II, Anne Bell were the staff members involved in the selection process and contributed to the recommendation being presented in this staff report.

CEQA DETERMINATION

The action of approving an Agreement with a federal advocate and grant writer will not pose any environmental impact and is not subject to CEQA. Projects benefiting from the consultant's services will be subject to CEQA determination at the time of project approval.

STRATEGIC PLAN

Council's action addresses and contributes to its Strategic Priority of Governance, Goal No. 2 "Ensure Short and Long-term Fiscal Health".

ACTION REQUESTED OF THE CITY COUNCIL

Adopt a Resolution approving a Professional Services Agreement with Townsend Public Affairs, Incorporated for the performance of federal advocacy, intergovernmental, and grant services for an initial term of five-years, subject to three 5-year extensions for an annual amount not to exceed \$60,000 per year, for a maximum total agreement amount not to exceed \$1,200,000 and Authorizing the City Manager to execute future agreement extensions.

Respectfully submitted,

Karin Schnaider
Assistant City Manager

ahb

Attachments:

Professional Services Agreement Between the City of Tracy and Townsend Public Affairs, Incorporated

**CITY OF TRACY
PROFESSIONAL SERVICES AGREEMENT WITH
TOWNSEND PUBLIC AFFAIRS, INCORPORATED**

This Professional Services Agreement (**Agreement**) is entered into between the City of Tracy, a municipal corporation (**City**), and Townsend Public Affairs, Incorporated, a California Corporation (**Consultant**). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Consultant to perform federal advocacy, intergovernmental, and grant services to engage decision-makers on legislative and quasi-legislative actions on behalf of the City and to assist the City with its federal grant procurement program.

B. On June 3, 2022, City issued a Request for Qualifications and Proposals for Federal Advocacy, Intergovernmental, and Grant Services (**Project**). On June 30, 2022, before the response deadline of July 7, 2022, Consultant submitted its qualifications and proposal for the Project to the City. Following an interview on June 20, 2022, City determined that Consultant possesses the skills, experience, and certification required to provide the requested services.

C. The Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement is being executed pursuant to Resolution No. ____ approved by Tracy City Council on September 20, 2022.

Now therefore, the Parties mutually agree as follows:

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

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

2.1 Term. The term of this Agreement shall begin on the date of execution by the City of Tracy Mayor, and end on September 21, 2027, unless terminated in accordance with Section 6. This Agreement may be extended for three additional five-year terms by the City Manager following a written determination that Consultant has satisfactorily met all the requirements of this Agreement.

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

3.1 Not to Exceed Amount. Consultant's total compensation under this Agreement shall not exceed \$1,200,000.00 as specified in Exhibit "B" of this Agreement. Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the total compensation amount provided in this section without the City's prior written approval.

3.2 Invoices. Consultant shall submit an annual invoice for the total annual payment to the City that describe the services performed, including the names of persons performing the services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

To City:

Michael Rogers

City Manager

City of Tracy

333 Civic Center Plaza

Tracy, California 95376

With a copy to:

City Attorney

333 Civic Center Plaza

Tracy, CA 95376

To Consultant:

Christopher Townsend

President

Townsend Public Affairs, Incorporated

925 L Street, Suite 1404

Sacramento, California 95814

13. Miscellaneous.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[SIGNATURES ON FOLLOWING PAGE]

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

City of Tracy

**Townsend Public Affairs, Incorporated,
a California Corporation**



By: Nancy Young

By: Christopher Townsend

Title: Mayor

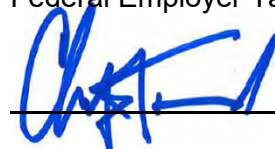
Title: President

Date: _____

Date: 9/6/2022

Federal Employer Tax ID No. 91-1929265

Attest:



Adrienne Richardson, City Clerk

By: Christopher Townsend

Title: Secretary

Date: 9/6/2022

Approved as to form:

Bijal M. Patel, City Attorney

Exhibits:

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

EXHIBIT A - Scope of Work

Personnel assigned to City and areas of responsibility:

- Alex Gibbs, Grants Manager, Grant Writing and Management
- Christine Rose, Senior Associate, Grant Writing
- Anastasia Heaton, Associate, Grant Writing
- Christopher Townsend, President, Strategic Support, Leveraging Relationships
- Ben Goldeen, Federal Advocacy Manager, Managing Federal Advocacy Activities
- Sammi Maciel, Associate, Supporting Federal Advocacy Activities

FEDERAL LEGISLATIVE ADVOCACY SCOPE OF SERVICES

Objective: Maximize the City's legislative and funding advocacy successes and elevate the City's presence in Washington, D.C.

- A. **Conduct Detailed Orientation:** Conduct onboarding process that includes extensive meetings with various relevant members of City leadership and key City departments to help develop a strategic plan that is carefully tailored to satisfy the needs of the City, as well as designed for maximum success in the current political climate and funding environment.
- B. **Develop Legislative Strategy:** Utilizing the information gathered during the onboarding process, Consultant shall coordinate with the City to develop an official legislative platform and strategy that represents the City's priorities in Washington, DC. This blueprint shall be shared with key stakeholders in the Congress and the Executive Administration, elected members of the U.S. Congress, policymakers, legislative support staff, other Advocates, the Governor and staff, other municipal leaders and associations, Council of Governments, community groups or any other designated entity engaging in efforts that may impact the operations or success of the City of Tracy.
- C. **Implement the Legislative Strategy:** Consultant shall advocate for the City's legislative agenda utilizing the following methods:
 1. **Build and Strengthen Relevant Relationships:** Consultant has cultivated a network of valuable relationships that shall be leveraged to promote the City's legislative agenda.
 2. **Leverage Relationships for Strategic Advocacy Plan:** Consultant shall engage various techniques to leverage their network of key relationships on behalf of the City:
 - i. Schedule meetings for the City to discuss relevant legislation.
 - ii. Prepare all briefing materials and talking points for the City.
 - iii. Brief legislative offices and stakeholders on the City's legislative agenda.
 - iv. Follow-up on meetings to ensure commitments and deliverables are being met.
 3. **Coordinate Advocacy Trips:** Consultant shall work with the City to coordinate advocacy trips to Washington, D.C on behalf of the City as often as requested to meet with the City's

legislative delegation, as well as legislators that serve on committees relevant to the City's agenda. Furthermore, whenever possible:

- i. Consultant shall also schedule site visits by legislators to the City.
 - ii. Consultant shall construct and execute an itinerary that includes meetings with Members of Congress, staff from the President's Administration, and relevant federal funding and regulatory agencies.
 - iii. Consultant shall guide the City's representatives throughout these trips and ensure that the meetings continue swiftly.
 - iv. Consultant shall work closely with the City's delegation to prepare briefing documents and deliverables to share with the targeted offices, identified through Consultant staff recommendations with input from City staff. Delegation members shall be provided with detailed itineraries and talking points and have at least one member of the Consultant team coordinating all meetings to ensure that the delegation is able to stay on time and travel from each meeting in an efficient manner.
 - v. Consultant shall ensure that the delegation is provided with detailed notes after the trip, summarize the visit and provide guidance on next steps.
 - vi. After the advocacy trip, Consultant shall draft thank you letters with pertinent follow up action items from every meeting to keep the momentum alive with federal offices, drive next steps, and ensure deliverables are met.
 - vii. Whenever possible, Consultant shall schedule site visits by legislators to the City, and any additional in state meetings that may arise from a federal office's recommendations.
4. **Track Relevant Legislation, Regulatory Changes, and Studies:** Consultant shall identify, analyze, and monitor all bill introductions, amendments, rollover bills, vetoes, and key studies relevant to the City's legislative platform and assess their potential impact on the City.
 5. **Track Appropriations Process:** Consultant shall identify, analyze, and monitor the Federal Appropriations Process for funding programs and various opportunities that could have an impact on the City's budget.
 6. **Craft Testimony and Position Letters:** Consultant shall prepare and submit written and verbal testimony regarding legislation relevant to the City. Consultant shall also draft and deliver position letters to legislators and key officials on specific bill language.
 7. **Communications Strategy:** Consultant shall provide strategic advice on effective communication tools (letters, calls, office visits, etc.) and support the City's recognition as a fiscally responsible, contemporary city. Consultant shall draft, review, and advise on all federal communications and documents.
 8. **Attend and Report on Meetings:** Consultant shall monitor and attend meetings of the relevant federal agencies and congressional legislative committees. As necessary, Consultant shall provide written and verbal updates on pertinent information discussed during the meetings.

9. **Draft Bill Language:** Consultant shall draft language and amendments for relevant legislation, as required to protect and promote the City's agenda.
 10. **Federal Earmark Opportunities:** In an effort to maximize federal funding, Consultant shall work with the City to identify projects and other funding priorities that may be suitable for funding through the Federal Earmark process. Consultant shall coordinate with the City to develop supporting materials for the earmark request. Consultant shall also work with members of the City's federal legislative delegation to gain support for the inclusion of the City's project.
- D. **Provide Progress Reports:** Consultant shall confer regularly with the City on Consultant's activities. Consultant shall provide timely electronic reports on the status of all legislative activity, such as bill language, amendments, and committee analyses. In addition to written reports, Consultant shall be available to the City for conference calls, in-person briefings, and meetings.
- E. **Prepare and File Lobbying Disclosure Reports:** Consultant shall prepare and file, on behalf of the City, all applicable federal lobbying disclosure reports.

GRANT FUNDING SCOPE OF SERVICES

Consultant shall utilize the following strategic and comprehensive approach to provide grant funding services to the City:

- A. **Conduct Detailed Orientation:** Consultant shall conduct a comprehensive onboarding process that includes extensive meetings with various relevant members of City leadership and key City departments to help develop a strategic plan that is carefully tailored to satisfy the needs of the City, as well as designed for maximum success in the current political climate and funding environment.
- B. **Craft Strategic Funding Plan:** Utilizing the information gathered during the onboarding process, Consultant shall coordinate with the City to develop a proactive and comprehensive strategic funding plan that serves the needs of the City's priorities. The plan shall do more than simply identify City projects; it shall outline and prioritize multiple funding options for each project and develop a specific plan of work tailored for each project. It shall also identify key "strings attached" to help assess the cost/benefit ratio for each grant opportunity.
- C. **Identify, Research, and Monitor Grant Funding Opportunities:** Consultant shall utilize list-serve subscription programs, funding workshops, agency canvassing, and other networking tactics to ensure every potential opportunity is identified and reviewed for relevance with the City's projects. Consultant shall then share these opportunities with the City for further assessment and determination if a grant application is warranted. The City shall also receive a grant matrix of funding programs that is updated regularly as new opportunities arise.
- D. **Grant Application Development and Submittal:** Consultant shall develop, draft, submit, and follow up on each City grant application through the following process:
 1. **Establishment of Clear Accountabilities:** Consultant shall coordinate with the City to ensure the assignment of responsibilities and tasks are made clear so that confusion and inefficiency are avoided, and the City is burdened as little as possible while Consultant pursues a grant opportunity.
 2. **Provide Overview of Full Application Requirements:** For each grant application, Consultant shall provide the City with a detailed overview of the requirements for the grant program and corresponding application to ensure that the program is a strong fit for the City's project. This shall include:
 - i. Application timeline
 - ii. Eligible project types
 - iii. Funding availability and award maximum and minimums
 - iv. List of application components, including proposal questions and any required attachments
 3. **Assemble Project Background and Details:** Consultant shall conduct a detailed informational interview with City staff most involved with each project to gain a full understanding of the project background and scope details necessary for developing the grant proposal and addressing all application questions.
 4. **Coordinate Technical Project Details:** For technical application components such as site plans, detailed cost estimates, project timelines, engineering plans, and cost-benefit

analyses, Consultant shall coordinate with City staff to compile all necessary attachments and ensure consistency across all elements of the application.

5. **Draft Written Proposal:** Consultant shall fully draft all narrative components of the application and, when applicable, shall indicate where additional input or project detail from the City could be provided during the proposal review process.
 6. **Advise on and Coordinate Strategic Support for Applications:** As necessary, Consultant shall determine if letters of support are required or advantageous and shall work to secure letters. Additionally, Consultant shall write, gather, and compile all other required certifications and documents for successful application submittal.
 7. **Incorporate Feedback to Finalize Proposal:** Well ahead the of the application deadline, Consultant shall provide the City with a full draft for review and feedback. Consultant shall incorporate any additional details or revisions provided during this process to finalize the grant application and shall obtain City approval for the final version of the application prior to submission.
 8. **Submit Completed Application:** Consultant shall ensure that applications are submitted prior to the deadline, whether the submission is electronic or through hard copies, in accordance with submission instructions for each individual program. For hard copy submissions, Consultant shall print and package applications according to submission instructions and shall ship applications through a reliable carrier service such as FedEx in order to provide the City with tracking and delivery confirmation for the application. Consultant shall also obtain a receipt for proof of submission and provide the City with a final copy of all submitted application documents.
 9. **Funding Advocacy:** Throughout grant application process Consultant shall leverage relationships with relevant officials and program officers in various federal funding agencies to ensure that City grant applications are aligned with the goals of the specific grant program and that the applications are well-crafted and well-positioned for funding.
- E. **Post-Grant Submittal Advocacy:** Consultant shall frequently contact legislators and agency officials to follow up on the status of a grant application and promote its need and urgency. This shall include drafting letters of support after grant submissions and distributing them to legislators for their consideration. In addition, Consultant shall work with legislators to reach out to individual granting agencies to provide background on City's projects and convey their support for those projects.
- F. **Post-Award Grant Administration and Compliance:** Consultant shall also assist, as needed, with post-award administration and compliance for all grant applications submitted by Consultant on behalf of the City. This assistance shall include interacting with granting agencies on behalf of the City, providing support for the drafting and submission of required reports, evaluations, and other tasks related to the successful monitoring of and compliance with the program requirements.
- G. **Comprehensive Follow-Up on Unsuccessful Applications:** Despite all best efforts, some grant applications are not selected for funding. In the instances where grant applications are unsuccessful, Consultant shall work with the relevant federal funding agencies to set up in-person or telephone debriefing sessions to discuss the grant applications and how to best revise

the grant applications for the next funding round to ensure success.

- H. **Provide Monthly Progress Reports:** Consultant shall confer regularly with the City on activities. Consultant shall provide timely electronic monthly reports on the status of all funding activity, such current funding opportunities, current applications, submitted applications, and post-grant submittal advocacy. In addition to written reports, Consultant shall be available to the City for conference calls, in-person briefings, and meetings.

EXHIBIT B – Compensation

DESCRIPTION OF SERVICES	FEE
Federal Legislative Advocacy and Grant Funding Services	\$36,000 Per Year*
Federal Legislative Advocacy	
• Conduct Detailed Orientation	Included
• Develop Legislative Strategy	Included
• Implement the Legislative Strategy	Included
• Build and Strengthen Relevant Relationships	Included
• Leverage Relationships for Strategic Advocacy Plan	Included
• Coordinate Advocacy Trips	Included
• Track Legislation	Included
• Craft Testimony and Position Letters	Included
• Draft Bill Language	Included
• Federal Earmark Opportunities	Included
• Provide Progress Reports	Included
• Prepare and File Lobbying Disclosure Reports	Included
Grant Funding	
• Craft Strategic Funding Plan	Included
• Identify, Research, and Monitor Grant Funding Opportunities	Included
• Grant Application Development and Submittal	Included
• Establishment of Clear Accountabilities	Included
• Provide Overview of Full Applications Requirements	Included
• Assemble Project Background and Details	Included
• Coordinate Technical Project Details	Included
• Draft Written Proposal	Included
• Incorporate Feedback to Finalize Proposal	Included
• Submit Completed Application	Included
• Funding Advocacy	Included
• Post-Grant Submittal Advocacy	Included
• Post-Award Grant Administration and Compliance	Included
• Comprehensive Follow-Up on Unsuccessful Applications	Included
<i>*The annual fee includes all reasonable business and travel expenses</i>	

****TPA currently serves as the City of Tracy’s State Advocate. For the duration of the Agreement in which TPA provides both Federal and State Advocacy and Grant Writing services, TPA will offer a bundled discount price for Federal Services of \$2,000 per month (\$24,000 per Year). If TPA serves only as the City of Tracy’s Federal Advocate and provides only Federal Grant Writing services, the monthly fee shall at that time revert to the prorated undiscounted amount of \$60,000 per year (\$5,000 per month). TPA chooses not to include an annual inflationary escalator.***

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH TOWNSEND PUBLIC AFFAIRS, INCORPORATED, FOR THE PERFORMANCE OF FEDERAL ADVOCACY, INTERGOVERNMENTAL, AND GRANT SERVICES FOR AN INITIAL TERM OF FIVE-YEARS, SUBJECT TO THREE 5-YEAR EXTENSIONS, FOR AN ANNUAL AMOUNT NOT TO EXCEED \$60,000 PER YEAR, A MAXIMUM TOTAL AGREEMENT AMOUNT NOT TO EXCEED \$1,200,000, AND AUTHORIZING THE CITY MANAGER TO EXECUTE FUTURE AGREEMENT EXTENSIONS

WHEREAS, To further enhance the City's presence with federal agencies and legislators to effect legislation that will either positively or negatively impact the City's objectives; and to enhance the City's opportunities to position itself in an ever-increasing competitive environment of federal funding and grants, a Request for Qualifications and Proposals was issued to provide federal advocacy services and federal grant procurement services; and

WHEREAS, On June 3, 2022, notices for services were advertised in multiple locations including the Tracy Press and the City's Website. The original deadline for responses was June 30, 2022 but was extended on June 30th to July 7, 2022 by an amendment to the solicitation notice; and

WHEREAS, The City of Tracy received twelve inquiries to its solicitation notice and qualifications and proposals were received by six firms: Townsend Public Affairs, Incorporated C.J. Lake, Limited Liability Company, The Ferguson Group, Tai Ginsberg & Associates, Limited Liability Company, Foley & Lardner, Limited Liability Company, and Rojas Communications Group; and

WHEREAS, Following evaluations by Assistant City Managers Karin Schnaider and Midori Lichtwardt, Development Services Department Director Kris Balaji, and Finance Department Management Analyst II, Anne Bell, three firms stood out as having provided superior qualifications and proposals (Townsend Public Affairs, Incorporated, C.J. Lake, Limited Liability Company, and The Ferguson Group) and were invited to partake in interviews with the evaluation panel which took place on July 20, 2022; and

WHEREAS, Townsend Public Affairs, Incorporated was considered to be the firm that could best successfully represent the City's interests and objectives based on the evaluation criteria; and now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby approves a Professional Services Agreement between the City of Tracy and Townsend Public Affairs, Incorporated, a California Corporation to provide federal advocacy, intergovernmental, and grant services per Exhibit "A" of the attachment to this resolution for an initial five-year term in the amount listed in Exhibit "B" of the attachment; and be it

FURTHER RESOLVED: That the City Council of the City of Tracy authorizes the City of Tracy City Manager to execute future extensions of the Agreement for three additional five-year extensions per the terms of the Agreement and per the amount listed in Exhibit "B" of the Agreement.

* * * * *

The foregoing Resolution 2022-_____ was adopted by the Tracy City Council on September 20, 2022, by the following vote:

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

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

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

Attachment: Professional Services Agreement Between the City of Tracy and Townsend
Public Affairs, Incorporated

Agenda Item 1.D

RECOMMENDATION

Staff recommends that the City Council adopt a Resolution authorizing the purchase of vehicles and equipment in the amount of \$1,606,536.

EXECUTIVE SUMMARY

A current need exists to replace antiquated vehicles and equipment for the operation and maintenance of City infrastructure. This request seeks authorization to make the necessary purchases pursuant to an existing cooperative purchasing agreement.

BACKGROUND AND LEGISLATIVE HISTORY

Sourcewell (formerly National Joint Powers Alliance (NJPA) is a municipal contracting government agency that serves education and government agencies nationally through competitively bid and awarded contract purchasing solutions. The City of Tracy is an established customer with Sourcewell (customer number 18531). The City is authorized to make purchases using the Sourcewell cooperative purchasing agreements, per Tracy Municipal Code section 2.20.220.

ANALYSIS

The Operations Department is responsible for managing most of the City's vehicle and equipment fleet. Various divisions of the Operations Department and Development Services Departments have an existing need to replace antiquated equipment. The Operations Fleet Division received authorization through the Fiscal Year 2022-2023 budget process for the replacement and purchase of the antiquated equipment. Staff requested bids from Sourcewell (formerly National Joint Powers Alliance NJPA).

Below is a list of the vehicles and equipment that will be purchased and the vendors that will be used.

Description	Vendor	Cost	Reason for award
Vac-Con VE311HE/1300 Sewer and Drain Cleaner	Municipal Maintenance Equipment	\$582,291	Sourcewell (NJPA) 101221-VAC
John Deere 310SL Backhoe Loader	PAPE Machinery	\$153,941	Sourcewell (NJPA) 032119-JDC
John Deere 310SL Backhoe Loader	PAPE Machinery	\$153,941	Sourcewell (NJPA) 032119-JDC
MV607 5 Yard Dump	Peterson Trucks	\$177,312	Sourcewell (NJPA) 060920-NVS
Wirtgen W60Ri Asphalt Grinder	Nixon -Egli Equipment	\$331,424	Sourcewell (NJPA) 032119-JDC-1
HV607 10 Yard Dump	Peterson Trucks	\$207,627	Sourcewell (NJPA) 060920-NVS
Total		\$1,606,536	

The total purchase amount per vendor for the items are as follows:

Municipal Maintenance Equipment – Sacramento, CA	\$ 582,291
PAPE Machinery– Stockton, CA	\$ 307,882
Peterson Trucks- San Leandro, CA	\$ 384,939
Nixon-Egli -Tracy, CA	<u>\$ 331,424</u>
Total:	\$1,606,536

FISCAL IMPACT

Funding was budgeted and is available in the fiscal year 2022-2023 equipment replacement budget for the acquisition of this equipment.

STRATEGIC PLAN

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

Governance Strategy

Goal 2: Ensure short and long-term fiscal health

Objective 7: Initiate Cost Allocation Study; create replacement schedules for Vehicles and Equipment; building maintenance; Information Technology

ACTION REQUESTED OF THE CITY COUNCIL

That City Council, by resolution, authorize the purchase of vehicles and equipment in the amount of \$1,606,536.

Respectfully submitted,

James Thompson
Fleet Supervisor

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

AUTHORIZING THE PURCHASE OF VEHICLES AND EQUIPMENT IN THE AMOUNT OF \$1,606,536

WHEREAS, as part of the equipment purchasing and replacement program for the City of Tracy, there are multiple vehicles and equipment needing replacement which are funded in the Fiscal Year 2022-2023 budget; and

WHEREAS, in August 2022, the City requested bids for the vehicles and equipment from Sourcewell (formerly National Joint Powers Alliance (NJPA) pursuant to an existing cooperative purchasing agreement, and to ensure that the best price is received for each unit; and

WHEREAS, multiple vendors will be used for the purchase of the replacement vehicles and equipment, which includes Municipal Maintenance Equipment, Nixon-Egli Equipment, PAPE Machinery, and Peterson Trucks; and

WHEREAS, the City is authorized to make purchases under the current cooperative purchasing agreements under Tracy Municipal Code Section 2.20.220; now, therefore be it

RESOLVED: That the City Council of the City of Tracy hereby authorizes the purchase of vehicles and equipment in the amount of \$1,606,536.

The foregoing Resolution _____ was adopted by the Tracy City Council on the 20th day of September 2022, by the following vote:

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

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

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

AGENDA ITEM 3.A

REQUEST

STAFF RECOMMENDS THAT THE CITY COUNCIL INTRODUCE AN ORDINANCE AMENDING SECTION 3.08.580 REGARDING SPECIAL SPEED ZONES OF THE TRACY MUNICIPAL CODE TO UPDATE SPEED LIMITS AS REQUIRED BY THE CALIFORNIA VEHICLE CODE

EXECUTIVE SUMMARY

The proposed ordinance will amend Section 3.08.580, Article 12 of the Tracy Municipal Code to establish speed limits on street segments in accordance with the requirements of the California Vehicle Code (CVC).

DISCUSSION

Section 3.08.580, Article 12, of the Tracy Municipal Code (TMC) establishes speed zones on various streets in the City. The speed limit on streets is established based on engineering and traffic surveys in accordance with the requirements of the California Vehicle Code section 40803 (CVC), and the applicable traffic engineering standards. To allow Law Enforcement to enforce posted traffic speed on streets with use of radar equipment, it is necessary to establish speed limits in accordance with the requirements of the CVC. The CVC requires completion of engineering and traffic surveys to establish posted speeds once every five years. In December of 2021, staff completed engineering and traffic surveys to update speed limits on 21 segments of 16 arterial and collector streets in accordance with the CVC and California Manual of Uniform Traffic Control Devices (CAMUTCD) and recommends introducing an ordinance to amend special speed zones outlined in Section 3.08.580 of the Tracy Municipal Code.

The use of radar equipment is one of the most effective tools for enforcing speed limits and traffic safety on City streets. To allow law enforcement to fully utilize the equipment, it is necessary to establish speed limits in accordance with the requirements of the CVC. In order to legally use radar equipment for speed enforcement, engineering and traffic surveys are needed to establish posted speeds once every five years. Subsection (c) of California Vehicle Code Section 40803 provides that evidence of conducting a speed zone survey within the last five years to establish the prima facie speed for a local street or road shall constitute a prima facie case that such local street or road is not a speed trap for the purposes of radar enforcement.

An engineering and traffic survey was completed on a total of 21 segments of the 16 arterial and collector streets by the Engineering Division. This survey will update the posted speeds and provide the basis for the proposed amendments of the Municipal Code, thus, resulting in continuation of special speed zones with updated speed limits on the street segments listed in Attachment A. Attachment B provides a map where the speed surveys were conducted.

This update to the City's traffic code will establish radar enforceable speed limit zones for arterial and collector streets for the following:

- Balboa Drive
- Beechnut Avenue
- Beverly Place
- Chester Drive
- Clover Road
- Corral Hollow Road
- Cypress Drive
- Eaton Avenue
- Henley Parkway
- Lankershire Drive
- Lowell Avenue
- Middlefield Drive
- Portola Way
- Richard Drive
- Tenth Street
- Third Street

The results of the speed survey recommend that existing speed limits remain unchanged.

The recommendations are based upon the 85th percentile speed of surveyed moving vehicles on those streets with consideration given to the existing road site conditions such as street alignment, classification, collisions, etc. The CVC allows further adjustment of the surveyed speed based upon the above conditions. The research indicates that posting speeds lower than the closest 85th percentile speed does not lower the speed of motorists.

A copy of the proposed Ordinance Amendment is provided as Attachment C. Attachment D provides an update of the TMC section 3.08.580 special speed zone table.

A copy of all engineering and traffic surveys certified as correct by the City Engineer will be maintained in the Engineering Division files with a duplicate copy on file with the Police Department.

It is observed that some of the surveyed segments were sub-part of longer segments of the roadway in the Tracy Municipal Code for radar enforcement. To differentiate the speed limits on the surveyed segments, it is necessary to add the sub-parts separately and delete the larger segments. This will avoid confusion in establishing the speed limit signs for the various roadway segments and assist in better speed enforcement.

Therefore, the following four roadway segments are recommended to be added to the ordinance for radar enforcement:

Street	Segment	Previously Established	Newly Established	Change
Clover Road	West City limits to Tracy Boulevard	25	25	No Change
Clover Road	Holly Drive to Tracy Boulevard	25	25	No Change
Eaton Avenue	Richard Drive to Tracy Boulevard	25	25	No Change
Eaton Avenue	Tracy Boulevard to East Street	25	25	No Change

The following five roadway segments are recommended to be removed from the ordinance for radar enforcement to avoid duplication of road segments:

Street	Segment	Previously Established	Newly Established	Change
Balboa Drive	Portola Way to Kavanagh Avenue			Delete
Clover Road	West City limits to Holly Drive			Delete
Eaton Avenue	Richard Drive to East Street			Delete
Portola Way	Balboa Drive to Entrada Way			Delete
Tenth Street	Tracy Boulevard to MacArthur Drive			Delete

FISCAL IMPACT

There will be no fiscal impact to the General Fund. Enforcement of speed limits is a budgeted item and is the Police Department's responsibility. The current speed survey does not require any signing or striping changes and hence there will be no impact to the existing traffic signing and signage operation budget.

COORDINATION

The results of the Engineering and Traffic Survey as shown in Attachments A & B, the updated Special Speed Zone Table in the TMC as shown in Attachment D, and the Speed Zone Report in Attachment E were coordinated with the Police Department and the Operations and Utilities Department. This assists the Police Department for speed enforcement and assists the Operations and Utilities Department to determine any speed limit sign updates in the field.

CEQA DETERMINATION

The proposed item is categorically exempt from California Environmental Quality Act (CEQA) pursuant to CEQA guidelines Section 15301, which pertains to existing highways and streets. In accordance with CEQA Guidelines, no further environmental assessment is required.

STRATEGIC PLAN

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

RECOMMENDATION

Staff recommends that the City Council introduce an ordinance amending Section 3.08.580, regarding special speed zones of the Tracy Municipal Code to update speed limits as required by the California Vehicle Code.

Prepared by: Anju Pillai, PE, Senior Civil Engineer

Reviewed by: Robert Armijo, PE, City Engineer / Assistant Development Services Director
Randall Bradley, Fire Chief, South San Joaquin County Fire Authority
Kris Balaji, PMP, PE, Development Services Director
Sara Cowell, Interim Finance Director
Midori Lichtwardt, Assistant City Manager

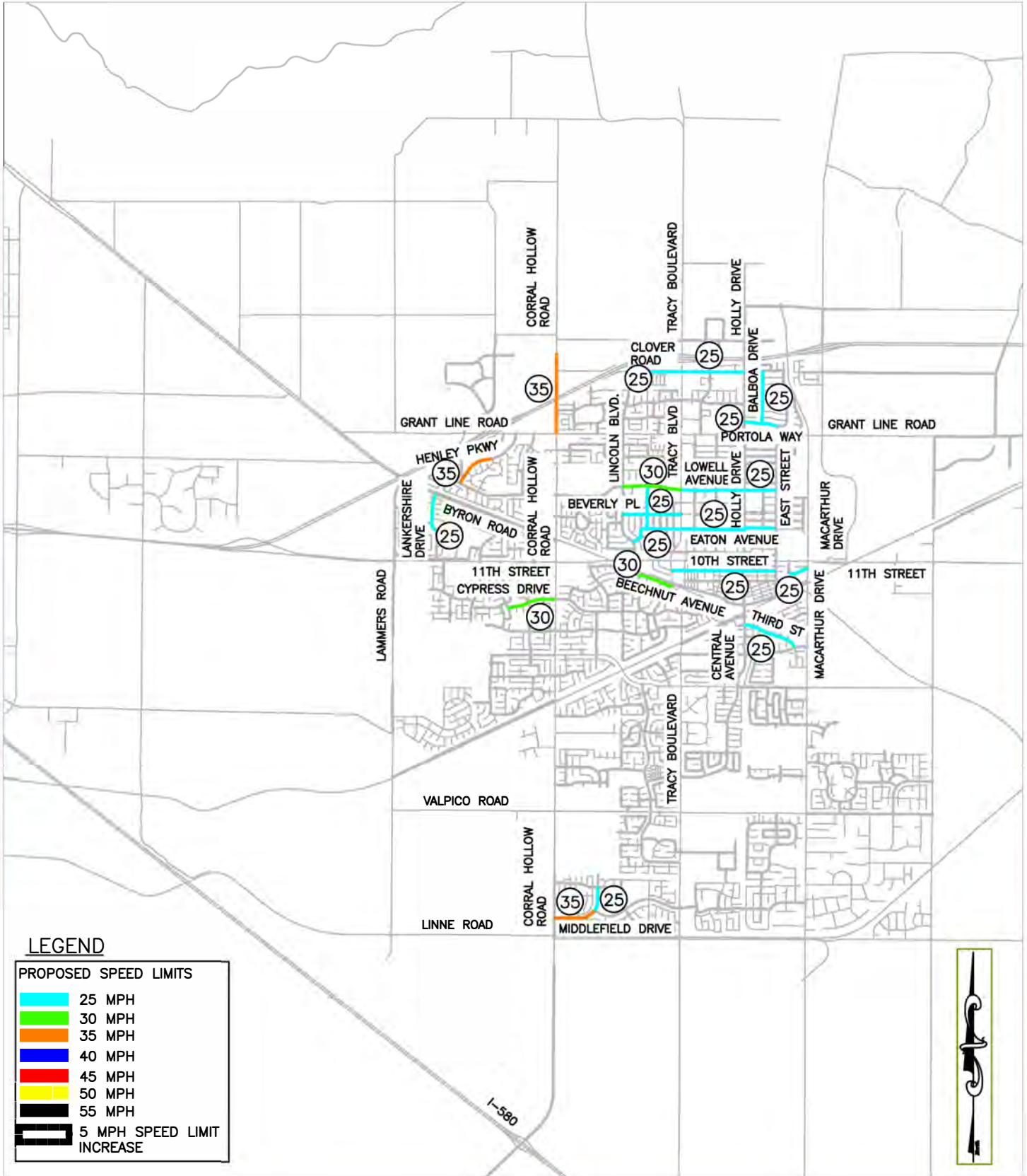
Approved by: Michael Rogers, City Manager

ATTACHMENTS

Attachment A - Speed Survey Locations
Attachment B - Speed Survey Map
Attachment C - Ordinance
Attachment D - TMC Section Special Speed Zone Table 2021
Attachment E - Speed Zone Report December 2021

ATTACHMENT A

ATTACHMENT A - CITY OF TRACY SPEED SURVEY LOCATIONS 2021						
SR. NO.	SEGMENT	FROM	TO	PREVIOUSLY ESTABLISHED SPEED LIMIT	85TH PERCENTILE SPEED	PROPOSED SPEED
1	BALBOA DRIVE	PORTOLA WAY	CLOVER ROAD	25	32	25
2	BEECHNUT AVENUE	SEQUOIA BLVD.	TRACY BLVD.	30	36	30
3	BEVERLY PLACE	LINCOLN BLVD.	TRACY BLVD.	25	31	25
4	CHESTER DRIVE	EATON AVENUE	LOWELL AVENUE	25	30	25
5	CLOVER ROAD	WEST CITY LIMITS	TRACY BLVD.	25	30	25
6	CLOVER ROAD	TRACY BLVD	HOLLY DRIVE.	25	32	25
7	CORRAL HOLLOW ROAD	NORTH CITY LIMITS	GRANT LINE ROAD	35	41	35
8	CYPRESS DRIVE	CORRAL HOLLOW ROAD	SUMMER LANE	30	34	30
9	EATON AVENUE	RICHARD DRIVE	TRACY BLVD.	25	32	25
10	EATON AVENUE	TRACY BLVD.	EAST STREET	25	32	25
11	HENLEY PARKWAY	BRIDLE CREEK DRIVE	LOWELL AVENUE	35	38	35
12	LANKERSHIRE DRIVE	MONTGOMERY LANE	BYRON ROAD	25	32	25
13	LOWELL AVENUE	TRACY BLVD.	EAST STREET	25	29	25
14	LOWELL AVENUE	LINCOLN BLVD.	TRACY BLVD.	30	37	30
15	MIDDLEFIELD DRIVE	CORRAL HOLLOW ROAD	WHISPERING WIND DRIVE	35	40	35
16	MIDDLEFIELD DRIVE	WHISPERING WIND DRIVE	PEONY DRIVE	25	31	25
17	PORTOLA WAY	HOLLY DRIVE	ENTRADA WAY	25	31	25
18	RICHARD DRIVE	LINCOLN BLVD.	EATON AVENUE	25	26	25
19	TENTH STREET	CIVIC CENTER DRIVE	MACARTHUR DRIVE	25	28	25
20	TENTH STREET	TRACY BLVD.	EAST STREET	25	31	25
21	THIRD STREET	CENTRAL AVENUE	MT DIABLO AVENUE	25	32	25



LEGEND

PROPOSED SPEED LIMITS	
	25 MPH
	30 MPH
	35 MPH
	40 MPH
	45 MPH
	50 MPH
	55 MPH
	5 MPH SPEED LIMIT INCREASE



TRAFFIC SPEED SURVEY
 UPDATE 2021
 ATTACHMENT B

DESIGNED BY
 ET
 DRAWN BY
 ET
 CHECKED BY
 AP
 SCALE
 NTS

SYMBOL	DATE	REVISION/DATE	
		DESCRIPTION	APPROVED

SHEET
 1
 OF 1 SHEET

CITY OF TRACY

APPROVED FOR CONSTRUCTION SUBJECT TO THE DATA SHOWN. CITY OF TRACY AND THE UNDERSIGNED ARE NOT RESPONSIBLE FOR ERRORS AND/OR OMISSION THAT MAY BE PRESENT ON THESE PLANS.

DESIGNER: [Signature] CITY ENGINEER: [Signature] DATE: [Date]

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

ORDINANCE NO. _____

AMENDING SECTION 3.08.580 REGARDING SPECIAL SPEED ZONES OF THE TRACY MUNICIPAL CODE TO UPDATE SPEED LIMITS AS REQUIRED BY THE CALIFORNIA VEHICLE CODE

WHEREAS, The use of radar equipment is one of the most effective tools for enforcing speed limits and traffic safety on City streets; and

WHEREAS, Subsection (c) of California Vehicle Code Section 40803 provides that evidence of conducting a speed zone survey within the last five years to establish the prima facie speed for a local street or road shall constitute a prima facie case that such local street or road is not a speed trap for the purposes of radar enforcement; and

WHEREAS, City staff completed an Engineering & Traffic survey in December 2021 of 21 segments of 16 arterial and collector streets; and

WHEREAS, The survey shows prima facie speed limits for all surveyed street segments remain unchanged; and

WHEREAS, It is observed that the some of the surveyed segments were sub-part of longer segments of the roadway in the Tracy Municipal Code for radar enforcement; and

WHEREAS, In order to differentiate the speed limits on the surveyed segments, it is necessary to add the sub-parts separately and delete the larger segments; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TRACY DOES ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals/Findings. The City Council finds and determines the foregoing recitals are true and correct and are hereby incorporated herein as findings and determinations of the City.

SECTION 2. Amended Sections. Section 3.08.580 of Chapter 3.08 of Title 3 of the Tracy Municipal Code is hereby amended to add the four street portions described below and their established Declared Prima Facie Speed Limit (Miles per Hour) (with additions underlined, and deletions in ~~striketrough~~):

Name of Street and Portion Affected	Declared Prima Facie Speed Limit (Miles per Hour)
- <u>Clover Road</u> <u>West City limits to Tracy Boulevard</u>	<u>25</u>
- <u>Clover Road</u> <u>Tracy Boulevard to Holly Drive</u>	<u>25</u>
- <u>Eaton Avenue</u> <u>Richard Drive to Tracy Boulevard</u>	<u>25</u>
- <u>Eaton Avenue</u> <u>Tracy Boulevard to East Street</u>	<u>25</u>

SECTION 3. Amended Sections. Section 3.08.580 of Chapter 3.08 of Title 3 of the Tracy Municipal Code is hereby amended to delete the five street portions described below to avoid duplication of street segments:

Name of Street and Portion Affected	Declared Prima Facie Speed Limit (Miles per Hour)
— Balboa Drive Portola Way to Kavanagh Avenue	25
— Clover Road West City limits to Holly Drive	25
— Eaton Avenue Richard Drive to East Street	25
— Portola Way Balboa Drive to Entrada Way	25
— Tenth Street Tracy Boulevard to MacArthur Drive	25

SECTION 4. Remaining Sections. Except as herein added or changed, the remaining sections of the Tracy Municipal Code, including the Declared Prima Facie Speed Limit (Miles per Hour) for the portions of streets not set forth above, shall remain in full force.

SECTION 5. Constitutionality. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 6. CEQA Determination. The City Council finds that this Ordinance is exempt from CEQA Guidelines in accordance with CEQA Guidelines section 15301, which pertains to existing highways and streets.

SECTION 7. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 8. Effective Date. This ordinance shall become effective upon the thirtieth (30th) day after final adoption.

SECTION 9. Publication. The City Clerk is directed to publish this ordinance in a manner required by law.

SECTION 10. Codification. This Ordinance shall be codified in the Tracy Municipal Code.

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the 20th day of September 2022, and finally adopted on the 4th day of October 2022, by the following vote:

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

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

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

Date of Attestation: _____

NOTICE AND DIGEST

ORDINANCE AMENDING SECTION 3.08.580 REGARDING SPECIAL SPEED ZONES OF THE TRACY MUNICIPAL CODE TO UPDATE SPEED LIMITS AS REQUIRED BY THE CALIFORNIA VEHICLE CODE

This Ordinance (Ordinance) amends Section 3.08.580 regarding special speed zones of the Tracy Municipal Code to update speed limits as required by the California Vehicle Code section 40803. Based on a Speed Zone Report, this Ordinance does not change any of the posted speed limits in the Special Speed Zones of the Tracy Municipal Code. This Ordinance only breaks up Special Speed Zones to differentiate the speed limits on the surveyed segments, which is necessary to add sub-parts separately and delete the larger segments of Tracy Streets.

Attachment D

3.08.580 Special speed zone Table

Name of Street or Portion Affected	Declared Prima Facie Speed Limit (Miles per Hour)
- Arbor Road	
Holly Drive to MacArthur Drive	40
- Balboa Drive	
Portola Way to Clover Road	25
Portola Way to Kavanagh Avenue	25
- Barcelona Drive	
Cypress Drive to Schulte Road	25
- Beechnut Avenue	
Sequoia Boulevard to Tracy Boulevard	30
- Beverly Place	
Lincoln Boulevard to Tracy Boulevard	25
- Brichetto Road	
Chrisman Road to east City limits	50
- Brookview Drive	
Regis Drive to Reids Way	30
Reids Way to Glenbrook Drive	25
- Buthmann Avenue	
Grant Line Road to Kavanagh Avenue	25
Kavanagh Avenue to Clover Road	25
- Byron Road	
Corral Hollow Road to Lammers Road	45
- Central Avenue	
Sycamore Parkway to Tracy Boulevard	35
Tracy Boulevard to Schulte Road	30
Schulte Road to Mount Diablo Avenue	30
Mount Diablo Avenue to Fourth Street	25
Fourth Street to Eleventh Street	25
Mount Diablo Avenue to Eleventh Street	25

- Chester Drive	
Eaton Avenue to Lowell Avenue	25
- Chrisman Road	
Valpico Road to north City limits	50
Grant Line Road to Paradise Avenue	40
Paradise Avenue to RR Tracks (south of Paradise Ave)	40
- Clover Road	
West City Limits to Holly Drive	25
<u>West City limits to Tracy Boulevard</u>	<u>25</u>
<u>Tracy Boulevard to Holly Drive</u>	<u>25</u>
- Corral Hollow Road	
Parkside Drive to Schulte Road	40
Eleventh Street to Lowell Avenue	40
Lowell Avenue to Grant Line Road	40
North City limits to Grant Line Road	35
Parkside Drive to Valpico Road (City limits)	40
Schulte Rd to Eleventh St	45
Valpico Road to Linne Road (City limits)	45
I-580 to south City Limits	55
1100' south of Linne Road to I-580	50
- Crossroads Drive	
Eleventh Street to Gaines Lane	25
Greystone Drive to Eleventh Street	30
- Cypress Drive	
Corral Hollow Road to Summer Lane	30
Hickory Avenue to Corral Hollow Road	25
- Dominique Drive	
Eastlake Circle to Elissagary Drive	30
- Dove Drive/Way	
Sycamore Parkway to Starflower Drive	25
- East Lake Circle	
Crater Place to Lakeview Drive (East side)	25

Crater Place to Lakeview Drive (West side)	25
- East Street	
Grant Line Road to Eleventh Street	30
Eleventh Street to Sixth Street	25
- Eaton Avenue	
Richard Drive to East Street	25
<u>Richard Drive to Tracy Boulevard</u>	<u>25</u>
<u>Tracy Boulevard to East Street</u>	<u>25</u>
- Eleventh Street	
East Street to Beginning of Bridge	35
Beginning of Bridge to East City Limits	45
Corral Hollow Road to Lincoln Boulevard	35
Lammers Road to Corral Hollow Road	45
Lincoln Boulevard to Tracy Boulevard	30
Tracy Boulevard to East Street	30
West City limits to Lammers Road	55
- Entrada Way	
Grant Line Road to Portola Way	25
- Fabian Road	
Lammers Road to Mamie Anderson Lane	35
- Fourth Street	
Tracy Boulevard to Central Avenue	35
- Glenbriar Drive	
Valpico Road to Glenbriar Circle	30
- Glenbrook Drive	
Brookview Drive to MacArthur Drive	25
- Grant Line Road	
Corral Hollow Road to Tracy Boulevard	40
MacArthur Drive to Skylark Avenue	45
Skylark Avenue to Chrisman Road	45
Chrisman Road to east City Limits	45
Tracy Boulevard to MacArthur Drive	40

West City limits/Byron Road to I-205	40
I-205 to Corral Hollow Road	40
- Hansen Road	
Schulte Road to I-205 (City Limits)	50
- Henley Parkway	
Bridle Creek Drive to Lowell Avenue	35
- Holly Drive	
Clover Road to the north City limits	35
Grant Line Road to Clover Road	30
Eleventh Street to Grant Line Road	25
- International Parkway	
Berkeley Road to Schulte Road	45
I-205 (City Limits) to Berkeley Road	45
- Jackson Avenue	
Crossroads Drive to Jefferson Parkway	25
- Jefferson Parkway	
Eleventh Street to Jackson Avenue	30
- Joe Pombo Parkway	
Lowell Avenue to Bridle Creek Drive	35
Bridle Creek Drive to Grant Line Road	35
- Kavanagh Avenue	
Corral Hollow Road to Tracy Boulevard	25
Tracy Boulevard to Balboa Drive	25
- Lammers Road	
Eleventh Street to Byron Road	40
Eleventh Street to City limits south of Jaguar Run	45
Redbridge Drive to Schulte Road (City limits)	45
- Lankershire Drive	
Montgomery Lane to Byron Road	25
- Larch Road	
Tracy Boulevard to Holly Drive	35
- Lauriana Lane	

Schulte Road to Cypress Avenue	30
- Lincoln Boulevard	
Eleventh Street to Grant Line Road	30
- Linne Road	
West City limits to East City limits	50
- Lowell Avenue	
Blandford Lane to Orchard Parkway	30
Orchard Parkway to Corral Hollow Road	30
Corral Hollow Road to Lincoln Boulevard	30
Lincoln Boulevard to Tracy Boulevard	30
Tracy Boulevard to East Street	25
- MacArthur Drive	
Eleventh Street to I-205 Interchange	40
Fair Oaks Drive to Valpico Road	45
Schulte Road to SPRR Tracks	40
South City limits to Fair Oaks Drive	40
SPRR Tracks to Eleventh Street	35
Valpico to Schulte Road	40
I-205 Interchange to north City limits	40
- Middlefield Drive	
Corral Hollow Road to Whispering Wind Drive	35
Whispering Wind Drive to Peony Drive	25
- Mt. Diablo Avenue	
Tracy Boulevard to Central Avenue	25
Central Avenue to MacArthur Drive	25
- Naglee Road	
Grant Line Road to north City limits	35
- Orchard Parkway	
Lowell Avenue to Grant Line Road	35
- Paradise Avenue	
Grant Line Road to north City limits	45
- Paradise Road	

Grant Line Road to Chrisman Road	40
- Parker Avenue	
Eleventh Street to Grant Line Road	25
- Parkside Drive	
Winter Lane to Corral Hollow Road	30
- Pescadero Avenue	
MacArthur Drive to 2,500' east of MacArthur Drive	35
2,500' east of MacArthur Drive to east City limits	45
- Portola Way	
Balboa Drive to Entrada Way	25
Holly Drive to Entrada Way	25
- Presidio Place	
Jackson Avenue to Compton Place	25
- Richard Drive	
Lincoln Boulevard to Eaton Avenue	25
- Schulte Road	
Barcelona Drive to Mabel Josephine Drive	40
Corral Hollow Road to Barcelona Drive	35
Corral Hollow Road to Tracy Boulevard	40
International Parkway to Hansen Road	45
Hansen Road to east City limit	50
Tracy Boulevard to MacArthur Drive	40
- Sequoia Boulevard	
Alden Glen Drive to Beechnut Avenue	30
- Sixth Street	
Tracy Boulevard to Central Avenue	30
Central Avenue to MacArthur Drive	30
- Starflower Drive	
Corral Hollow Road to Dove Drive/Way	25
- Summer Lane	
Eleventh Street to Brittany Place	25
- Sycamore Parkway	

Tracy Boulevard to Valpico Road	30
Valpico Road to Schulte Road	35
- Tennis Lane	
Corral Hollow Road to Jill Drive	25
Tracy Boulevard to Corral Hollow Road	25
- Tenth Street	
Civic Center Drive to MacArthur Drive	25
Tracy Boulevard to East Street	25
Tracy Boulevard to MacArthur Drive	25
- Third Street	
Central Avenue to Mt. Diablo Avenue	25
- Tracy Boulevard	
Grant Line Road to Larch Road	35
Larch Road to the north City limits	40
Linne Road to Valpico Road	45
Lowell Avenue to Grant Line Road	35
Schulte Road to Sixth Street	40
Sixth Street to Lowell Avenue	35
South City limits to Linne Road	45
Valpico to Schulte Road	45
- Valpico Road	
Fairoaks Drive to east City limits	45
MacArthur Drive to Fairoaks Drive	40
Tracy Boulevard to MacArthur Drive	40
West City limits to Tracy Boulevard	40
-Western Pacific Way	
West City Limits to Corral Hollow Road	50
- Whispering Wind Drive	
St. Regis Drive to Tracy Boulevard	30
Tracy Boulevard to Middlefield Drive	30

The declared prima facie or maximum speed limit shall be effective when appropriate signs giving notice thereof are erected upon the street and shall not thereafter be revised

except on the basis of an engineering and traffic survey. The provisions of this section shall not apply in respect to the twenty-five (25) mile per hour prima facie speed limit which is applicable when passing a school building or the grounds thereof

City of Tracy

Engineering & Traffic Survey Report December 2021



**Engineering Division
Development Services Department**

I. Index

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December
2021

Engineering & Traffic Survey Report

II. INTRODUCTION

This report presents the results of Traffic and Engineering Surveys conducted in the year 2021. The surveys were conducted to establish safe and reasonable speed limits. The findings of this report will enable the City to justify radar enforcement of speed limits in these roadways, as indicated in Section 40802 of the California Vehicle Code. Segments of the following City streets were investigated:

- Balboa Drive – Portola Way to Clover Road
- Beechnut Avenue – Sequoia Boulevard to Tracy Boulevard
- Beverly Place – Lincoln Boulevard to Tracy Boulevard
- Chester Drive – Eaton Avenue to Lowell Avenue
- Clover Road – West City Limits to Tracy Boulevard
- Clover Road – Holly Drive to Tracy Boulevard
- Corral Hollow Road – North City Limits to Grant Line Road
- Cypress Drive – Corral Hollow Road to Summer Lane
- Eaton Avenue – Richard Drive to Tracy Boulevard
- Eaton Avenue – Tracy Boulevard to East Street
- Henley Parkway – Bridle Creek Drive to Lowell Avenue
- Lankershire Drive – Montgomery Lane to Byron Road
- Lowell Avenue – Tracy Blvd. to East Street
- Lowell Avenue – Lincoln Boulevard to Tracy Boulevard
- Middlefield Drive – Corral Hollow Road to Whispering Wind Drive
- Middlefield Drive – Whispering Wind Drive to Peony Drive
- Portola Way – Holly Drive to Entrada Way
- Richard Drive – Lincoln Boulevard to Eaton Avenue
- Tenth Street – Civic Center Drive to MacArthur Drive
- Tenth Street – Tracy Boulevard to East Street
- Third Street – Central Avenue to Mt. Diablo Avenue

III. STUDY PROCEDURES

Section 22352, of the California Vehicle Code (CVC) requires a 25 mph prima facie speed limit on streets in residential or business district, 15 mph at railroad grade crossings, highway intersections with sight restrictions and in any alley. However, upon the basis of an Engineering and Traffic survey, a local authority may declare speed limits of 30, 35, 40, 45, 50, 55, 60, or a maximum of 65 mph in order to facilitate the orderly movement of traffic. Section 22356 of CVC currently sets the maximum speed limit at 65 mph. Also, except as provided in Section 22356, it is also required to comply with Section 22349 (b) which states that “Notwithstanding any other provisions of law, no person may drive a vehicle upon a two lane, undivided highway at a speed greater than 55 miles per hour unless that highway, or portion thereof, has been posted for higher speed by local agency on the bases of an engineering and traffic survey”. Prima facie speed limits can be posted without the need for engineering and traffic surveys. The required elements in such Engineering and Traffic Survey are outlined in Section 627 of the CVC. This report adopts the aforementioned guidelines in formulating the recommendations in this report.

The principal elements in this study of the selected streets are highlighted below:

Radar Check

Each street was divided into segments to account for its differing roadway characteristics. Variations in roadway segments include street width, and other significant geometric factors and constraints. One speed check was made in each section from an inconspicuously parked, unmarked vehicle. Every effort was made to ensure that the presence of the vehicle does not affect the driving behavior of other motorists. A minimum of 100 samples were taken for each section of roadway. All field data was coded onto forms for subsequent computer analysis.

Data Analysis

For each survey section, computer analysis and calculations were performed on the field data to obtain several key parameters. The computer analysis printouts are included in the appendix of this report. A list of these parameters and a brief discussion of each follow:

50th Percentile Speed. The 50th percentile speed is the speed above and below which 50 percent of the observed vehicles are travelling. This is also known as the median or middle speed.

85th Percentile Speed. The 85th percentile speed, or the critical speed, is the speed at or below which 85 percent of the observed vehicles are traveling. Traffic engineers generally consider that at least 85 percent of all motorists will drive at speeds that are reasonable and prudent for the prevailing conditions,

without the benefit of posted speed limits, signs, or enforcement. Therefore, the 85th percentile speed is a good preliminary indicator of the appropriate speed limit that can be imposed, after taking into consideration all other secondary factors such as historical collision occurrence, traffic volumes, road features, and other special constraints.

Pace Speed. The pace speed is the ten-mile-per-hour increment that contains the greatest number of observed vehicles. In general, the 85th percentile speed and the recommended speed limit should lie within the upper range of the pace. This parameter is also a good indicator of a reasonable and appropriate speed limit.

Range of Speeds. The range of speeds is simply the speeds of the fastest and slowest vehicles observed. A large range of speeds, say in excess of 30 mph, indicates unfavorable road conditions that lead to inconsistent traffic stream and great likelihood of traffic collisions.

Average speed. The average speed is a simple arithmetic mean of all speeds observed in a single sample.

Collision Review

After the computer analysis, a good initial estimate of the appropriate speed limit for each of the street sections was determined. However, as a first check, it was necessary to validate these estimates by carefully reviewing the historical collision occurrences within the last two years. The location and severity of collision occurrences, as well as their frequency were considered before a final speed limit was recommended for each road section.

Field Check

After performing the radar checks, data analyses, and collision review, a final field check was made. While performing a field check, the speed surveyor is fully cognizant of the before mentioned parameters and particularly cognizant of the 85th percentile speeds and the pace speed. The speed surveyor evaluated the appropriateness of these values and noted the significance of other factors such as roadside development, driveways, parked vehicles, emergency shoulder areas, schools and playgrounds, pedestrians, roadway alignment, control, and numerous other intangible factors. These elements were given serious consideration in the determination of a reasonable and safe speed limit.

Reasonable limits are speeds at which motorists would drive without the effects of enforcement of signs.

IV. TRAFFIC AND ENGINEERING STUDIES

The following sections present the findings of the Engineering and Traffic surveys. The 85th percentile speed and the recommended speed limits for the surveyed roadways are included.

V. ENGINEERING & TRAFFIC SURVEY RECOMMENDATIONS

- Balboa Drive

Portola Way to Clover Road

This segment of Balboa Drive is a two-lane Northbound and Southbound residential collector road. The segment is approximately 0.41 miles in length and 38 feet in width. There are driveways that front the roadway and permitted on street parking. The previously established speed limit in this section is 25 mph.

There were 6 reported collisions on this roadway from January 2019 to December 2021.

10 mph pace speed	23 mph. - 32 mph.
85 th percentile speed	32 mph.
50 th percentile speed	28 mph.

The 85th percentile speed indicates a speed of 32 mph. The presence of residential area, intersections in this segment justifies the downgrading of the 85th percentile speed by 5 mph. Therefore, it is recommended that the posted speed limit remains at 25 mph.

The recommended speed limit for this section therefore is 25 mph.

- **Beechnut Avenue**

Sequoia Boulevard to Tracy Boulevard

This segment of Beechnut Avenue is a two-lane Eastbound and Westbound residential collector. The segment is approximately 0.28 miles in length and 36 feet in width. There are driveways that front the roadway and intermediate intersections. The previously established speed limit in this section is 30 mph.

There were 8 reported collisions on this roadway from January 2019 to December 2021.

10 mph pace speed	28 mph. - 37 mph.
85 th percentile speed	36 mph.
50 th percentile speed	33 mph.

The 85th percentile speed indicates a speed of 36 mph. The presence of driveways, residential area, and intersections in this segment justifies the downgrading of the 85th percentile speed by 5 mph. Therefore, it is recommended that the posted speed limit remains at 30 mph.

The recommended speed limit for this section therefore is 30 mph.

- **Beverly Place**

Lincoln Boulevard to Tracy Boulevard

This segment of Beverly Place is a two-lane Eastbound and Westbound residential collector. The segment is approximately 0.45 miles in length and 38 feet in width. There are driveways that front the roadway and permitted on street parking. The previously established speed limit in this section is 25 mph.

There were 3 reported collisions on this roadway from January 2019 to December 2021.

10 mph pace speed	23 mph. - 32 mph.
85 th percentile speed	31 mph.
50 th percentile speed	28 mph.

The 85th percentile speed indicates a speed of 31 mph. The presence driveways, residential area, intersections, curve, and collisions in this segment justifies the downgrading of the 85th percentile speed by 5 mph. Therefore, it is recommended that the posted speed limit remains at 25 mph.

The recommended speed limit for this section therefore is 25 mph.

- **Chester Drive**

Eaton Avenue to Lowell Avenue

This segment of Chester Drive is a two-lane Northbound and Southbound residential collector. The segment is approximately 0.33 miles in length and 38 feet in width. There are driveways that front the roadway, schools, parks, and permitted on street parking. The previously established speed limit in this section is 25 mph.

There were 3 reported collisions on this roadway from January 2019 to December 2021.

10 mph pace speed	20 mph. - 29 mph.
85 th percentile speed	30 mph.
50 th percentile speed	25 mph.

The 85th percentile speed indicates a speed of 30 mph. The presence of residential driveways, intersections, collisions, parking, school, and parks in this segment justifies the downgrading of the 85th percentile speed by 5 mph. Therefore, it is recommended that the posted speed limit remains at 25 mph.

The recommended speed limit for this section therefore is 25 mph.

- **Clover Road**

West City Limits to Tracy Boulevard

This segment of Clover Road is a two-lane Eastbound and Westbound residential/commercial collector. The segment is approximately 0.24 miles in length and 37 feet in width. There are driveways and intersections that front the roadway. The previously established speed limit in this section is 25 mph.

There were 32 reported collisions on this roadway from January 2019 to December 2021.

10 mph pace speed	21 mph. - 30 mph.
85 th percentile speed	30 mph.
50 th percentile speed	26 mph.

The 85th percentile speed indicates a speed of 30 mph. The presence of residential and commercial driveways, collisions, and intersections in this segment justifies the downgrading of the 85th percentile speed by 5 mph. Therefore, it is recommended that the posted speed limit remains at 25 mph.

The recommended speed limit for this section therefore is 25 mph.

Tracy Boulevard to Holly Drive

This segment of Clover Road is a two-lane Eastbound and Westbound residential/commercial collector. The segment is approximately 0.49 miles in length and 36 feet in width. There is on street parking and driveways that front the roadway. The previously established speed limit in this section is 25 mph.

There were 42 reported collisions on this roadway from January 2019 to December 2021.

10 mph pace speed	23 mph. - 32 mph.
85 th percentile speed	32 mph.
50 th percentile speed	28 mph.

The 85th percentile speed indicates a speed of 32 mph. The presence of residential and commercial driveways, collisions, and intersections in this segment justifies the downgrading of the 85th percentile speed by 5 mph. Therefore, it is recommended that the posted speed limit remains at 25 mph.

The recommended speed limit for this section therefore is 25 mph.

- **Corral Hollow Road**

North City Limits to Grant Line Road

This segment of Corral Hollow Road is a four-lane Northbound and Southbound major arterial. The segment is approximately 0.25 miles in length and 72 feet in width. There are bike lanes, lane mergers, lane drops in this segment. The previously established speed limit in this section is 35 mph.

There were 41 reported collisions on this roadway from January 2019 to December 2021.

10 mph pace speed	32 mph. - 41 mph.
85 th percentile speed	41 mph.
50 th percentile speed	37 mph.

The 85th percentile speed indicates a speed of 41 mph. The presence of residential driveways, bike lane, intersections, lane merging, and collisions in this segment justifies the downgrading of the 85th percentile speed by 5 mph. Therefore, it is recommended that the posted speed limit remains at 35 mph.

The recommended speed limit for this section therefore is 35 mph.

- **Cypress Drive**

Corral Hollow Road to Summer Lane

This segment of Cypress Drive is a two-lane Eastbound and Westbound residential collector. The segment is approximately 0.37 miles in length and 40 feet in width. There are bike lanes, residential area, and parks. The previously established speed limit in this section is 30 mph.

There were 9 reported collisions on this roadway from January 2019 to December 2021.

10 mph pace speed	26 mph. - 35 mph.
85 th percentile speed	34 mph.
50 th percentile speed	30 mph.

The 85th percentile speed indicates a speed of 34 mph. The presence of bike lanes, parks, residential driveways, curves in this segment justifies the downgrading of the 85th percentile speed by 5 mph. Therefore, it is recommended that the posted speed limit remains at 30 mph.

The recommended speed limit for this section therefore is 30 mph.

- **Eaton Avenue**

Richard Drive to Tracy Boulevard

This segment of Eaton Avenue is a two-lane Eastbound and Westbound residential collector. The segment is approximately 0.30 miles in length and 37 feet in width. There are residential driveways that front the roadway and permitted on street parking. The previously established speed limit in this section is 25 mph

There were 12 reported collisions on this roadway from January 2019 to December 2021.

10 mph pace speed	23 mph. - 32 mph.
85 th percentile speed	32 mph.
50 th percentile speed	28 mph.

The 85th percentile speed indicates a speed of 32 mph. The Presence of residential driveways, intersections, curve, collisions, parking in this segment justifies downgrading of the 85th percentile speed by 5 mph. Therefore, it is recommended that the posted speed limit remains at 25 mph.

The recommended speed limit for this section therefore is 25 mph.

Tracy Boulevard to East Street

This segment of Tracy Boulevard is a two-lane Eastbound and Westbound collector roadway. The segment is approximately 0.71 miles in length and 38 feet in width. There are residential driveways that front the roadway, schools, parks, library, hospital and permitted on street parking. The previously established speed limit in this section is 25 mph.

There were 28 reported collisions on this roadway from January 2019 to December 2021.

10 mph pace speed	24 mph. – 33 mph.
85 th percentile speed	32 mph.
50 th percentile speed	29 mph.

The 85th percentile speed indicates a speed of 32 mph. The Presence of residential driveways, intersections, schools, collisions, parking, library in this segment justifies downgrading of the 85th percentile speed by 5 mph. Therefore, it is recommended that the posted speed limit remains at 25 mph.

The recommended speed limit for this section therefore is 25 mph.

- **Henley Parkway**

Bridle Creek Drive to Lowell Avenue

This segment of Henley Parkway is a two-lane Northbound and Southbound major collector. The segment is approximately 0.35 miles in length and 36 feet in width. There are bike lanes and a curve on the roadway. The previously established speed limit in this section is 35 mph.

There were 2 reported collisions on this roadway from January 2019 to December 2021.

10 mph pace speed	30 mph. - 39 mph.
85 th percentile speed	38 mph.
50 th percentile speed	34 mph.

The 85th percentile speed indicates a speed of 38 mph. The presence of intersections, bike lane, curve, park, collisions in this segment justifies downgrading of the 85th percentile speed by 5 mph. Therefore, it is recommended that the posted speed limit remains at 35 mph.

The recommended speed limit for this section therefore is 35 mph.

- **Lankershire Drive**

Montgomery Lane to Byron Road

This segment of Lankershire Drive is a two-lane Northbound and Southbound residential collector. The segment is approximately 0.30 miles in length and 44 feet in width. There are driveways, intersections, parks, on street parking and curves present in the segment. The previously established speed limit in this section is 25 mph.

There were 7 reported collisions on this roadway from January 2019 to December 2021.

10 mph pace speed	23 mph. - 32 mph.
85 th percentile speed	32 mph.
50 th percentile speed	27 mph.

The 85th percentile speed indicates a speed of 32 mph. The presence of residential driveways, intersections, curve, collisions, and park in this segment justifies downgrading of the 85th percentile speed by 5 mph. Therefore, it is recommended that the posted speed limit remains at 25 mph.

The recommended speed limit for this section therefore is 25 mph.

- **Lowell Avenue**

Tracy Boulevard to East Street

This segment of Lowell Avenue is a two-lane Eastbound and Westbound residential collector. The segment is approximately 0.70 miles in length and 36 feet in width. There are driveways, on street parking, and speed humps present in the segment. The previously established speed limit in this section is 25 mph.

There were 33 reported collisions on this roadway from January 2019 to December 2021.

10 mph pace speed	21 mph. - 30 mph.
85 th percentile speed	29 mph.
50 th percentile speed	24 mph.

The 85th percentile speed indicates a speed of 29 mph. The presence of intersections, residential driveways, parking in this segment justifies the downgrading of the 85th percentile speed by 5 mph. Therefore, it is recommended that the posted speed limit remains at 25 mph.

The recommended speed limit for this section therefore is 25 mph.

Lincoln Boulevard to Tracy Boulevard

This segment of Lowell Avenue is a four-lane Eastbound and Westbound minor arterial. The segment is approximately 0.46 miles in length and 62 feet in width. There are driveways, on street parking, school, and park present in the segment. The previously established speed limit in this section is 30 mph.

There were 25 reported collisions on this roadway from January 2019 to December 2021.

10 mph pace speed	299 mph. - 38 mph.
85 th percentile speed	37 mph.
50 th percentile speed	34 mph.

The 85th percentile speed indicates a speed of 37 mph. The presence of residential driveways, intersections, school, collisions, parking, and park in this segment justifies the downgrading of the 85th percentile speed by 5 mph. Therefore, it is recommended that the posted speed limit remains at 30 mph.

The recommended speed limit for this section therefore is 30 mph.

- **Middlefield Drive**

Corral Hollow Road to Whispering Wind Drive

This segment of Middlefield Drive is a two-lane Eastbound and Westbound major collector roadway. The segment is approximately 0.33 miles in length and 48 feet in width. There are bike lanes along the segment. The previously established speed limit in this section is 35 mph.

There were 7 reported collisions on this roadway from January 2019 to December 2021.

10 mph pace speed	31 mph. - 40 mph.
85 th percentile speed	40 mph.
50 th percentile speed	36 mph.

The 85th percentile speed indicates a speed of 40 mph. The presence of bike lanes, intersections, collisions, and curve in this segment justifies the downgrading of the 85th percentile speed by 5 mph. Therefore, it is recommended that the posted speed limit remains at 35 mph.

The recommended speed limit for this section therefore is 35 mph.

Whispering Wind Drive to Peony Drive

This segment of Middlefield Drive is a two-lane Eastbound and Westbound residential collector roadway. The segment is approximately 0.19 miles in length and 48 feet in width. There are residential driveways and on street parking along the segment. The previously established speed limit in this section is 25 mph.

There were 4 reported collisions on this roadway from January 2019 to December 2021.

10 mph pace speed	22 mph. - 31 mph.
85 th percentile speed	31 mph.
50 th percentile speed	26 mph.

The 85th percentile speed indicates a speed of 31 mph. The presence of driveways, residential area, intersections in this segment justifies the downgrading of the 85th percentile speed by 5 mph. Therefore, it is recommended that the posted speed limit remains at 25 mph.

The recommended speed limit for this section therefore is 25 mph.

- **Portola Way**

Holly Drive to Entrada Way

This segment of Portola Way is a two-lane Northbound and Southbound residential collector. The segment is approximately 0.26 miles in length and 38 feet in width. There are intersections and on street parking along the segment. The previously established speed limit in this section is 25 mph.

There were 10 reported collisions on this roadway from January 2019 to December 2021.

10 mph pace speed	23 mph. - 32 mph.
85 th percentile speed	31 mph.
50 th percentile speed	28 mph.

The 85th percentile speed indicates a speed of 31 mph. The presence of residential driveways, intersections, justifies the downgrading of the 85th percentile speed by 5 mph. Therefore, it is recommended that the posted speed limit remains at 25 mph.

The recommended speed limit for this section therefore is 25 mph.

- **Richard Drive**

Lincoln Boulevard to Eaton Avenue

This segment of Richard Drive is a two-lane Eastbound and Westbound residential collector. The segment is approximately 0.14 miles in length and 36 feet in width. There are driveways and on street parking along the segment. The previously established speed limit in this section is 25 mph.

There was 1 reported collision on this roadway from January 2019 to December 2021.

10 mph pace speed	18 mph. - 30 mph.
85 th percentile speed	26 mph.
50 th percentile speed	22 mph.

The 85th percentile speed indicates a speed of 26 mph. It is recommended that the posted speed limit remains at 25 mph.

The recommended speed limit for this section therefore is 25 mph.

- **Tenth Street**

Civic Center Drive to MacArthur Drive

This segment of Tenth Street is a two-lane Eastbound and Westbound collector roadway. The segment is approximately 0.15 miles in length and 40 feet in width. There are industrial businesses and driveways along the segment. The previously established speed limit in this section is 25 mph.

There were 2 reported collisions on this roadway from January 2019 to December 2021.

10 mph pace speed	19 mph. - 28 mph.
85 th percentile speed	28 mph.
50 th percentile speed	24 mph.

The 85th percentile speed indicates a speed of 28 mph. The presence of driveways in this segment justifies the downgrading of the 85th percentile speed by 5 mph. Therefore, it is recommended that the posted speed limit remains at 25 mph.

The recommended speed limit for this section therefore is 25 mph.

Tracy Boulevard to East Street

This segment of Tenth Street is a two-lane Eastbound and Westbound residential collector. The segment is approximately 0.83 miles in length and 32-56 feet in width. There are driveways and parking permitted along the segment. The previously established speed limit in this section is 25 mph.

There were 28 reported collisions on this roadway from January 2019 to December 2021.

10 mph pace speed	22 mph. - 31 mph.
85 th percentile speed	31 mph.
50 th percentile speed	27 mph.

The 85th percentile speed indicates a speed of 31 mph. The presence of residential driveways, intersections, school, collisions, parking, downtown in this segment justifies the downgrading of the 85th percentile speed by 5 mph. Therefore, it is recommended that the posted speed limit remains at 25 mph.

The recommended speed limit for this section therefore is 25 mph.

- **Third Street**

Central Avenue to Mt. Diablo Avenue

This segment of Third Street is a two-lane Northbound and Southbound residential collector. The segment is approximately 0.45 miles in length and 36 feet in width. There are residential driveways, on street parking, and driveways on the roadway. The previously established speed limit in this section is 25 mph.

There were 4 reported collisions on this roadway from January 2019 to December 2021.

10 mph pace speed	25 mph. - 34 mph.
85 th percentile speed	32 mph.
50 th percentile speed	30 mph.

The 85th percentile speed indicates a speed of 32 mph. The presence of residential driveways, intersections, curve, collisions, and park in this segment justifies the downgrading of the 85th percentile speed by 5 mph. Therefore, it is recommended that the posted speed limit remains at 25 mph.

The recommended speed limit for this section therefore is 25 mph.

VI. SPEED SURVEY DATA SHEETS

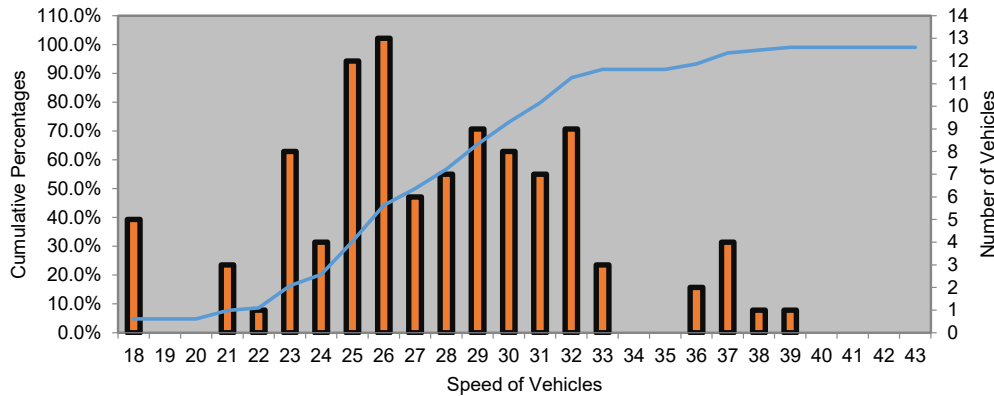
VEHICLE SPEED SURVEY REPORT

Location:	Balboa Drive between Portola Way and Clover Road		
Date:	8/31/2021	Recorder:	ET
Begin Time:	10:00 AM	Direction:	NB/SB
End Time:	12:40 PM	Land use:	Residential
Day:	Tuesday	Type:	Collector
Weather:	Sunny and Clear	Posted Limit:	25

SUMMARY STATISTICS

Total Observed (vehicles)	104		50th Percentile (mph)	28
Speed Range (mph)	18	50	85th Percentile (mph)	32
10 Mph Pace (mph)	23	32	Average Speed (mph)	27.91


GRAPH OF CUMULATIVE PERCENTAGE OF VEHICLES VS SPEED



ANALYSIS INFORMATION

Number of Accidents	Total 6 Collisions
Date Period	1/1/2019 - 12/31/2021
Street layout	Two Lane Residential Collector (0.41 Mi, 38')
Volume (if known)	
Parking Considerations	Parking permitted in this segment
Other Considerations	Residential Area, Intersections

RECOMMENDATIONS & NOTES

	<p>85th percentile indicates speed of 32 MPH Presence of residential area, intersections in this segment justifies downgrading speed limit by 5 mph.</p> <p style="text-align: center;">Recommended speed limit = 25 MPH</p>
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DATA COLLECTED	
Speed	Samples
18	5
19	0
20	0
21	3
22	1
23	8
24	4
25	12
26	13
27	6
28	7
29	9
30	8
31	7
32	9
33	3
34	0
35	0
36	2
37	4
38	1
39	1
40	0
41	0
42	0
43	0
44	0
45	0
46	0
47	0
48	0
49	0
50	1
51	0
52	0
53	0
54	0
55	0
56	0
57	0
58	0
59	0
60	0
61	0
62	0
63	0
Total	104

VEHICLE SPEED SURVEY REPORT

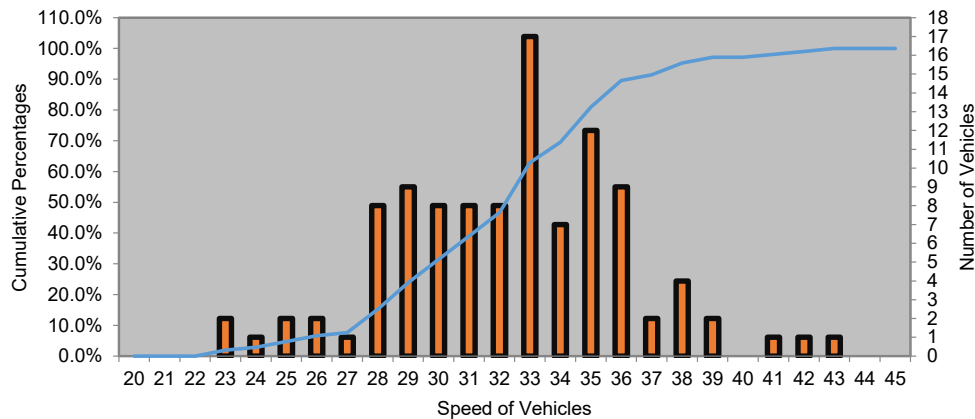
Location:	Beechnut Avenue between Tracy Blvd and Sequoia Blvd		
Date:	7/8/2021	Recorder:	ET
Begin Time:	2:40 PM	Direction:	EB/WB
End Time:	4:00 PM	Land use:	Residential
Day:	Thursday	Type:	Collector
Weather:	Sunny and Clear	Posted Limit:	30

DATA COLLECTED	
Speed	Samples
20	0
21	0
22	0
23	2
24	1
25	2
26	2
27	1
28	8
29	9
30	8
31	8
32	8
33	17
34	7
35	12
36	9
37	2
38	4
39	2
40	0
41	1
42	1
43	1
44	0
45	0
46	0
47	0
48	0
49	0
50	0
51	0
52	0
53	0
54	0
55	0
56	0
57	0
58	0
59	0
60	0
61	0
62	0
63	0
64	0
65	0
Total	105

SUMMARY STATISTICS

Total Observed (vehicles)	105		50th Percentile (mph)	33
Speed Range (mph)	23	43	85th Percentile (mph)	36
10 Mph Pace (mph)	28	37	Average Speed (mph)	32.39

GRAPH OF CUMULATIVE PERCENTAGE OF VEHICLES VS SPEED



ANALYSIS INFORMATION

Number of Accidents	Total 8 Collisions
Date Period	1/1/2019 - 12/31/2021
Street layout	Two Lane Residential Collector (0.28 Mi, 36')
Volume (if known)	
Parking Considerations	Parking permitted in this segment
Other Considerations	Residential Driveways, Intermediate intersecitons

RECOMMENDATIONS & NOTES

	<p>85th percentile indicates speed of 36 MPH Presence of driveways, residential area, intersections in this segment justifies downgrading speed limit by 5 mph.</p> <p style="text-align: center;">Recommended speed limit = 30 MPH</p>
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VEHICLE SPEED SURVEY REPORT

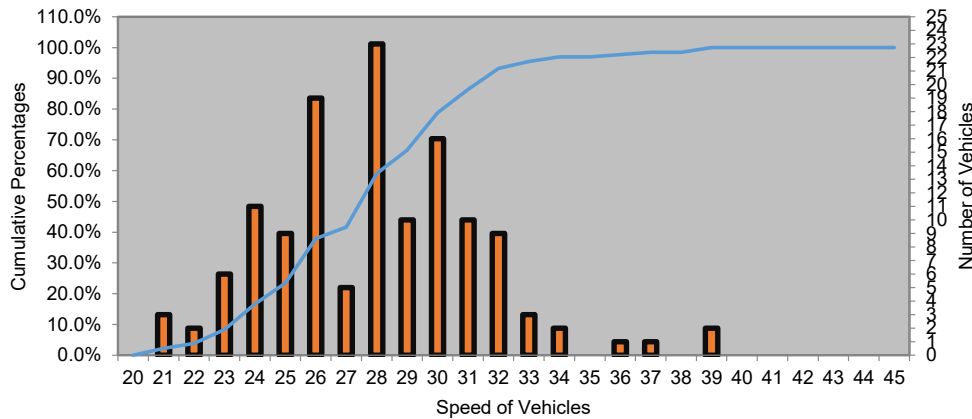
Location:	Beverly Place between Tracy Blvd. and Lincoln Blvd.		
Date:	1/11/2022	Recorder:	ET
Begin Time:	1:30 PM	Direction:	EB/WB
End Time:	3:00 PM	Land use:	Residential
Day:	Tuesday	Type:	Residential Collector
Weather:	Sunny and Clear	Posted Limit:	25

DATA COLLECTED	
Speed	Samples
20	0
21	3
22	2
23	6
24	11
25	9
26	19
27	5
28	23
29	10
30	16
31	10
32	9
33	3
34	2
35	0
36	1
37	1
38	0
39	2
40	0
41	0
42	0
43	0
44	0
45	0
46	0
47	0
48	0
49	0
50	0
51	0
52	0
53	0
54	0
55	0
56	0
57	0
58	0
59	0
60	0
61	0
62	0
63	0
64	0
65	0
Total	132

SUMMARY STATISTICS

Total Observed (vehicles)	132		50th Percentile (mph)	28
Speed Range (mph)	21	39	85th Percentile (mph)	31
10 Mph Pace (mph)	23	32	Average Speed (mph)	27.98

GRAPH OF CUMULATIVE PERCENTAGE OF VEHICLES VS SPEED



ANALYSIS INFORMATION

Number of Accidents	Total 3 Collisions
Date Period	1/1/2019 - 12/31/2021
Street layout	Two Lane residential collector roadway (0.45 Mi, 38')
Volume (if known)	
Parking Considerations	Parking permitted in this segment
Other Considerations	Residential driveways, intermediate intersections,

RECOMMENDATIONS & NOTES

	<p>85th percentile indicates speed of 31 MPH Presence of driveways, residential area, intersections curve and collisions in this segment justifies downgrading speed limit by 5 mph.</p> <p style="text-align: center;">Recommended speed limit = 25 MPH</p>
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VEHICLE SPEED SURVEY REPORT

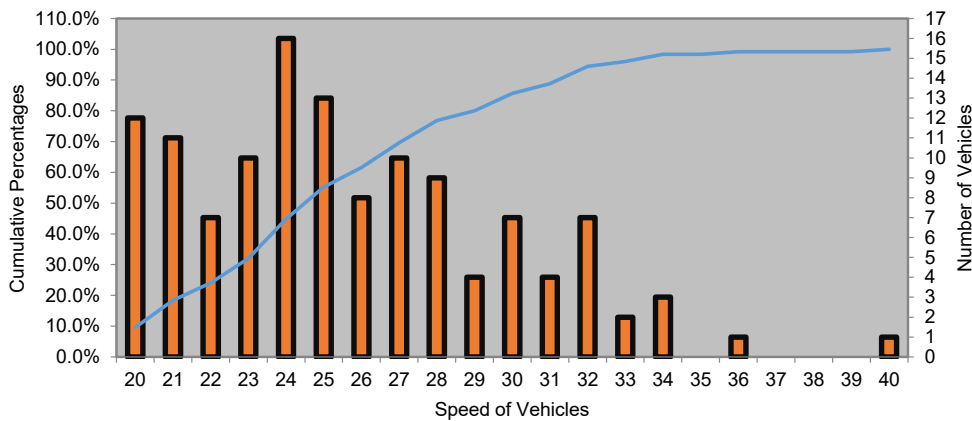
Location:	Chester Drive between Eaton Avenue and Lowell Avenue		
Date:	10/13/2021	Recorder:	ET
Begin Time:	2:50 PM	Direction:	NB/SB
End Time:	5:00 PM	Land use:	Residential
Day:	Wednesday	Type:	Residential Collector
Weather:	Sunny and Clear	Posted Limit:	25

DATA COLLECTED	
Speed	Samples
20	12
21	11
22	7
23	10
24	16
25	13
26	8
27	10
28	9
29	4
30	7
31	4
32	7
33	2
34	3
35	0
36	1
37	0
38	0
39	0
40	1
41	0
42	0
43	0
44	0
45	0
46	0
47	0
48	0
49	0
50	0
51	0
52	0
53	0
54	0
55	0
56	0
57	0
58	0
59	0
60	0
61	0
62	0
63	0
64	0
65	0
Total	125

SUMMARY STATISTICS

Total Observed (vehicles)	125		50th Percentile (mph)	25
Speed Range (mph)	20	40	85th Percentile (mph)	30
10 Mph Pace (mph)	20	29	Average Speed (mph)	25.70

GRAPH OF CUMULATIVE PERCENTAGE OF VEHICLES VS SPEED



ANALYSIS INFORMATION

Number of Accidents	Total 3 Collisions
Date Period	1/1/2019 - 12/31/2021
Street layout	Two Lane residential collector (0.33 Mi, 38')
Volume (if known)	
Parking Considerations	Parking permitted on both sides
Other Considerations	Schools in vicinity, residential driveways

RECOMMENDATIONS & NOTES

	<p>85th percentile indicates speed of 30 MPH Presence of residential driveways, intersections, collisions parking, school and park in this segment justifies downgrading speed limit by 5 mph.</p> <p style="text-align: center;">Recommended speed limit = 25 MPH</p>
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VEHICLE SPEED SURVEY REPORT

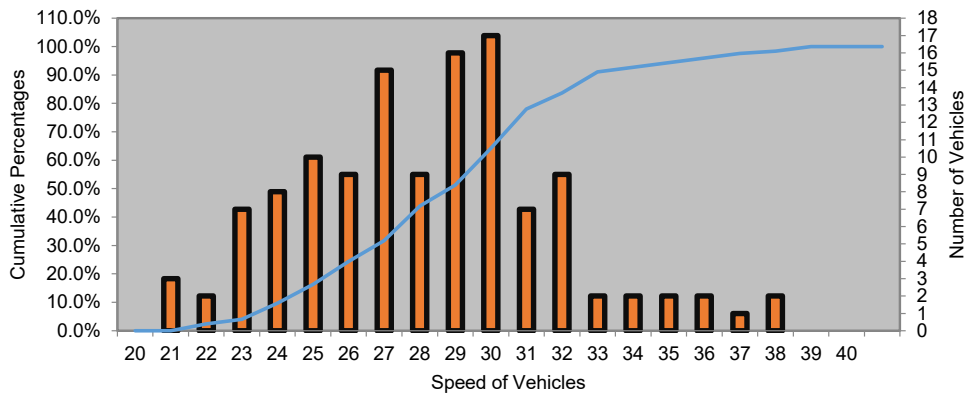
Location:	Clover Road between Holly Drive and Tracy Blvd.		
Date:	7/14/2021	Recorder:	ET
Begin Time:	10:00 AM	Direction:	EB/WB
End Time:	11:25 AM	Land use:	Residential/Commercial
Day:	Tuesday	Type:	Collector
Weather:	Sunny and Clear	Posted Limit:	25

DATA COLLECTED	
Speed	Samples
19	0
20	0
21	3
22	2
23	7
24	8
25	10
26	9
27	15
28	9
29	16
30	17
31	7
32	9
33	2
34	2
35	2
36	2
37	1
38	2
39	0
40	0
41	0
42	0
43	0
44	0
45	0
46	0
47	0
48	0
49	0
50	0
51	0
52	0
53	0
54	0
55	0
56	0
57	0
58	0
59	0
60	0
61	0
62	0
63	0
64	0
Total	123

SUMMARY STATISTICS

Total Observed (vehicles)	123		50th Percentile (mph)	28
Speed Range (mph)	21	38	85th Percentile (mph)	32
10 Mph Pace (mph)	23	32	Average Speed (mph)	28.20


GRAPH OF CUMULATIVE PERCENTAGE OF VEHICLES VS SPEED



ANALYSIS INFORMATION

Number of Accidents	Total 42 Collisions
Date Period	1/1/2019 - 12/31/2021
Street layout	2-Lanes Collector, resid. and comm. dwy(0.49 Mi, 36')
Volume (if known)	
Parking Considerations	On street parking along major portion permitted
Other Considerations	Residential Area

RECOMMENDATIONS & NOTES

	<p>85th percentile indicates speed of 32 MPH Presence of residential and commercial driveways, collisions, and intersections in this segment justifies downgrading speed limit by 5 mph.</p> <p style="text-align: center;">Recommended speed limit = 25 MPH</p>
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VEHICLE SPEED SURVEY REPORT

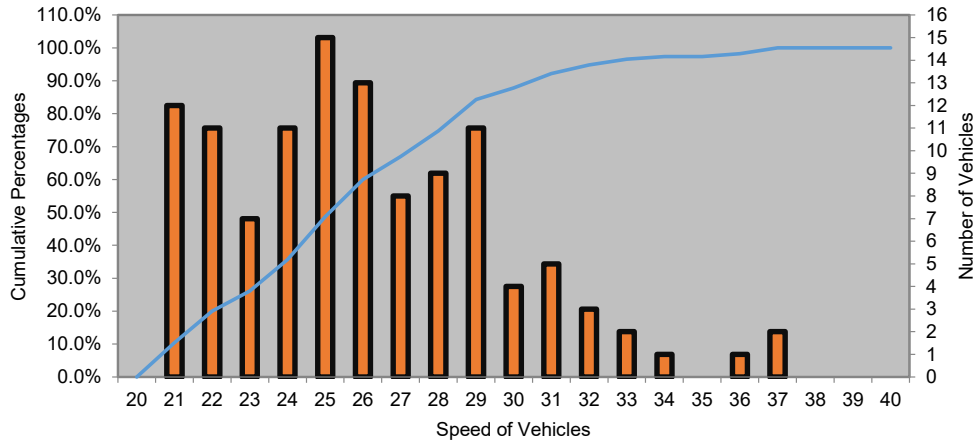
Location:	Clover Road between West City Limits and Tracy Blvd.		
Date:	7/20/2021	Recorder:	ET
Begin Time:	2:15 PM	Direction:	EB/WB
End Time:	4:40 PM	Land use:	Residential/Commerical
Day:	Tuesday	Type:	Collector
Weather:	Sunny and Clear	Posted Limit:	25

DATA COLLECTED	
Speed	Samples
20	0
21	12
22	11
23	7
24	11
25	15
26	13
27	8
28	9
29	11
30	4
31	5
32	3
33	2
34	1
35	0
36	1
37	2
38	0
39	0
40	0
41	0
42	0
43	0
44	0
45	0
46	0
47	0
48	0
49	0
50	0
51	0
52	0
53	0
54	0
55	0
56	0
57	0
58	0
59	0
60	0
61	0
62	0
63	0
64	0
65	0
Total	115

SUMMARY STATISTICS

Total Observed (vehicles)	115		50th Percentile (mph)	26
Speed Range (mph)	21	37	85th Percentile (mph)	30
10 Mph Pace (mph)	21	30	Average Speed (mph)	26.09

GRAPH OF CUMULATIVE PERCENTAGE OF VEHICLES VS SPEED



Number of Accidents	Total 32 Collisions
Date Period	1/1/2019 - 12/31/2021
Street layout	2-Lanes Collector, resid. and comm. dwy(0.24 Mi, 37')
Volume (if known)	
Parking Considerations	No Parking permitted in major portion of the segment
Other Considerations	Residential driveways, Commercial driveways

RECOMMENDATIONS & NOTES

	<p>85th percentile indicates speed of 30 MPH Presence of residential and commercial driveways, collisions, and intersections in this segment justifies downgrading speed limit by 5 mph.</p> <p style="text-align: center;">Recommended speed limit = 25 MPH</p>
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VEHICLE SPEED SURVEY REPORT

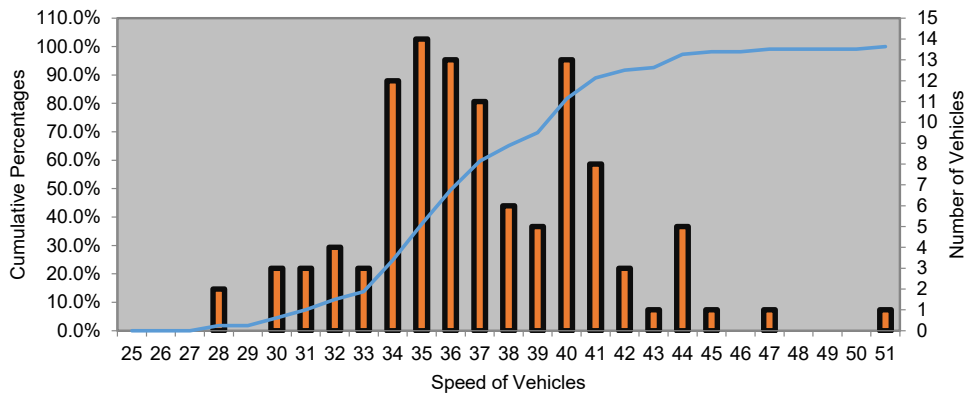
Location:	Corral Hollow Road between Grant Line Road and North City Limits		
Date:	7/8/2021	Recorder:	ET
Begin Time:	10:45 AM	Direction:	NB/SB
End Time:	11:45 AM	Land use:	Residential
Day:	Thursday	Type:	Major Arterial
Weather:	Sunny and Clear	Posted Limit:	35

DATA COLLECTED	
Speed	Samples
20	0
21	0
22	0
23	0
24	0
25	0
26	0
27	0
28	2
29	0
30	3
31	3
32	4
33	3
34	12
35	14
36	13
37	11
38	6
39	5
40	13
41	8
42	3
43	1
44	5
45	1
46	0
47	1
48	0
49	0
50	0
51	1
52	0
53	0
54	0
55	0
56	0
57	0
58	0
59	0
60	0
61	0
62	0
63	0
64	0
65	0
Total	109

SUMMARY STATISTICS

Total Observed (vehicles)	109		50th Percentile (mph)	37
Speed Range (mph)	28	51	85th Percentile (mph)	41
10 Mph Pace (mph)	32	41	Average Speed (mph)	37.08

GRAPH OF CUMULATIVE PERCENTAGE OF VEHICLES VS SPEED



ANALYSIS INFORMATION

Number of Accidents	Total 41 Collisions
Date Period	1/1/2019 - 12/31/2021
Street layout	4-lane major arterial rd w/wide med. island(0.25 Mi, 72')
Volume (if known)	
Parking Considerations	No Parking permitted in this segment
Other Considerations	Bike Lane, Lane Merge, Lane drop, intersecitons, Mall entry

RECOMMENDATIONS & NOTES

	<p>85th percentile indicates speed of 41 MPH Presence of residential driveways, bike lane, intersections lane merging, and collisions this segment justifies downgrading speed limit by 5 mph.</p> <p style="text-align: center;">Recommended speed limit = 35 MPH</p>
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VEHICLE SPEED SURVEY REPORT

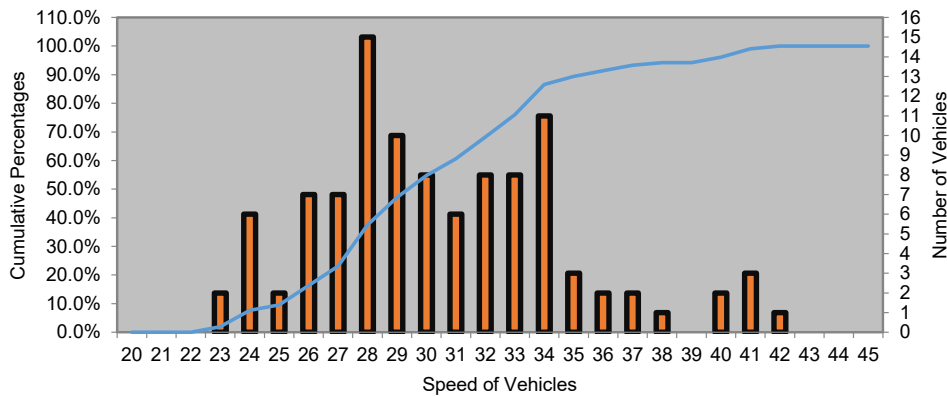
Location:	Cypress Drive between Corral Hollow Road and Summer Lane		
Date:	7/8/2021	Recorder:	ET
Begin Time:	4:20 PM	Direction:	EB/WB
End Time:	5:40 PM	Land use:	Residential
Day:	Thursday	Type:	Collector
Weather:	Sunny and Clear	Posted Limit:	30

DATA COLLECTED	
Speed	Samples
20	0
21	0
22	0
23	2
24	6
25	2
26	7
27	7
28	15
29	10
30	8
31	6
32	8
33	8
34	11
35	3
36	2
37	2
38	1
39	0
40	2
41	3
42	1
43	0
44	0
45	0
46	0
47	0
48	0
49	0
50	0
51	0
52	0
53	0
54	0
55	0
56	0
57	0
58	0
59	0
60	0
61	0
62	0
63	0
64	0
65	0
Total	104

SUMMARY STATISTICS

Total Observed (vehicles)	104		50th Percentile (mph)	30
Speed Range (mph)	23	42	85th Percentile (mph)	34
10 Mph Pace (mph)	26	35	Average Speed (mph)	30.53

GRAPH OF CUMULATIVE PERCENTAGE OF VEHICLES VS SPEED



ANALYSIS INFORMATION

Number of Accidents	Total 9 Collisions
Date Period	1/1/2019 - 12/31/2021
Street layout	2 lane collector with wide median island (0.37 Mi, 40')
Volume (if known)	
Parking Considerations	No Parking permitted in this segment
Other Considerations	Bike Lane, Park, Residential Area, Intersections, Curve

RECOMMENDATIONS & NOTES

	<p>85th percentile indicates speed of 34 MPH Presence of bikelane, residential driveways, intersections curve, collisions, and park in this segment justifies downgrading speed limit by 5 mph.</p> <p style="text-align: center;">Recommended speed limit = 30 MPH</p>
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VEHICLE SPEED SURVEY REPORT

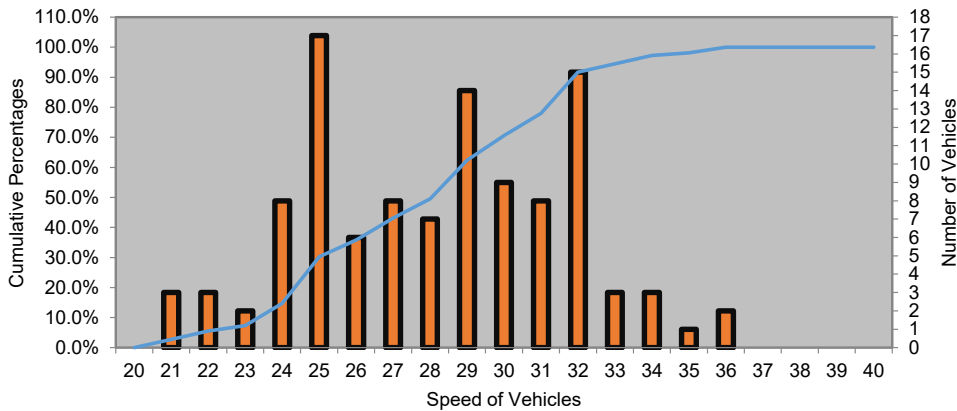
Location:	Eaton Avenue between Tracy Blvd. and East Street		
Date:	7/29/2021	Recorder:	ET
Begin Time:	9:25 AM	Direction:	EB/WB
End Time:	11:45 AM	Land use:	Residential/Commercial
Day:	Thursday	Type:	Collector
Weather:	Sunny and Clear	Posted Limit:	25

DATA COLLECTED	
Speed	Samples
20	0
21	3
22	3
23	2
24	8
25	17
26	6
27	8
28	7
29	14
30	9
31	8
32	15
33	3
34	3
35	1
36	2
37	0
38	0
39	0
40	0
41	0
42	0
43	0
44	0
45	0
46	0
47	0
48	0
49	0
50	0
51	0
52	0
53	0
54	0
55	0
56	0
57	0
58	0
59	0
60	0
61	0
62	0
63	0
64	0
65	0
Total	109

SUMMARY STATISTICS

Total Observed (vehicles)	109		50th Percentile (mph)	29
Speed Range (mph)	21	36	85th Percentile (mph)	32
10 Mph Pace (mph)	24	33	Average Speed (mph)	28.18


GRAPH OF CUMULATIVE PERCENTAGE OF VEHICLES VS SPEED



ANALYSIS INFORMATION

Number of Accidents	Total 28 Collisions
Date Period	1/1/2019 - 12/31/2021
Street layout	Two Lane collector roadway (0.71 Mi, 38')
Volume (if known)	
Parking Considerations	Parking permitted in this segment
Other Considerations	Schools, Library, Hospital, Intermed. intersections, park

RECOMMENDATIONS & NOTES

	<p>85th percentile indicates speed of 32 MPH Presence of residential driveways, intersections, schools collisions, parking, library in this segment justifies downgrading speed limit by 5 mph.</p> <p style="text-align: center;">Recommended speed limit = 25 MPH</p>
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VEHICLE SPEED SURVEY REPORT

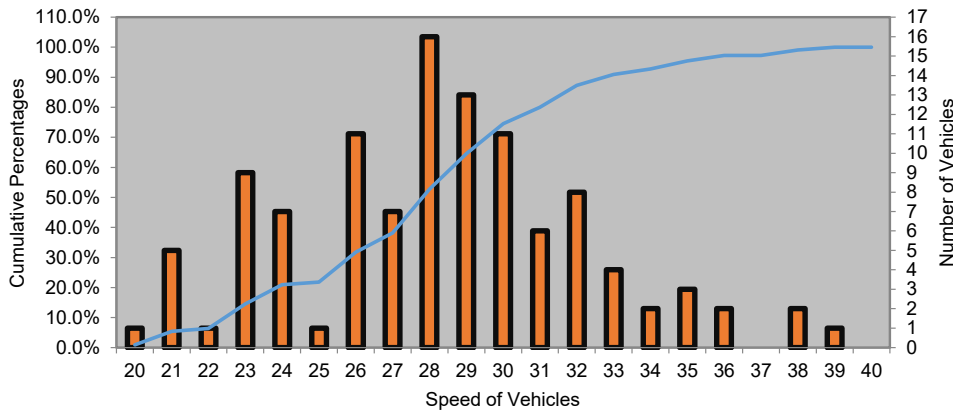
Location:	Eaton Avenue between Tracy Blvd. and Richard Avenue		
Date:	10/20/2021	Recorder:	ET
Begin Time:	1:30 PM	Direction:	EB/WB
End Time:	3:05 PM	Land use:	Residential/Commercial
Day:	Wednesday	Type:	Residential Collector
Weather:	Sunny and Clear	Posted Limit:	25

DATA COLLECTED	
Speed	Samples
20	1
21	5
22	1
23	9
24	7
25	1
26	11
27	7
28	16
29	13
30	11
31	6
32	8
33	4
34	2
35	3
36	2
37	0
38	2
39	1
40	0
41	0
42	0
43	0
44	0
45	0
46	0
47	0
48	0
49	0
50	0
51	0
52	0
53	0
54	0
55	0
56	0
57	0
58	0
59	0
60	0
61	0
62	0
63	0
64	0
65	0
Total	110

SUMMARY STATISTICS

Total Observed (vehicles)	110		50th Percentile (mph)	28
Speed Range (mph)	20	39	85th Percentile (mph)	32
10 Mph Pace (mph)	23	32	Average Speed (mph)	28.28

GRAPH OF CUMULATIVE PERCENTAGE OF VEHICLES VS SPEED



ANALYSIS INFORMATION

Number of Accidents	Total 12 Collisions
Date Period	1/1/2019 - 12/31/2021
Street layout	Two lane with residential driveways (0.30 Mi, 37')
Volume (if known)	
Parking Considerations	On Street Parking allowed
Other Considerations	Residential area , interemdiat intersections

RECOMMENDATIONS & NOTES

	<p>85th percentile indicates speed of 32 MPH Presence of residential driveways, intersections curve, collisions, and hospital in this segment justifies downgrading speed limit by 5 mph.</p> <p style="text-align: center;">Recommended speed limit = 25 MPH</p>
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VEHICLE SPEED SURVEY REPORT

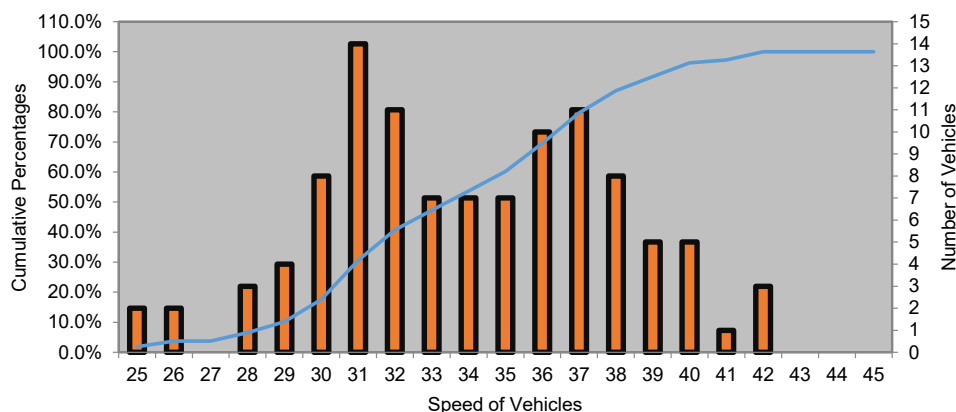
Location:	Henley Parkway Between Lowell Avenue and Bridle Creek Drive		
Date:	7/13/2021	Recorder:	ET
Begin Time:	10:10 AM	Direction:	NB/SB
End Time:	11:30 AM	Land use:	Residential/Commercial
Day:	Tuesday	Type:	Major Collector
Weather:	Sunny and Clear	Posted Limit:	35

DATA COLLECTED	
Speed	Samples
20	0
21	0
22	0
23	0
24	0
25	2
26	2
27	0
28	3
29	4
30	8
31	14
32	11
33	7
34	7
35	7
36	10
37	11
38	8
39	5
40	5
41	1
42	3
43	0
44	0
45	0
46	0
47	0
48	0
49	0
50	0
51	0
52	0
53	0
54	0
55	0
56	0
57	0
58	0
59	0
60	0
61	0
62	0
63	0
64	0
65	0
Total	108

SUMMARY STATISTICS

Total Observed (vehicles)	108		50th Percentile (mph)	34
Speed Range (mph)	25	42	85th Percentile (mph)	38
10 Mph Pace (mph)	30	39	Average Speed (mph)	34.03

GRAPH OF CUMULATIVE PERCENTAGE OF VEHICLES VS SPEED



ANALYSIS INFORMATION

Number of Accidents	Total 2 Collisions
Date Period	1/1/2019 - 12/31/2021
Street layout	Two Lane, Curve, Bike Lane (0.35 Mi, 36')
Volume (if known)	
Parking Considerations	No on street parking
Other Considerations	Residential Subdivisions

RECOMMENDATIONS & NOTES

	<p>85th percentile indicates speed of 38 MPH Presence of intersections, bike lane, curve, park collisions in this segment justifies downgrading speed limit by 5 mph.</p> <p style="text-align: center;">Recommended speed limit = 35 MPH</p>
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VEHICLE SPEED SURVEY REPORT

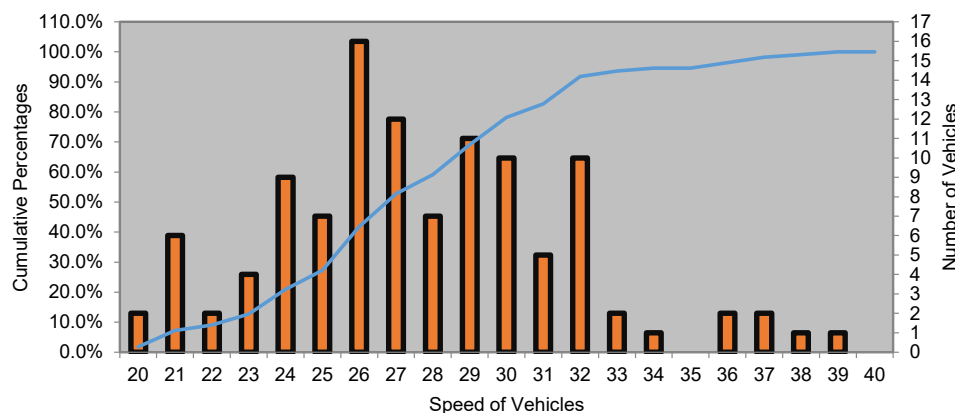
Location:	Lankershire Drive between Montgomery Lane and Byron Road		
Date:	11/16/2021	Recorder:	ET
Begin Time:	10:00 AM	Direction:	NB/SB
End Time:	11:00 AM	Land use:	Residential
Day:	Tuesday	Type:	Collector
Weather:	Sunny and Clear	Posted Limit:	25

DATA COLLECTED	
Speed	Samples
20	2
21	6
22	2
23	4
24	9
25	7
26	16
27	12
28	7
29	11
30	10
31	5
32	10
33	2
34	1
35	0
36	2
37	2
38	1
39	1
40	0
41	0
42	0
43	0
44	0
45	0
46	0
47	0
48	0
49	0
50	0
51	0
52	0
53	0
54	0
55	0
56	0
57	0
58	0
59	0
60	0
61	0
62	0
63	0
64	0
65	0
Total	110

SUMMARY STATISTICS

Total Observed (vehicles)	110		50th Percentile (mph)	27
Speed Range (mph)	20	39	85th Percentile (mph)	32
10 Mph Pace (mph)	23	32	Average Speed (mph)	27.69

GRAPH OF CUMULATIVE PERCENTAGE OF VEHICLES VS SPEED



ANALYSIS INFORMATION

Number of Accidents	Total 7 Collisions
Date Period	1/1/2019 - 12/31/2021
Street layout	Two Lane residential collector (0.30 Mi, 44')
Volume (if known)	
Parking Considerations	Parking permitted in this segment
Other Considerations	Residential Area, Driveways, Intersections, Park, Curve

RECOMMENDATIONS & NOTES

	<p>85th percentile indicates speed of 32 MPH Presence of residential driveways, intersections curve, collisions, and park in this segment justifies downgrading speed limit by 5 mph.</p> <p style="text-align: center;">Recommended speed limit = 25 MPH</p>
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VEHICLE SPEED SURVEY REPORT

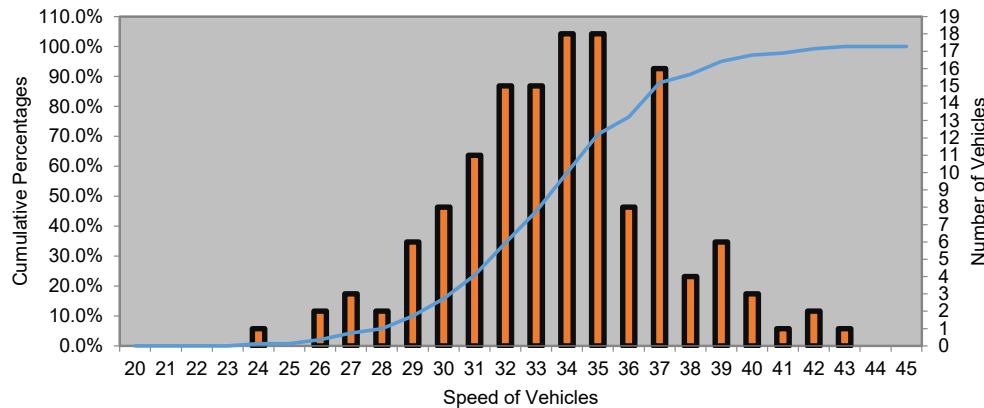
Location:	Lowell Avenue between Lincoln Blvd. and Tracy Blvd.		
Date:	8/3/2021	Recorder:	ET
Begin Time:	9:20 AM	Direction:	EB/WB
End Time:	10:40 AM	Land use:	Residential
Day:	Tuesday	Type:	Minor Arterial
Weather:	Sunny and Clear	Posted Limit:	30

DATA COLLECTED	
Speed	Samples
20	0
21	0
22	0
23	0
24	1
25	0
26	2
27	3
28	2
29	6
30	8
31	11
32	15
33	15
34	18
35	18
36	8
37	16
38	4
39	6
40	3
41	1
42	2
43	1
44	0
45	0
46	0
47	0
48	0
49	0
50	0
51	0
52	0
53	0
54	0
55	0
56	0
57	0
58	0
59	0
60	0
61	0
62	0
63	0
64	0
65	0
Total	140

SUMMARY STATISTICS

Total Observed (vehicles)	140		50th Percentile (mph)	34
Speed Range (mph)	24	43	85th Percentile (mph)	37
10 Mph Pace (mph)	29	38	Average Speed (mph)	33.85

GRAPH OF CUMULATIVE PERCENTAGE OF VEHICLES VS SPEED



ANALYSIS INFORMATION

Number of Accidents	Total 25 Collisions
Date Period	1/1/2019 - 12/31/2021
Street layout	Four Lane Road, Residential Driveways (0.46 Mi, 62')
Volume (if known)	
Parking Considerations	Parking permitted
Other Considerations	Schools and Park frontage, No median left turn lane

RECOMMENDATIONS & NOTES

	<p>85th percentile indicates speed of 37 MPH Presence of residential driveways, intersections, school collisions, parking, and park in this segment justifies downgrading speed limit by 5 mph.</p> <p style="text-align: center;">Recommended speed limit= 30 MPH</p>
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VEHICLE SPEED SURVEY REPORT

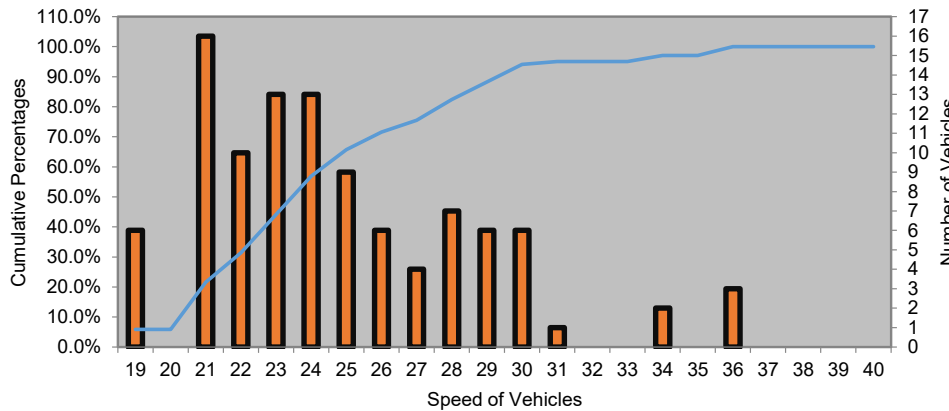
Location:	Lowell Avenue between Tracy Blvd. and East Street		
Date:	10/6/2021	Recorder:	ET
Begin Time:	2:00 PM	Direction:	EB/WB
End Time:	3:30 PM	Land use:	Residential
Day:	Wednesday	Type:	Collector
Weather:	Sunny and Clear	Posted Limit:	25

DATA COLLECTED	
Speed	Samples
19	6
20	0
21	16
22	10
23	13
24	13
25	9
26	6
27	4
28	7
29	6
30	6
31	1
32	0
33	0
34	2
35	0
36	3
37	0
38	0
39	0
40	0
41	0
42	0
43	0
44	0
45	0
46	0
47	0
48	0
49	0
50	0
51	0
52	0
53	0
54	0
55	0
56	0
57	0
58	0
59	0
60	0
61	0
62	0
63	0
64	0
Total	102

SUMMARY STATISTICS

Total Observed (vehicles)	102		50th Percentile (mph)	24
Speed Range (mph)	19	36	85th Percentile (mph)	29
10 Mph Pace (mph)	21	30	Average Speed (mph)	24.77

GRAPH OF CUMULATIVE PERCENTAGE OF VEHICLES VS SPEED



ANALYSIS INFORMATION

Number of Accidents	Total 33 Collisions
Date Period	1/1/2019 - 12/31/2021
Street layout	2 Lane, Residential collector, Res. Dwys (0.70 Mi, 36')
Volume (if known)	
Parking Considerations	Parking on both sides of the Roadway
Other Considerations	Speed Humps, Residential Area

RECOMMENDATIONS & NOTES

	<p>85th percentile indicates speed of 29 MPH Presence of intersections, residential driveways, parking in this segment justifies downgrading speed limit by 5 mph.</p> <p style="text-align: center;">Recommended speed limit = 25 MPH</p>
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VEHICLE SPEED SURVEY REPORT

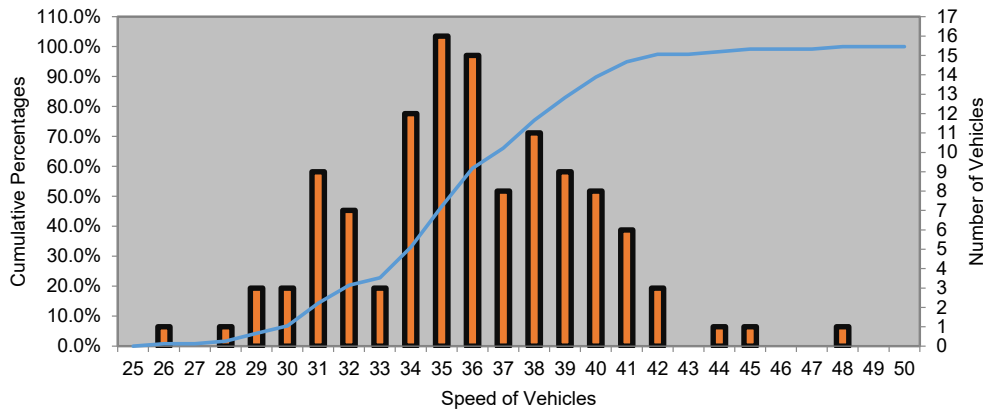
Location:	Middlefield Drive between Corral Hollow Rd. and Whispering Wind Dr.		
Date:	8/11/2021	Recorder:	ET
Begin Time:	1:50 PM	Direction:	EB/WB
End Time:	3:00 PM	Land use:	Residential
Day:	Wednesday	Type:	Major Collector
Weather:	Sunny and Clear	Posted Limit:	35

DATA COLLECTED	
Speed	Samples
20	0
21	0
22	0
23	0
24	0
25	0
26	1
27	0
28	1
29	3
30	3
31	9
32	7
33	3
34	12
35	16
36	15
37	8
38	11
39	9
40	8
41	6
42	3
43	0
44	1
45	1
46	0
47	0
48	1
49	0
50	0
51	0
52	0
53	0
54	0
55	0
56	0
57	0
58	0
59	0
60	0
61	0
62	0
63	0
64	0
65	0
Total	118

SUMMARY STATISTICS

Total Observed (vehicles)	118		50th Percentile (mph)	36
Speed Range (mph)	26	48	85th Percentile (mph)	40
10 Mph Pace (mph)	31	40	Average Speed (mph)	35.89

GRAPH OF CUMULATIVE PERCENTAGE OF VEHICLES VS SPEED



ANALYSIS INFORMATION

Number of Accidents	Total 7 Collisions
Date Period	1/1/2019 - 12/31/2021
Street layout	Two Lane Major Collector Roadway, Curve (0.33 Mi, 48')
Volume (if known)	
Parking Considerations	No Parking permitted in the segment
Other Considerations	Bike Lane, Residential Subdivisions

RECOMMENDATIONS & NOTES

	<p>85th percentile indicates speed of 40 MPH Presence of bike lanes, intersections, collisions, and curve justifies downgrading speed limit by 5 mph.</p> <p style="text-align: center;">Recommended speed limit= 35 MPH</p>
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VEHICLE SPEED SURVEY REPORT

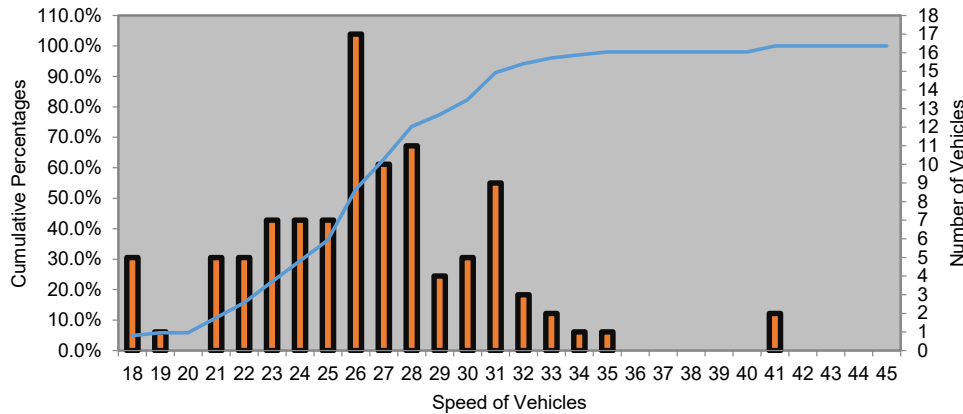
Location:	Middlefield Drive between Whispering Wind Drive and Peony Drive		
Date:	9/1/2021	Recorder:	ET
Begin Time:	3:10 PM	Direction:	NB/SB
End Time:	5:30 PM	Land use:	Residential
Day:	Friday	Type:	Collector
Weather:	Sunny and Clear	Posted Limit:	25

DATA COLLECTED	
Speed	Samples
18	5
19	1
20	0
21	5
22	5
23	7
24	7
25	7
26	17
27	10
28	11
29	4
30	5
31	9
32	3
33	2
34	1
35	1
36	0
37	0
38	0
39	0
40	0
41	2
42	0
43	0
44	0
45	0
46	0
47	0
48	0
49	0
50	0
51	0
52	0
53	0
54	0
55	0
56	0
57	0
58	0
59	0
60	0
61	0
62	0
63	0
Total	102

SUMMARY STATISTICS

Total Observed (vehicles)	102		50th Percentile (mph)	26
Speed Range (mph)	18	41	85th Percentile (mph)	31
10 Mph Pace (mph)	22	31	Average Speed (mph)	26.53

GRAPH OF CUMULATIVE PERCENTAGE OF VEHICLES VS SPEED



ANALYSIS INFORMATION

Number of Accidents	Total 4 Collisions
Date Period	1/1/2019 - 12/31/2021
Street layout	Two Lane residential collector, curve (0.19 Mi, 48')
Volume (if known)	
Parking Considerations	Parking permitted in this segment
Other Considerations	Residential Driveways,

RECOMMENDATIONS & NOTES

	<p>85th percentile indicates speed of 31 MPH Presence of driveways, residential area, intersections in this segment justifies downgrading speed limit by 5 mph.</p> <p style="text-align: center;">Recommended speed limit = 25 MPH</p>
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VEHICLE SPEED SURVEY REPORT

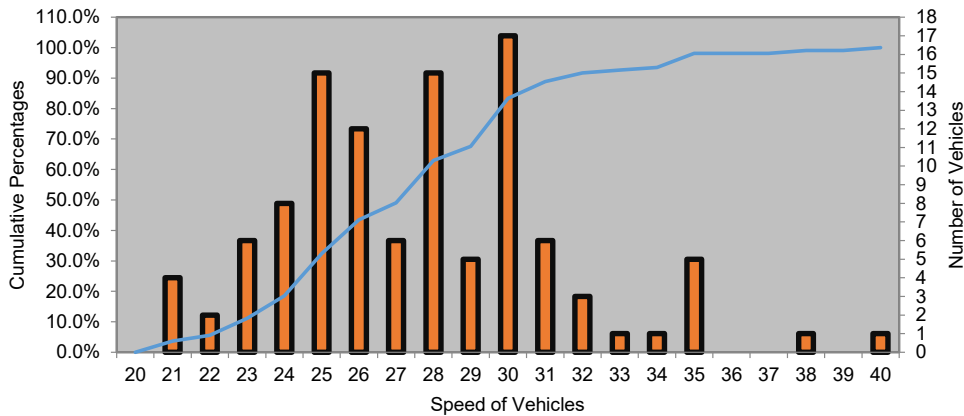
Location:	Portola Way between Holly Drive and Entrada Way		
Date:	7/7/2021	Recorder:	ET
Begin Time:	3:05 PM	Direction:	NB/SB
End Time:	5:05 PM	Land use:	Residential
Day:	Wednesday	Type:	Collector
Weather:	Sunny and Clear	Posted Limit:	25

DATA COLLECTED	
Speed	Samples
20	0
21	4
22	2
23	6
24	8
25	15
26	12
27	6
28	15
29	5
30	17
31	6
32	3
33	1
34	1
35	5
36	0
37	0
38	1
39	0
40	1
41	0
42	0
43	0
44	0
45	0
46	0
47	0
48	0
49	0
50	0
51	0
52	0
53	0
54	0
55	0
56	0
57	0
58	0
59	0
60	0
61	0
62	0
63	0
64	0
65	0
Total	108

SUMMARY STATISTICS

Total Observed (vehicles)	108		50th Percentile (mph)	28
Speed Range (mph)	21	40	85th Percentile (mph)	31
10 Mph Pace (mph)	23	32	Average Speed (mph)	27.63


GRAPH OF CUMULATIVE PERCENTAGE OF VEHICLES VS SPEED



ANALYSIS INFORMATION

Number of Accidents	Total 10 Collisions
Date Period	1/1/2019 - 12/31/2021
Street layout	Two Lane residential collector (0.26 Mi, 38')
Volume (if known)	
Parking Considerations	Parking permitted in this segment
Other Considerations	Residential Area, intersections,

RECOMMENDATIONS & NOTES

	<p>85th percentile indicates speed of 31 MPH Presence of residential driveways, intersections, justifies downgrading speed limit by 5 mph.</p> <p style="text-align: center;">Recommended speed limit = 25 MPH</p>
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VEHICLE SPEED SURVEY REPORT

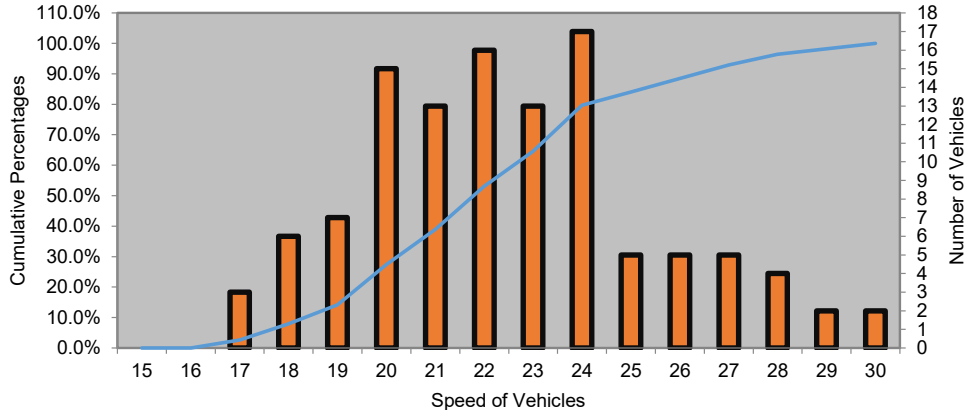
Location:	Richard Drive between Lincoln Blvd. and Eaton Avenue		
Date:	12/8/2021	Recorder:	ET
Begin Time:	3:15 PM	Direction:	EB/WB
End Time:	5:30 PM	Land use:	Residential
Day:	Wednesday	Type:	Collector
Weather:	Sunny and Clear	Posted Limit:	25

DATA COLLECTED	
Speed	Samples
15	0
16	0
17	3
18	6
19	7
20	15
21	13
22	16
23	13
24	17
25	5
26	5
27	5
28	4
29	2
30	2
31	0
32	0
33	0
34	0
35	0
36	0
37	0
38	0
39	0
40	0
41	0
42	0
43	0
44	0
45	0
46	0
47	0
48	0
49	0
50	0
51	0
52	0
53	0
54	0
55	0
56	0
57	0
58	0
59	0
60	0
Total	113

SUMMARY STATISTICS

Total Observed (vehicles)	113		50th Percentile (mph)	22
Speed Range (mph)	17	30	85th Percentile (mph)	26
10 Mph Pace (mph)	18	27	Average Speed (mph)	22.51

GRAPH OF CUMULATIVE PERCENTAGE OF VEHICLES VS SPEED



ANALYSIS INFORMATION

Number of Accidents	Total 1 Collision
Date Period	1/1/2019 - 12/31/2021
Street layout	Two Lane residential collector (0.14 Mi, 36')
Volume (if known)	
Parking Considerations	Parking permitted in this segment
Other Considerations	Residential Area, Driveways

RECOMMENDATIONS & NOTES

	<p>85th percentile indicates speed of 26 MPH</p> <p style="text-align: center;">Recommended speed limit = 25 MPH</p>
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VEHICLE SPEED SURVEY REPORT

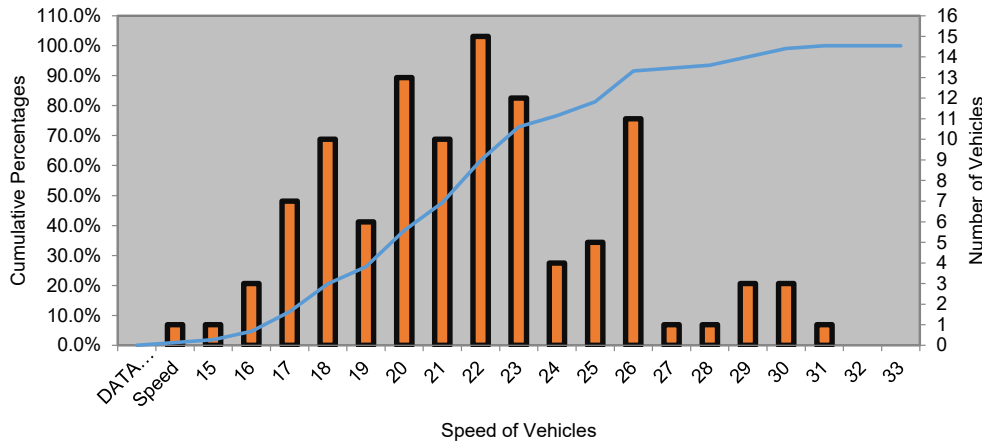
Location:	Tenth Street between Civic Center Drive and MacArthur Drive		
Date:	10/27/2021	Recorder:	ET
Begin Time:	10:00 AM	Direction:	EB/WB
End Time:	12:00 PM	Land use:	Industrial/Commercial
Day:	Wednesday	Type:	Collector
Weather:	Sunny and Clear	Posted Limit:	25

DATA COLLECTED	
Speed	Samples
15	0
16	1
17	1
18	3
19	7
20	10
21	6
22	13
23	10
24	15
25	12
26	4
27	5
28	11
29	1
30	1
31	3
32	3
33	1
34	0
35	0
36	0
37	0
38	0
39	0
40	0
41	0
42	0
43	0
44	0
45	0
46	0
47	0
48	0
49	0
50	0
51	0
52	0
53	0
54	0
55	0
56	0
57	0
58	0
59	0
60	0
Total	107

SUMMARY STATISTICS

Total Observed (vehicles)	107		50th Percentile (mph)	24
Speed Range (mph)	16	33	85th Percentile (mph)	28
10 Mph Pace (mph)	19	28	Average Speed (mph)	23.83

GRAPH OF CUMULATIVE PERCENTAGE OF VEHICLES VS SPEED



ANALYSIS INFORMATION

Number of Accidents	Total 2 Collisions
Date Period	1/1/2019 - 12/31/2021
Street layout	Two Lane collector roadway (0.15 Mi, 40')
Volume (if known)	
Parking Considerations	No Parking permitted in this segment
Other Considerations	Industrial, Trucks, Pedestrians

RECOMMENDATIONS & NOTES

	<p>85th percentile indicates speed of 28 MPH Presence of driveways in this segment justifies downgrading speed limit by 5 mph.</p> <p style="text-align: center;">Recommended speed limit= 25 MPH</p>
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VEHICLE SPEED SURVEY REPORT

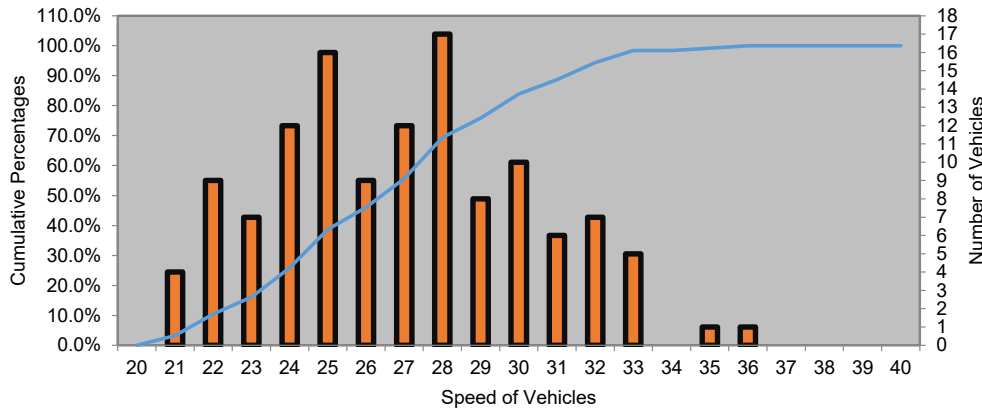
Location:	Tenth Street between Tracy Blvd. and East Street		
Date:	10/27/2021	Recorder:	ET
Begin Time:	1:45 PM	Direction:	EB/WB
End Time:	3:10 PM	Land use:	Downtown Business/Resident
Day:	Thursday	Type:	Collector
Weather:	Sunny and Clear	Posted Limit:	25

DATA COLLECTED	
Speed	Samples
20	0
21	4
22	9
23	7
24	12
25	16
26	9
27	12
28	17
29	8
30	10
31	6
32	7
33	5
34	0
35	1
36	1
37	0
38	0
39	0
40	0
41	0
42	0
43	0
44	0
45	0
46	0
47	0
48	0
49	0
50	0
51	0
52	0
53	0
54	0
55	0
56	0
57	0
58	0
59	0
60	0
61	0
62	0
63	0
64	0
65	0
Total	124

SUMMARY STATISTICS

Total Observed (vehicles)	124		50th Percentile (mph)	27
Speed Range (mph)	21	36	85th Percentile (mph)	31
10 Mph Pace (mph)	22	31	Average Speed (mph)	26.96

GRAPH OF CUMULATIVE PERCENTAGE OF VEHICLES VS SPEED



ANALYSIS INFORMATION

Number of Accidents	Total 28 Collisions
Date Period	1/1/2019 - 12/31/2021
Street layout	Two Lane residential collector (0.83 Mi, 32-56')
Volume (if known)	
Parking Considerations	Parking permitted in this segment
Other Considerations	Angled parking, residential area, interections, Downtown

RECOMMENDATIONS & NOTES

	<p>85th percentile indicates speed of 31 MPH Presence of residential driveways, intersections, school collisions, parking, downtown in this segment justifies downgrading speed limit by 5 mph.</p> <p style="text-align: center;">Recommended speed limit= 25 MPH</p>
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VEHICLE SPEED SURVEY REPORT

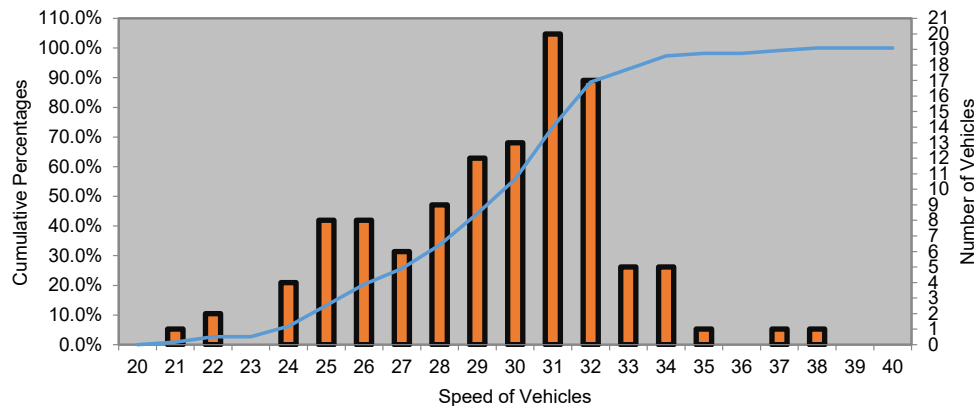
Location:	Third Street between Mt. Diablo and Central Avenue		
Date:	7/27/2021	Recorder:	ET
Begin Time:	9:25 PM	Direction:	North/South
End Time:	11:25 PM	Land use:	Residential
Day:	Tuesday	Type:	Collector
Weather:	Sunny and Clear	Posted Limit:	25

DATA COLLECTED	
Speed	Samples
20	0
21	1
22	2
23	0
24	4
25	8
26	8
27	6
28	9
29	12
30	13
31	20
32	17
33	5
34	5
35	1
36	0
37	1
38	1
39	0
40	0
41	0
42	0
43	0
44	0
45	0
46	0
47	0
48	0
49	0
50	0
51	0
52	0
53	0
54	0
55	0
56	0
57	0
58	0
59	0
60	0
61	0
62	0
63	0
64	0
65	0
Total	113

SUMMARY STATISTICS

Total Observed (vehicles)	113		50th Percentile (mph)	30
Speed Range (mph)	21	38	85th Percentile (mph)	32
10 Mph Pace (mph)	25	34	Average Speed (mph)	29.47

GRAPH OF CUMULATIVE PERCENTAGE OF VEHICLES VS SPEED



ANALYSIS INFORMATION

Number of Accidents	Total 4 Collisions
Date Period	1/1/2019 - 12/31/2021
Street layout	Two Lane residential collector (0.45 Mi, 36')
Volume (if known)	
Parking Considerations	Parking Permitted in the area
Other Considerations	Residential Area, Park, Driveways, intersections

RECOMMENDATIONS & NOTES

	<p>85th percentile indicates speed of 32 MPH Presence of residential driveways, intersections curve, collisions, and park in this segment justifies downgrading speed limit by 5 mph.</p> <p style="text-align: center;">Recommended speed limit = 25 MPH</p>
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AGENDA ITEM 3.B

RECOMMENDATION

STAFF RECOMMENDS THAT THE CITY COUNCIL ADOPT THE FOLLOWING RESOLUTIONS TO FURTHER COMPLY WITH THE JUDGMENT AND PEREMPTORY WRIT OF MANDATE IN *MITRACOS V. CITY OF TRACY, ET AL.*, SAN JOAQUIN COUNTY SUPERIOR COURT CASE NO. STK-CV-UWM-2018-5531:

(1) A RESOLUTION RESCINDING RESOLUTION NO. 2020-154 APPROVING FINAL AQUATIC CENTER CONCEPTUAL PLAN WITH A NOT-TO-EXCEED AMOUNT OF \$65 MILLION INCLUDING CONTINGENCY AND SOFT COSTS;

(2) A RESOLUTION RESCINDING RESOLUTION NO. 2019-78 APPROVING THE AGREEMENT FOR DEFERRAL OF CERTAIN IMPACT FEES FOR ELLIS GARDENS PHASE 1- 3 (TRACT 3877, TRACT 3906, AND TRACT 3907); AND

(3) A RESOLUTION RESCINDING RESOLUTION NO. 2021-116 APPROVING THE AGREEMENT FOR DEFERRAL OF CERTAIN IMPACT FEES FOR ELLIS TOWN AND COUNTRY (TRACT 4007)

EXECUTIVE SUMMARY

This agenda item is to request the City Council to take certain actions with respect to the unwinding of the Second Amendment, to further comply with the Judgment and Peremptory Writ of Mandate (**Writ**) in *Mitracos v. City of Tracy, et al.*, San Joaquin County Superior Court Case No. STK-CV-UWM-2018-5531. Specifically, the actions requested in this agenda item are that the City Council adopt three Resolutions that would, together, rescind the Conceptual Plans for the Aquatic Center as designed by Surland Communities, LLC (**Surland**) pursuant to the Second Amendment and two fee deferral agreements authorized by the Second Amendment.

On August 16, 2022, the City Council introduced Ordinances to rescind Ordinance 1253 and the 2018 Second Amendment to the Development Agreement. The adoption of these two Ordinances is on the consent calendar for this same September 6, 2022 meeting. The City remains obligated to take additional actions to further comply with the Judgment and Writ, including to rescind and unwind actions previously taken to implement the invalidated Second Amendment. The City must also inform the Superior Court of actions it has taken to comply with the Judgment and Writ. As such, City staff and the City Attorney are conferring with Surland to attempt to align on an orderly path forward to accomplish the required unwinding actions, without either party suffering any unintended or unlawful consequences.

City staff and the City Attorney are continuing to evaluate additional actions that may need to be taken to rescind and unwind the Second Amendment and will return to Council at future meetings, for consideration and approval of these actions as needed.

BACKGROUND

The City of Tracy (**City**) and Surland have been parties with one another in a longstanding development agreement, dating as far back as 2009, with respect to Surland's development of real property located in the Ellis Specific Plan area. The original development agreement was invalidated during a court proceeding, and in 2013, the City Council adopted an ordinance approving an Amended and Restated Development Agreement with Surland Communities, LLC (**2013 Development Agreement**), and subsequently, the City entered into the 2013 Development Agreement with Surland.

In 2018, the City Council adopted Ordinance 1253 (**Ordinance 1253**), an Ordinance of the City of Tracy Approving the Second Amendment to the Amended and Restated Development Agreement By and Between the City of Tracy and Surland Communities, LLC, and subsequently the City entered into the Second Amendment to the 2013 Development Agreement (**2018 Second Amendment to Development Agreement**).

The 2018 Second Amendment to Development Agreement provided a process by which Surland could ask the City Council to exercise its legislative discretion to approve a further amendment to the 2013 Development Agreement to add additional property, which properties could be eligible for Residential Growth Allotments (**RGAs**) under the 2013 Development Agreement.

In addition, the 2018 Second Amendment to the Development Agreement revised the City's and Surland's respective responsibilities, rights, and obligations with respect to the development of a public swim center (**Aquatic Center**), providing, among other things, that Surland would facilitate design and construction services for the Aquatic Center, in lieu of making certain monetary payments to the City, and dedicate land for the Aquatic Center, and the City would provide fee deferrals and credits to Surland and its assignees.

Mary Mitracos filed a lawsuit against the City and Surland challenging the legality of Ordinance 1253 and the 2018 Second Amendment to Development Agreement.

In 2020, the San Joaquin County Superior Court entered Judgment (**Judgment**) in Ms. Mitracos' favor and issued a Peremptory Writ of Mandate (**Writ**) ordering the City (i) to rescind and set aside Ordinance 1253 and the 2018 Second Amendment to Development Agreement, (ii) not to take any action to implement the Second Amendment, and (iii) to rescind any actions that were taken to implement Ordinance 1253 and the Second Amendment. The City and Surland appealed. In May 2022, the Court of Appeal denied the appeal and affirmed the Superior Court, and in July 2022 remitted the case back to the Superior Court.

As noted above, on August 16, 2022, the City Council introduced two Ordinances to rescind, respectively, Ordinance 1253 and the 2018 Second Amendment to the Development Agreement. The adoption of these two Ordinances is on the consent calendar for this same September 6, 2022 Council meeting. The City remains obligated to take additional actions to further comply with the Judgment and Writ, including rescinding and unwinding actions previously taken to implement the invalidated Second

Amendment. The City must also inform the Superior Court of actions it has taken to comply with the Judgment and Writ. As such, City staff and the City Attorney are conferring with Surland to attempt to align on an orderly path forward to accomplish the required unwinding actions, without either party suffering any unintended or unlawful consequences.

City staff now recommends that the City Council adopt the recommended Resolutions. City staff and the City Attorney continue to evaluate additional actions that may need to be taken to fully unwind the 2018 Second Amendment to Development Agreement and Ordinance 1253. Staff will return to the City Council for additional approval, as may be necessary to fully “unwind” the 2018 Second Amendment to Development Agreement. Staff will return to the City Council for approval, as needed, to implement any such additional actions.

ANALYSIS

The City is obligated to comply with the Judgment and Writ—which are final and not subject to further appeal—and to return to the Superior Court to inform the Court as to the actions taken to comply and ask the Court to discharge the Writ.

In addition to obligating the City to set aside, rescind, and vacate Ordinance 1253 and the 2018 Second Amendment to Development Agreement, and not to take any action to implement the Second Amendment, the Judgment and Writ obligate the City to rescind (“unwind”) any actions that were taken to implement Ordinance 1253 and the Second Amendment.

The City has already acted to set aside, rescind, and vacate Ordinance 1253 and the 2018 Second Amendment to Development Agreement, and has not taken and will not take any action to implement the Second Amendment.

The City must also take necessary recession actions, including the rescission actions now proposed, in particular to rescind the City’s approval of the Conceptual Plan for Surland to design and construct the Swim Center, and the two fee deferral agreements.

FISCAL IMPACT

Surland is responsible to cover all City costs and expenses associated with this lawsuit pursuant to a hold harmless and indemnity provision of the Development Agreement.

As to the rescission of the Conceptual Plan for the Aquatic Center, any new plans for the Aquatic Center would have to be funded by the City.

As to the rescission of the Fee Deferral Agreements, the City will receive immediately fees that previously were deferred for two major projects within the Ellis Specific Plan.

PUBLIC OUTREACH/ INTEREST

Not applicable, as this is a court proceeding.

COORDINATION

Multiple departments of the City are working together to identify the requisite actions that need to be taken to fully unwind the 2018 Second Amendment to Development Agreement.

CEQA DETERMINATION

Adoption of the proposed resolutions is not a project within the meaning of the California Environmental Quality Act (“CEQA”), including as the term “project” is defined by section 15378 of the CEQA Guidelines, including without limitation because the adoption of the resolutions is a ministerial action not subject to and exempt from CEQA (see section 15268 of the CEQA Guidelines), and that even if it were a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

STRATEGIC PLAN

Not applicable, as this is a court proceeding.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt the following Resolutions to further comply with the Judgment and Peremptory Writ of Mandate in *Mitracos v. City of Tracy, et al.*, San Joaquin County Superior Court Case No. STK-CV-UWM-2018-5531:

- 1. A Resolution Rescinding Resolution No. 2020-154 Approving Final Aquatic Center Conceptual Plan with a Not-to-Exceed Amount of \$65 Million Including Contingency and Soft Costs;**
- 2. A Resolution Rescinding Resolution No. 2019-78 Approving the Agreement for Deferral of Certain Impact Fees for Ellis Gardens Phase 1- 3 (Tract 3877, Tract 3906, and Tract 3907); and**
- 3. A Resolution Rescinding Resolution No. 2021-116 Approving the Agreement for Deferral of Certain Impact Fees for Ellis Town and Country (Tract 4007).**

Respectfully submitted,

Bijal M. Patel
City Attorney

TRACY CITY COUNCIL

RESOLUTION NO. 2022-___

**RESOLUTION RESCINDING RESOLUTION NO. 2020-154 APPROVING FINAL
AQUATIC CENTER CONCEPTUAL PLAN WITH A NOT-TO-EXCEED AMOUNT
OF \$65 MILLION INCLUDING CONTINGENCY AND SOFT COSTS**

WHEREAS, on March 19, 2013, the City Council adopted Ordinance 1182 (Ordinance 1182), an Ordinance of the City of Tracy Approving an Amended and Restated Development Agreement with Surland Communities, LLC, with respect to the development of real property in the Ellis Specific Plan area; and

WHEREAS, pursuant to Ordinance 1182, the City of Tracy (City) and Surland Communities, LLC (Surland) executed and entered into the Amended and Restated Development Agreement By and Between the City of Tracy and Surland Communities, LLC, dated April 18, 2013 ("2013 Development Agreement"); and

WHEREAS, the 2013 Development Agreement provided that, among other things: Surland would pay the City \$10 Million—by an initial first installment of \$2 Million followed by a second installment of \$8 Million—to fund the design and construction of the Aquatic Center and offer to dedicate 16 acres of land for the Aquatic Center; and

WHEREAS, Surland has paid the first installment of \$2 Million and provided an Irrevocable Land Dedication Offer, which the City recorded; and

WHEREAS, on June 3, 2014, the City Council adopted Ordinance 1194 (Ordinance 1194), an Ordinance of the City of Tracy Approving First Amendment to Amended and Restated Development Agreement with the Surland Communities, LLC; and

WHEREAS, pursuant to Ordinance 1194, the City and Surland executed and entered into the First Amendment to Amended and Restated Development Agreement By and Between the City of Tracy and Surland Communities, LLC, dated July 3, 2014; and

WHEREAS, on April 3, 2018, the City Council adopted Ordinance 1253 (Ordinance 1253), an Ordinance of the City of Tracy Approving the Second Amendment to the Amended and Restated Development Agreement By and Between the City of Tracy and Surland Communities, LLC, which became effective 30 days later, on May 3, 2018; and

WHEREAS, pursuant to Ordinance 1253, the City and Surland executed and entered into the Second Amendment to Amended and Restated Development Agreement By and Between the City of Tracy and Surland Communities, LLC, dated May 3, 2018 (2018 Second Amendment to Development Agreement or 2018 DA); and

WHEREAS, the Second Amendment to the 2013 Development Agreement revised the City's and Surland's respective responsibilities, rights, and obligations with respect to the Aquatic Center, including by providing that in lieu of paying the City \$8 Million of the \$10 Million owed under the 2013 Development Agreement, Surland would facilitate design and construction services for the Aquatic Center; and

WHEREAS, as to design and construction, the 2018 Second Amendment to the Development Agreement added a new section 1.01(j) which provided, among other things, that Surland would "retain and compensate consultants to design the Swim Center with input from the community and City staff and with direction from the City Council," and that before Surland prepared construction improvement plans the City Council would approve a final conceptual plan; and

WHEREAS, on May 11, 2018, Mary Mitracos, as Petitioner and Plaintiff, filed a lawsuit against the City, as Respondent and Defendant, and Surland, as Real Party in Interest, challenging the legality of Ordinance 1253 and the 2018 Second Amendment to the Development Agreement, *Mitracos v. City of Tracy, et al.*, San Joaquin County Superior Court Case No. STK-CV-UWM-2018-5531; and

WHEREAS, on September 30, 2020, the San Joaquin County Superior Court entered Judgment (Judgment) for Plaintiff Mitracos and against the City and Surland, and issued a Peremptory Writ of Mandate (Writ), each of which was served on the City on October 8, 2020; and

WHEREAS, the Judgment served on October 8, 2020 includes the following rulings (the Judgment refers to the 2018 Second Amendment to the Development Agreement as the "2018 DA"):

IT IS SO ORDERED, DECREED AND ADJUDGED that:

1. Judgment granting a Peremptory Writ of Mandate is entered in favor of Petitioner Mitracos in this proceeding. Judgment is entered because the Court finds that Respondent committed a prejudicial abuse of discretion in taking the following actions:
 - (a) Adopting, approving and entering into the Second Amendment to Amended and Restated Development Agreement by and between the City of Tracy and Surland Communities, LLC" ("2018 DA").
 - (b) Adopting Ordinance 1253[.]
2. The Court finds the 2018 DA does not comply with Government Code Sections 65865(b) and 65865.2 and is therefore void ab initio.
3. A Preemptory Writ of Mandate direct[ed] to Respondents shall issue under seal of this Court, ordering Respondents to vacate and set aside, within (30) days from service of the Writ of Mandate, all approvals and adoptions of the 2008 DA and Ordinance 1253, as described in paragraph 2 above in their entirety and all other actions taken by Respondents to approve or implement the Development Agreement. Respondent City is

ordered to:

- (a) Set aside, rescind, and vacate the "Second Amendment to Amended and Restated Development Agreement by and between The City of Tracy and Surland Communities, LLC" ("2018 DA").
- (b) Set aside, rescind, and vacate Ordinance 1253.
- (c) Set aside, rescind, and vacate any actions taken pursuant to the "Second Amendment to Amended and Restated Development Agreement by and Between the City of Tracy and Surland Communities, LLC" ("2018 DA") and Ordinance 1253.

4. Respondent City shall file a return to the Peremptory Writ of Mandate within 10 days of completion of the actions mandated by this judgment. This Court shall retain jurisdiction over Respondents' proceedings by way of the return to the Peremptory Writ of Mandate until the Court has determined that Respondent has complied with the directives of this Court.

5. Petitioner shall be awarded its costs of suit. Petitioner is the successful party pursuant to Code of Civil Procedure § 1021.5. The Court reserves jurisdiction to determine entitlement to attorneys' fees and litigation expenses, pursuant to any properly and timely filed motion which Petitioner Mitracos may make.

6. Injunctive relief is granted consistent with this ruling. Respondents, Real Parties in Interest, and their respective agents, employees, and persons acting in concert with them are permanently enjoined from any and all actions to further implement the 2018 Development Agreement as described in paragraph 1(a) above.

and

WHEREAS, the Writ served on October 8, 2022 includes the following commands:

YOU ARE HEREBY COMMANDED to comply with the following:

1. Within thirty (30) days from service of this Writ, set aside, rescind, and vacate the "Second Amendment to Amended and Restated Development Agreement by and between the City of Tracy and Surland Communities, LLC" ("2018 DA");
2. Within thirty (30) days from service of this Writ, set aside, rescind, and vacate Ordinance 1253;
3. Within thirty (30) days from service of this Writ, set aside, rescind, and vacate any actions taken pursuant to the "Second Amendment to Amended and Restated Development Agreement By and Between The City of Tracy and Surland Communities, LLC" ("2018 DA") and Ordinance 1253.
4. Respondent City shall file a return to the Peremptory Writ of Mandate within 10 days of completion of the actions mandated by this Writ. This Court shall retain jurisdiction over Respondent's proceedings by way of the return to the Peremptory Writ of Mandate until the Court has determined that Respondents have

and complied with the directives of this Court.

WHEREAS, on November 6, 2020 (which was within 30 days of service of the Judgment and Writ), the Superior Court extended the compliance deadline to November 12, 2020, and then on November 12, 2020, extended the compliance deadline to January 22, 2021; and

WHEREAS, on October 23, 2020, the City and Surland filed a joint motion for a new trial, or in the alternative, to set aside and vacate the judgment and enter a new judgment, which was denied by operation of law on or about December 22, 2020; and

WHEREAS, on January 15, 2021, the City and Surland appealed to the California Court of Appeal, Third District, which stayed any obligation to comply with the Judgment and Writ unless and until the Judgment was affirmed by a final decision on appeal; and

WHEREAS, on May 16, 2022, the Third District Court of Appeal issued an unpublished opinion denying the appeal and affirming the Judgment, which decision became final 30 days thereafter; and

WHEREAS, on July 18, 2022, the Court of Appeal issued a Remittitur, returning the lawsuit to the Superior Court; and

WHEREAS, Surland is responsible to cover all City costs and expenses associated with the Mitracos lawsuit pursuant to a hold harmless and indemnity provision of the 2013 Development Agreement; and

WHEREAS, the City is obligated to comply with the Judgment and Writ, and is doing so; and

WHEREAS, on August 16 and September 6, 2022, the City Council introduced and adopted, respectively, Ordinances rescinding Ordinance 1253 and the 2018 Second Amendment to Development Agreement; and

WHEREAS, the City has not taken any action to implement the 2018 Second Amendment to Development Agreement since well before the Court of Appeal issued its May 16, 2022 opinion denying the appeal and affirming the Judgment; and

WHEREAS, the City understands that it may not take any action to implement the 2018 Second Amendment; and

WHEREAS, the City remains obligated to rescind and unwind actions previously taken to implement Ordinance 1253 and the Second Amendment; and

WHEREAS, on August 18, 2020, the City Council adopted, pursuant to the Second Amendment, Resolution 2020-154 Approving Final Aquatic Center Conceptual Plan with a Not-to-Exceed Amount of \$65 Million Including Contingency and Soft Costs; and

WHEREAS, City staff is evaluating what additional actions need to be taken to set aside, rescind and vacate any actions previously taken to implement Ordinance 1253 and the Second Amendment; now, therefore, be it

RESOLVED: the City Council hereby rescinds, in its entirety, Resolution 2020-154 Approving Final Aquatic Center Conceptual Plan with a Not-to-Exceed Amount of \$65 Million Including Contingency and Soft Costs; and be it

FURTHER RESOLVED: City staff shall further evaluate additional actions that may need to be taken to fully unwind the 2018 Second Amendment to Development Agreement and Ordinance 1253; and be it

FURTHER RESOLVED: City staff shall pursue development of the Aquatic Center, as originally intended under the 2013 Development Agreement, as modified by the First Amendment and the Tolling Agreements; and be it

FURTHER RESOLVED: the City Council finds and determines that the adoption of this Resolution is not a project within the meaning of the California Environmental Quality Act (“CEQA”), including as the term “project” is defined by section 15378 of the CEQA Guidelines, including without limitation because the adoption of this Resolution is a ministerial action not subject to and exempt from CEQA (see section 15268 of the CEQA Guidelines), and that even if it were a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

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

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

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

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

TRACY CITY COUNCIL

RESOLUTION NO. NO. 2022-____

RESOLUTION RESCINDING RESOLUTION NO. 2019-78 APPROVING THE AGREEMENT FOR DEFERRAL OF CERTAIN IMPACT FEES FOR ELLIS GARDENS PHASE 1- 3 (TRACT 3877, TRACT 3906, AND TRACT 3907)

WHEREAS, on March 19, 2013, the City Council adopted Ordinance 1182 (Ordinance 1182), an Ordinance of the City of Tracy Approving an Amended and Restated Development Agreement with Surland Communities, LLC, with respect to the development of real property in the Ellis Specific Plan area; and

WHEREAS, pursuant to Ordinance 1182, the City of Tracy (City) and Surland Communities, LLC (Surland) executed and entered into the Amended and Restated Development Agreement By and Between the City of Tracy and Surland Communities, LLC, dated April 18, 2013 ("2013 Development Agreement"); and

WHEREAS, on June 3, 2014, the City Council adopted Ordinance 1194 (Ordinance 1194), an Ordinance of the City of Tracy Approving First Amendment to Amended and Restated Development Agreement with the Surland Communities, LLC; and

WHEREAS, pursuant to Ordinance 1194, the City and Surland executed and entered into the First Amendment to Amended and Restated Development Agreement By and Between the City of Tracy and Surland Communities, LLC, dated July 3, 2014; and

WHEREAS, on April 3, 2018, the City Council adopted Ordinance 1253 (Ordinance 1253), an Ordinance of the City of Tracy Approving the Second Amendment to the Amended and Restated Development Agreement By and Between the City of Tracy and Surland Communities, LLC; and

WHEREAS, pursuant to Ordinance 1253, the City and Surland executed and entered into the Second Amendment to Amended and Restated Development Agreement By and Between the City of Tracy and Surland Communities, LLC, dated May 3, 2018 (2018 Second Amendment to Development Agreement or 2018 DA); and

WHEREAS, on May 11, 2018, Mary Mitracos, as Petitioner and Plaintiff, filed a lawsuit against the City, as Respondent and Defendant, and Surland, as Real Party in Interest, challenging the legality of Ordinance 1253 and the 2018 Second Amendment to the Development Agreement, *Mitracos v. City of Tracy, et al.*, San Joaquin County Superior Court Case No. STK-CV-UWM-2018-5531; and

WHEREAS, on September 30, 2020, the San Joaquin County Superior Court entered Judgment (Judgment) for Plaintiff Mitracos and against the City and Surland, and issued a Peremptory Writ of Mandate (Writ), each of which was served on the City on October 8, 2020; and

WHEREAS, the Judgment served on October 8, 2020 includes the following rulings (the Judgment refers to the 2018 Second Amendment to the Development Agreement as the "2018 DA"):

IT IS SO ORDERED, DECREED AND ADJUDGED that:

1. Judgment granting a Peremptory Writ of Mandate is entered in favor of Petitioner Mitracos in this proceeding. Judgment is entered because the Court finds that Respondent committed a prejudicial abuse of discretion in taking the following actions:

(a) Adopting, approving and entering into the Second Amendment to Amended and Restated Development Agreement by and between The City of Tracy and Surland Communities, LLC ("2018 DA").

(b) Adopting Ordinance 1253[.]

2. The court finds the 2018 DA does not comply with Government Code Sections 65865(b) and 65865.2 and is therefore void ab initio.

3. A Preemptory Writ of Mandate direct[ed] to Respondents shall issue under seal of this Court, ordering Respondents to vacate and set aside, within (30) days from service of the Writ of Mandate, all approvals and adoptions of the 2008 DA and Ordinance 1253, as described in paragraph 2 above in their entirety and all other actions taken by Respondents to approve or implement the Development Agreement. Respondent City is ordered to:

(a) Set aside, rescind, and vacate the "Second Amendment to Amended and Restated Development Agreement by and between The City of Tracy and Surland Communities, LLC" ("2018 DA").

(b) Set aside, rescind, and vacate Ordinance 1253.

(c) Set aside, rescind, and vacate any actions taken pursuant to the "Second Amendment to Amended and Restated Development Agreement by and Between the City of Tracy and Surland Communities, LLC" ("2018 DA") and Ordinance 1253.

4. Respondent City shall file a return to the Peremptory Writ of Mandate within 10 days of completion of the actions mandated by this judgment. This Court shall retain jurisdiction over Respondents' proceedings by way of the return to the Peremptory Writ of Mandate until the Court has determined that Respondent has complied with the directives of this Court.

5. Petitioner shall be awarded its costs of suit. Petitioner is the successful party pursuant to Code of Civil Procedure § 1021.5. The Court reserves jurisdiction to determine entitlement to attorneys' fees and litigation expenses, pursuant to any properly and timely filed motion which Petitioner Mitracos may make.

6. Injunctive relief is granted consistent with this ruling. Respondents, Real Parties in Interest, and their respective agents, employees, and persons acting in concert with them are permanently enjoined from any and all actions to further implement the 2018 Development Agreement as described in paragraph 1(a) above.

and

WHEREAS, the Writ served on October 8, 2022 includes the following commands:

YOU ARE HEREBY COMMANDED to comply with the following:

1. Within thirty (30) days from service of this Writ, set aside, rescind, and vacate the "Second Amendment to Amended and Restated Development Agreement by and between the City of Tracy and Surland Communities, LLC" ("2018 DA");

2. Within thirty (30) days from service of this Writ, set aside, rescind, and vacate Ordinance 1253;

3. Within thirty (30) days from service of this Writ, set aside, rescind, and vacate any actions taken pursuant to the "Second Amendment to Amended and Restated Development Agreement By and Between The City of Tracy and Surland Communities, LLC" ("2018 DA") and Ordinance 1253.

4. Respondent City shall file a return to the Peremptory Writ of Mandate within 10 days of completion of the actions mandated by this Writ. This Court shall retain jurisdiction over Respondent's proceedings by way of the return to the Peremptory Writ of Mandate until the Court has determined that Respondents have complied with the directives of this Court.

and

WHEREAS, on November 6, 2020 (which was within 30 days of service of the Judgment and Writ), the Superior Court extended the compliance deadline to November 12, 2020, and then on November 12, 2020, extended the compliance deadline to January 22, 2021; and

WHEREAS, on October 23, 2020, the City and Surland filed a joint motion for a new trial, or in the alternative, to set aside and vacate the judgment and enter a new judgment, which was denied by operation of law on or about December 22, 2020; and

WHEREAS, on January 15, 2021, the City and Surland appealed to the California Court of Appeal, Third District, which stayed any obligation to comply with the Judgment and Writ unless and until the Judgment was affirmed by a final decision on appeal; and

WHEREAS, on May 16, 2022, the Third District Court of Appeal issued an unpublished opinion denying the appeal and affirming the Judgment, which decision became final 30 days thereafter; and

WHEREAS, on July 18, 2022, the Court of Appeal issued a Remittitur, returning the lawsuit to the Superior Court; and

WHEREAS, Surland is responsible to cover all City costs and expenses associated with the Mitracos lawsuit pursuant to a hold harmless and indemnity provision of the 2013 Development Agreement; and

WHEREAS, the City is obligated to comply with the Judgment and Writ, and is doing so; and

WHEREAS, on August 16 and September 6, 2022, the City Council introduced and adopted, respectively, Ordinances rescinding Ordinance 1253 and the 2018 Second Amendment to Development Agreement; and

WHEREAS, the City has not taken any action to implement the 2018 Second Amendment to Development Agreement since well before the Court of Appeal issued its May 16, 2022 opinion denying the appeal and affirming the Judgment; and

WHEREAS, the City understands that it may not take any action to implement the 2018 Second Amendment; and

WHEREAS, the City remains obligated to rescind and unwind actions previously taken to implement Ordinance 1253 and the Second Amendment; and

WHEREAS, the 2018 Second Amendment to the Development Agreement revised responsibilities, rights, and obligations with respect to payment of City fees, including impact fees. It added a new section 1.07(g)(iii) that provided, among other things:

“all development impact fees and other fees and contributions identified in the EFIP [Ellis Specific Plan Finance and Implementation Plan], or agreed upon by the City and [Surland] in other finance plans such as the City Master Plans, or any other Fee Programs, or other impact fee, agreed to by the City and [Surland] and attributable to a structure shall be due and payable through close of escrow for a home builder to a home buyer for a residential structure, and upon a final inspection approval for a commercial structure for the noticed Project. The process for such payment is attached hereto and incorporated herein by this reference as Exhibit C” (a form of agreement for deferral of fees); and

WHEREAS, on April 16, 2019, under the authority of the 2018 Second Amendment to the Development Agreement, the City Council adopted Resolution No. 2019-78 Approving the Agreement for Deferral of Certain Impact Fees for Ellis Gardens Phase 1- 3 (Tract 3877, Tract 3906, and Tract 3907), and authorized the City Clerk to file the Agreement with the Office of the San Joaquin County Recorder; and

WHEREAS, City staff is evaluating what additional actions need to be taken to set aside, rescind and vacate any actions previously taken to implement Ordinance 1253 and the Second Amendment; now, therefore, be it

RESOLVED: the City Council hereby rescinds, in its entirety, Resolution No. 2019-78 Approving the Agreement for Deferral of Certain Impact Fees for Ellis Gardens Phase 1- 3 (Tract 3877, Tract 3906, and Tract 3907); and be it

FURTHER RESOLVED: the City Clerk shall record this Resolution or other notice with the San Joaquin County Recorder; and be it

FURTHER RESOLVED: City staff shall further evaluate additional actions that may need to be taken to fully unwind the 2018 Second Amendment to Development Agreement and Ordinance 1253, including to provide notice to the parties and the public to the Agreement entered into pursuant to Resolution No. 2019-78, and to ensure that all fees that were subject thereto are timely and fully paid, including as originally intended under the 2013 Development Agreement, as modified by the First Amendment and the Tolling Agreements; and be it

FURTHER RESOLVED: the City Council finds and determines that the adoption of this Resolution is not a project within the meaning of the California Environmental Quality Act ("CEQA"), including as the term "project" is defined by section 15378 of the CEQA Guidelines, including without limitation because the adoption of this Resolution is a ministerial action not subject to and exempt from CEQA (see section 15268 of the CEQA Guidelines), and that even if it were a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

* * * * *

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

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

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

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

TRACY CITY COUNCIL

RESOLUTION NO. _____

RESOLUTION RESCINDING RESOLUTION NO. 2021-116 APPROVING THE AGREEMENT FOR DEFERRAL OF CERTAIN IMPACT FEES FOR ELLIS TOWN AND COUNTRY (TRACT 4007)

WHEREAS, on March 19, 2013, the City Council adopted Ordinance 1182 (Ordinance 1182), an Ordinance of the City of Tracy Approving an Amended and Restated Development Agreement with Surland Communities, LLC, with respect to the development of real property in the Ellis Specific Plan area; and

WHEREAS, pursuant to Ordinance 1182, the City of Tracy (City) and Surland Communities, LLC (Surland) executed and entered into the Amended and Restated Development Agreement By and Between the City of Tracy and Surland Communities, LLC, dated April 18, 2013 ("2013 Development Agreement"); and

WHEREAS, on June 3, 2014, the City Council adopted Ordinance 1194 (Ordinance 1194), an Ordinance of the City of Tracy Approving First Amendment to Amended and Restated Development Agreement with the Surland Communities, LLC; and

WHEREAS, pursuant to Ordinance 1194, the City and Surland executed and entered into the First Amendment to Amended and Restated Development Agreement By and Between the City of Tracy and Surland Communities, LLC, dated July 3, 2014; and

WHEREAS, on April 3, 2018, the City Council adopted Ordinance 1253 (Ordinance 1253), an Ordinance of the City of Tracy Approving the Second Amendment to the Amended and Restated Development Agreement By and Between the City of Tracy and Surland Communities, LLC; and

WHEREAS, pursuant to Ordinance 1253, the City and Surland executed and entered into the Second Amendment to Amended and Restated Development Agreement By and Between the City of Tracy and Surland Communities, LLC, dated May 3, 2018 (2018 Second Amendment to Development Agreement or 2018 DA); and

WHEREAS, on May 11, 2018, Mary Mitracos, as Petitioner and Plaintiff, filed a lawsuit against the City, as Respondent and Defendant, and Surland, as Real Party in Interest, challenging the legality of Ordinance 1253 and the 2018 Second Amendment to the Development Agreement, *Mitracos v. City of Tracy, et al.*, San Joaquin County Superior Court Case No. STK-CV-UWM-2018-5531; and

WHEREAS, on September 30, 2020, the San Joaquin County Superior Court entered Judgment (Judgment) for Plaintiff Mitracos and against the City and Surland, and issued a Peremptory Writ of Mandate (Writ), each of which was served on the City on October 8, 2020; and

WHEREAS, the Judgment served on October 8, 2020 includes the following rulings (the Judgment refers to the 2018 Second Amendment to the Development Agreement as the "2018 DA"):

IT IS SO ORDERED, DECREED AND ADJUDGED that:

1. Judgment granting a Peremptory Writ of Mandate is entered in favor of Petitioner Mitracos in this proceeding. Judgment is entered because the Court finds that Respondent committed a prejudicial abuse of discretion in taking the following actions:

(a) Adopting, approving and entering into the Second Amendment to Amended and Restated Development Agreement by and between The City of Tracy and Surland Communities, LLC ("2018 DA").

(b) Adopting Ordinance 1253[.]

2. The court finds the 2018 DA does not comply with Government Code Sections 65865(b) and 65865.2 and is therefore void ab initio.

3. A Preemptory Writ of Mandate direct[ed] to Respondents shall issue under seal of this Court, ordering Respondents to vacate and set aside, within (30) days from service of the Writ of Mandate, all approvals and adoptions of the 2008 DA and Ordinance 1253, as described in paragraph 2 above in their entirety and all other actions taken by Respondents to approve or implement the Development Agreement. Respondent City is ordered to:

(a) Set aside, rescind, and vacate the "Second Amendment to Amended and Restated Development Agreement by and between The City of Tracy and Surland Communities, LLC" ("2018 DA").

(b) Set aside, rescind, and vacate Ordinance 1253.

(c) Set aside, rescind, and vacate any actions taken pursuant to the "Second Amendment to Amended and Restated Development Agreement by and Between the City of Tracy and Surland Communities, LLC" ("2018 DA") and Ordinance 1253.

4. Respondent City shall file a return to the Peremptory Writ of Mandate within 10 days of completion of the actions mandated by this judgment. This Court shall retain jurisdiction over Respondents' proceedings by way of the return to the Peremptory Writ of Mandate until the Court has determined that Respondent has complied with the directives of this Court.

5. Petitioner shall be awarded its costs of suit. Petitioner is the successful party pursuant to Code of Civil Procedure § 1021.5. The Court reserves jurisdiction to determine entitlement to attorneys' fees and litigation expenses, pursuant to any properly and timely filed motion which Petitioner Mitracos may make.

6. Injunctive relief is granted consistent with this ruling. Respondents, Real Parties in Interest, and their respective agents, employees, and persons acting in concert with them are permanently enjoined from any and all actions to further implement the 2018 Development Agreement as described in paragraph 1(a) above.

and

WHEREAS, the Writ served on October 8, 2022 includes the following commands:

YOU ARE HEREBY COMMANDED to comply with the following:

1. Within thirty (30) days from service of this Writ, set aside, rescind, and vacate the "Second Amendment to Amended and Restated Development Agreement by and between the City of Tracy and Surland Communities, LLC" ("2018 DA");

2. Within thirty (30) days from service of this Writ, set aside, rescind, and vacate Ordinance 1253;

3. Within thirty (30) days from service of this Writ, set aside, rescind, and vacate any actions taken pursuant to the "Second Amendment to Amended and Restated Development Agreement By and Between The City of Tracy and Surland Communities, LLC" ("2018 DA") and Ordinance 1253.

4. Respondent City shall file a return to the Peremptory Writ of Mandate within 10 days of completion of the actions mandated by this Writ. This Court shall retain jurisdiction over Respondent's proceedings by way of the return to the Peremptory Writ of Mandate until the Court has determined that Respondents have complied with the directives of this Court.

and

WHEREAS, on November 6, 2020 (which was within 30 days of service of the Judgment and Writ), the Superior Court extended the compliance deadline to November 12, 2020, and then on November 12, 2020, extended the compliance deadline to January 22, 2021; and

WHEREAS, on October 23, 2020, the City and Surland filed a joint motion for a new trial, or in the alternative, to set aside and vacate the judgment and enter a new judgment, which was denied by operation of law on or about December 22, 2020; and

WHEREAS, on January 15, 2021, the City and Surland appealed to the California Court of Appeal, Third District, which stayed any obligation to comply with the Judgment and Writ unless and until the Judgment was affirmed by a final decision on appeal; and

WHEREAS, on May 16, 2022, the Third District Court of Appeal issued an unpublished opinion denying the appeal and affirming the Judgment, which decision became final 30 days thereafter; and

WHEREAS, on July 18, 2022, the Court of Appeal issued a Remittitur, returning the lawsuit to the Superior Court; and

WHEREAS, Surland is responsible to cover all City costs and expenses associated with the Mitracos lawsuit pursuant to a hold harmless and indemnity provision of the 2013 Development Agreement; and

WHEREAS, the City is obligated to comply with the Judgment and Writ, and is doing so; and

WHEREAS, on August 16 and September 6, 2022, the City Council introduced and adopted, respectively, Ordinances rescinding Ordinance 1253 and the 2018 Second Amendment to Development Agreement; and

WHEREAS, the City has not taken any action to implement the 2018 Second Amendment to Development Agreement since well before the Court of Appeal issued its May 16, 2022 opinion denying the appeal and affirming the Judgment; and

WHEREAS, the City understands that it may not take any action to implement the 2018 Second Amendment; and

WHEREAS, the City remains obligated to rescind and unwind actions previously taken to implement Ordinance 1253 and the Second Amendment; and

WHEREAS, the 2018 Second Amendment to the Development Agreement revised responsibilities, rights, and obligations with respect to payment of City fees, including impact fees. It added a new section 1.07(g)(iii) that provided, among other things:

“all development impact fees and other fees and contributions identified in the EFIP [Ellis Specific Plan Finance and Implementation Plan], or agreed upon by the City and [Surland] in other finance plans such as the City Master Plans, or any other Fee Programs, or other impact fee, agreed to by the City and [Surland] and attributable to a structure shall be due and payable through close of escrow for a home builder to a home buyer for a residential structure, and upon a final inspection approval for a commercial structure for the noticed Project. The process for such payment is attached hereto and incorporated herein by this reference as Exhibit C” (a form of agreement for deferral of fees); and

WHEREAS, on August 17, 2021, under the authority of the 2018 Second Amendment to the Development Agreement, the City Council adopted Resolution No. 2021-116 Approving the Agreement for Deferral of Certain Impact Fees for Ellis Town and Country (Tract 4007), and authorized the City Clerk to file the Agreement with the Office of the San Joaquin County Recorder; and

WHEREAS, City staff is evaluating what additional actions need to be taken to set aside, rescind and vacate any actions previously taken to implement Ordinance 1253 and the Second Amendment; now, therefore, be it

RESOLVED: the City Council hereby rescinds, in its entirety, Resolution No. 2021-116 Approving the Agreement for Deferral of Certain Impact Fees for Ellis Town and Country (Tract 4007); and be it

FURTHER RESOLVED: the City Clerk shall record this Resolution or other notice with the San Joaquin County Recorder; and be it

FURTHER RESOLVED: City staff shall further evaluate additional actions that may need to be taken to fully unwind the 2018 Second Amendment to Development Agreement and Ordinance 1253, including to provide notice to the parties and the public to the Agreement entered into pursuant to Resolution No. 2021-116, and to ensure that all fees that were subject thereto are timely and fully paid, including as originally intended under the 2013 Development Agreement, as modified by the First Amendment and the Tolling Agreements; and be it

FURTHER RESOLVED: the City Council finds and determines that the adoption of this Resolution is not a project within the meaning of the California Environmental Quality Act (“CEQA”), including as the term “project” is defined by section 15378 of the CEQA Guidelines, including without limitation because the adoption of this Resolution is a ministerial action not subject to and exempt from CEQA (see section 15268 of the CEQA Guidelines), and that even if it were a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

* * * * *

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

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

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

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

AGENDA ITEM 3.C

REQUEST

ADOPT A RESOLUTION APPROVING THE PROPERTY TRANSFER OPTION AND SALE AGREEMENT WITH JOINT ESCROW INSTRUCTIONS GRANTING TRI-VALLEY – SAN JOAQUIN VALLEY REGIONAL RAIL AUTHORITY A TEN YEAR OPTION TO PURCHASE, FOR INDEPENDENT CONSIDERATION OF \$100 FOR APPROXIMATELY 200 ACRES OF CITY-OWNED EXEMPT SURPLUS LAND LOCATED AT 15580 AND 15178 WEST SCHULTE ROAD (APNs 209-230-029 AND 209-230-030)

EXECUTIVE SUMMARY

With this item, staff recommends that the City Council adopt a resolution approving an option agreement to transfer real property located at 15580 and 15178 West Schulte Road (APNs 209-230-029 and 209-230-030), formerly known as the “Old Antenna Farm” (**Property**). This item is an effectuation of the intent expressed by the City Council on September 15, 2020, through Resolution 2020-168, in which the City Council approved a term sheet for an option contract to convey the Property to the Tri-Valley – San Joaquin Valley Regional Rail Authority (**Authority**). The Authority desires to use the Property for an Operations and Maintenance Facility (**O&M Facility**) for the Authority’s future 42-mile, 7-station passenger rail project known as “Valley Link” that will provide transit connectivity in the Tri-Valley between the San Francisco Bay Area Rapid Transit District’s system and the Altamont Corridor Express commuter (**Project**).

Concurrent with this item, the Council will be taking an action to declare the Property exempt surplus land pursuant to the California Surplus Land Act. Such a declaration is based on the City’s determination that the Property is no longer needed for any City public purpose, except for the siting of a City antennae facility. This facility will either remain in place if the Property is conveyed to the Authority for the Project or be relocated by the Authority to a new location, at its cost. The option agreement will provide the Authority ten (10) years to exercise its option to purchase and close escrow on the Property. If the Authority uses less than the full portion of the Property for either the O & M Facility or a grant match, then such portion of the Property will revert back to the City. If the Authority fails to consummate the transaction within ten (10) years or fails to complete the O & M Facility within ten (10) years after closing, then the entire Property will revert back to the City.

BACKGROUND

The California Legislature adopted Assembly Bill (AB) 758 in 2017 to establish the Tri-Valley-San Joaquin Valley Regional Rail Authority, known as Valley Link, “to plan and help deliver a cost-effective connection from the San Joaquin Valley to the Bay Area Rapid Transit District’s rapid transit system and the Altamont Corridor Express in the Tri-Valley, to address regional economic and transportation challenges.” A board of

directors representing the following fifteen entities governs Valley Link: Bay Area Rapid Transit District (BART); the San Joaquin Regional Rail Commission; the Livermore Amador Valley Transit Authority; the Mountain House Community Services District; the counties of Alameda and San Joaquin; and the cities of Dublin, Lathrop, Livermore, Manteca, Pleasanton, Stockton, Danville, San Ramon and Tracy. To address regional economic and transportation challenges, Valley Link is planning and intends to deliver transit connectivity in the Tri-Valley between the San Francisco Bay Area Rapid Transit District's system and the Altamont Corridor Express commuter service through a new 42-mile, 7-station passenger rail project known as "Valley Link".

The Project Feasibility Report prepared by the Authority identified a need for an Operations and Maintenance Facility (O&M Facility) to serve Valley Link trains, tracks, and associated equipment. The O&M Facility is projected to create about 400 jobs. In September 2020, the Authority approached the City about two City-owned parcels totaling approximately 200 acres (APNs 209-230- 029 and 209-230-030), commonly referred to as the "Old Antenna Farm" as a potential site for the O&M Facility. The Authority is seeking federal funding and must demonstrate local match, which the City's Property will satisfy.

The City acquired the Property in 2006 from the United States Department of Energy, of which 150.18 acres were deed restricted for educational or recreational purposes. In 2020, the City acquired 300 acres in north Tracy from the Wastewater Fund to transfer the deed restriction of educational and recreational uses from the Property to the current Legacy Fields site and the future Nature Park. At that time, the City determined that the Property is no longer needed for any City public purpose, except for the siting of an antennae, which use shall remain in place on the property upon any future disposition.

On May 12, 2021, pursuant to the California Environmental Quality Act, the Board of Directors of the Authority certified a Final Environmental Impact Report (FEIR) for the Project, which included the O&M Facility, and also adopted appropriate Findings of Fact, a Statement of Overriding Considerations, and a Mitigation Monitoring and Reporting Program.

Pursuant to the California Surplus Land Act (SLA) Government Code Section 54221(b)(1), the City must declare the Property to be "surplus land" before the City can take any action (sale or lease) to dispose of the property. Surplus real property is defined as "land owned in fee simple by any local agency for which the local agency's governing body takes formal action in a regular public meeting declaring that the land is surplus and is not necessary for the agency's use." Pursuant Section 54221(f)(1)(D), property that is transferred to another public agency for its use is "exempt surplus land". Concurrently with this agenda item, the Council is considering a Resolution declaring the Property to be exempt surplus land in accordance with the SLA.

The California Department of Housing and Community Development (HCD) adopted guidelines to increase compliance with the SLA that clarify and strengthen reporting and enforcement provisions of the Act. This includes submitting the Resolution adopted by the Council declaring the Property as "exempt surplus land" and a requirement that no disposition occur until thirty (30) days after such Resolution has been sent to HCD.

ANALYSIS

On September 15, 2020, the City Council approved Resolution 220-168, which approved the option agreement term sheet with the Authority and authorized the City Manager to execute the term sheet.

An option agreement provides a party with the option to lease or purchase a property. In this case, the parties have discussed entering into an option agreement through which the Authority will be granted an exclusive option to “purchase” the Property.

The following are key provisions of the option agreement:

- City will grant an exclusive option to the Authority to purchase the Property.
- There is no cost to the Authority for the purchase value of the Property, except that the Authority must pay \$100 of Independent Consideration for the Option and all closing costs, as well as the cost to relocate the existing antenna facility to a suitable site if the Authority does not wish to keep it at the Property. The value of the Property will be considered an in-kind contribution by the City to the Authority to be leveraged for additional grant funding, and the consummation of the conveyance will constitute the City’s full contribution to the Project.
- The Authority will have a term of ten years to exercise the Option.
- If the Property is not used by the Authority within 10 years of the purchase date, the Property will revert to the City; and if less than the entire Property is used for the O&M Facility, then such portion that is not either used for a grant match or constitute surplus land under the SLA will revert to the City.

The Authority Board will be considering the proposed agreement at its meeting on September 14, 2022. As noted above, the HCD Guidelines require that any disposition occur only after 30 days of sending a declaration of exempt surplus to HCD. As the option agreement is binding on the parties, the City and the Authority may execute the contract in early October 2022, subject to approvals by the Authority Board and the Council.

FISCAL IMPACT

The book value of the Property is approximately \$1.2 million per the acreage swap at Legacy Fields. The market value will be determined prior to the exercise of the Option by the Authority, to serve as the true value of the City’s contribution to the Project.

STRATEGIC PLAN

This agenda item supports the City of Tracy’s Economic Development Strategic Priority: Goal #2, Continue to Support Valley Link.

RECOMMENDATION

Staff recommends that the City Council adopt a Resolution approving the Property Transfer Option and Sale Agreement with joint escrow instructions granting Tri-Valley – San Joaquin Valley Regional Rail Authority a ten-year (10) option to purchase, for independent consideration of \$100 for approximately 200 acres of City-Owned exempt surplus land located at 15580 and 15178 West Schulte Road (APNs 209-230-029 and 209-230-030).

Prepared by: Karin Schnaider, Assistant City Manager

Reviewed by: Sara Cowell, Interim Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Michael Rogers, City Manager

ATTACHMENTS:

Attachment A: Property Transfer Option and Sale Agreement with Joint Escrow Instructions

PROPERTY TRANSFER OPTION AND SALE AGREEMENT WITH JOINT ESCROW INSTRUCTIONS

THIS PROPERTY TRANSFER OPTION AND SALE AGREEMENT WITH JOINT ESCROW INSTRUCTIONS (this “**Agreement**”) is entered into as of October ____, 2022 (“**Effective Date**”) by and between the City of Tracy (“**Seller**”) and the Tri-Valley—San Joaquin Valley Regional Rail Authority (“**Buyer**”). Seller and Buyer are hereinafter collectively referred to as the “**Parties.**”

RECITALS

WHEREAS, Seller owns approximately 200 acres of real property located in the City of Tracy, County of San Joaquin, State of California, commonly referred to as 15580 and 15178 W. Schulte Road (APNs 209-230-29 and 209-230-30) and more particularly described in Exhibit A attached hereto and incorporated herein (the “**Property**”); and

WHEREAS, The California Legislature adopted Assembly Bill (AB) 758 in 2017 to establish a regional rail authority known as the Tri -Valley -San Joaquin Valley Regional Rail Authority, also known as Buyer, hereunder; and

WHEREAS, Seller appoints a member to the Board of Directors governing Buyer; and

WHEREAS, To address regional economic and transportation challenges, Buyer is planning and intends to deliver transit connectivity between the San Francisco Bay Area Rapid Transit District's system and the Altamont Corridor Express commuter service through a new 42-mile, 7-station passenger rail project known as “Valley Link” (the “**Project**”); and

WHEREAS, The *Valley Link Feasibility Report* prepared by Buyer identified the City of Tracy as a location for a future Valley Link rail station and a proposed operations and maintenance facility (**O & M Facility**) on the Property; and

WHEREAS, the City Council of Tracy, pursuant to Resolution 2020-168, approved a term sheet for Buyer to acquire an option to acquire the Property, at nominal cost, as Seller’s full contribution towards the Valley Link Project; and

WHEREAS, Buyer is seeking federal funding and must demonstrate local match, which Seller’s Property will help satisfy; and

WHEREAS, Pursuant to the authority granted in Resolution 2022-____, the City has declared the Property "exempt surplus property" pursuant to the term of the Surplus Land Act, as a transfer to another agency for that agency's use pursuant to California Government Code Section 54221(F)(1)(D).

WHEREAS, Pursuant to the authority granted in Resolution 2022-____, the City is willing to enter into this Agreement, as full satisfaction of Seller’s contribution to the Project, on the terms and conditions set forth herein.

a. Feasibility Studies. During the Due Diligence Period Buyer may, at no expense to Seller, undertake an inspection and review of the Property, including without limitation (i) a review of the physical condition of the Property, including but not limited to, inspection and examination of soils, environmental factors, Hazardous Materials (as defined in Section 20(a)(vii)), and archeological information relating to the Property; (ii) a review and investigation of the effect of any zoning, maps, permits, reports, engineering data, regulations, ordinances, and laws affecting the Property, and (iii) an evaluation of the Property to determine its feasibility for Buyer's intended use. All of the foregoing is hereinafter collectively referred to as “**Feasibility Studies.**” Buyer may consult with or retain civil engineers, contractors, soils and geologic engineers, architects and other specialists in its investigation, and may consult with or retain other consultants to determine if the Property is suitable for Buyer's intended use. Notwithstanding anything to the contrary stated herein, Buyer acknowledges and agrees that it perform a Phase II environmental report only upon completion of a Phase I report and advanced written approval by Seller that a Phase II investigation is necessary and of Buyer’s proposed sampling plan for such Phase II investigation.

b. Other matters. During the Due Diligence Period, Buyer shall have the right to perform due diligence regarding the investigation, assessment, and monitoring of the environmental condition of the Property, and Buyer may inspect, examine, survey and review any other matters concerning the Property, including without limitation, any and all studies or reports provided by Seller, all contracts, leases, rental agreements and other obligations relating to the Property, and the Property’s conformity with all applicable laws and regulations. All of the foregoing is hereinafter collectively referred to as “**Due Diligence Materials.**” Notwithstanding the foregoing, Buyer acknowledges and agrees that the foregoing shall not grant Buyer approval rights with respect to Seller’s use of the Property prior to Closing.

c. Property Condition. Buyer acknowledges and agrees that if Buyer purchases the Property, then it shall acquire the Property subject to any and all deficiencies, defects and other matters referred to or otherwise set forth in (i) the Feasibility Studies, (ii) the Due Diligence Materials, (iii) any and all documents, studies or reports provided by Seller, (iv) all contracts and other obligations relating to the Property delivered to or otherwise made available to Buyer. Seller makes no representations or warranties with respect to the adequacy or accuracy of any report, study or other information prepared by a third party for or on behalf of Seller and provided to Buyer. Except for any breach of the representations made by Seller herein as specified in Section 20, Seller shall have no liability with respect to any matters disclosed to Buyer or contained in the Feasibility Studies, Due Diligence Materials or other materials developed for or provided to Buyer. Notwithstanding the foregoing, Buyer acknowledges that the City has an antennae and related equipment on the Property, which Buyer agrees to keep in its existing location or relocate to a suitable replacement site, at Buyer’s sole cost.

d. Disapproval of Property Condition. Should Buyer fail to approve the condition of the Property or its feasibility for Buyer's intended use in writing within five (5) business days following the end of the Due Diligence Period, Buyer shall have the right, exercisable by giving written notice to Seller, to cancel the escrow and terminate this Agreement. The exercise of this right by Buyer shall not constitute a waiver by Buyer of any other rights Buyer may have at law or in equity.

9. Seller Documents. Seller agrees to make available to Buyer within five (5) business days following the Exercise Notice Date, any and all information, studies, reports, investigations, contracts and other obligations concerning or relating to the Property which are in Seller's possession or which are reasonably available to Seller, including without limitation surveys, studies, reports and investigations concerning the Property's physical, environmental or geological condition, habitability, or the presence or absence of Hazardous Materials in, on or under the Property and its compliance with Environmental Laws (as defined in Section 20(a)(vii)).

10. Right of Entry. During the Due Diligence Period, Buyer and Buyer's agents and employees shall have the right, upon reasonable written notice to Seller, to enter upon the Property for the purpose of inspecting, examining, surveying and reviewing the Property (the "**Due Diligence Inspections**"). Buyer's inspection, examination, survey and review of the Property shall be at Buyer's sole expense. In addition to the terms set forth in Section 8a, Buyer shall obtain Seller's advance consent in writing to any proposed physical testing of the Property by Buyer or Buyer's contractors or agents, which consent shall not be unreasonably conditioned, withheld or delayed. Buyer shall repair, restore and return the Property to its original condition after such physical testing, at Buyer's sole expense. Buyer agrees to indemnify Seller and hold Seller harmless from and against all liability, loss, cost, damage and expense (including, without limitation, reasonable attorney's fees and costs of litigation) resulting from entry upon the Property by Buyer or its employees, consultants, contractors or agents (other than mere discovery of pre-existing conditions), except to the extent that such liability, loss, cost, damage and expense arises as a result of the gross negligence or other wrongful conduct of Seller or its employees (while acting in the capacity of staff to Seller), consultants, contractors or agents.

11. Title Condition.

a. Buyer shall have the right to approve any and all matters of and exceptions to title of the Property, including any surveys, the legal description, or other title matters, as disclosed by the following documents and instruments, which documents (collectively, "**Title Documents**") shall be delivered to Buyer no later than three (3) days from Exercise Notice Date: (A) a preliminary title report issued by Escrow Holder with respect to the Real Property ("**Preliminary Report**") and (B) copies of all documents, whether recorded or unrecorded, referred to in such Preliminary Report; provided, however, Seller shall not be obligated to provide separate copies of documents referenced in the Preliminary Report if such documents are accessible via hyperlinks incorporated into such Report, are not in Seller's actual possession; provided, however, in the event that Buyer requires additional information or is not satisfied with results, it shall be Buyer's responsibility (at its sole cost and expense) to perform UCC lien searches or procure professional services for such services. Seller shall provide such documents within five (5) business days of the Exercise Notice Date.

b. The Real Property shall be conveyed to Buyer by Seller by grant deed, in the recordable form customarily used by Escrow Holder in the County ("**Grant Deed**"). Such Grant Deed shall convey fee simple title to the Real Property to Buyer, subject only to (a) a lien to secure payment of current real estate taxes, not delinquent; (b) the lien of current supplemental taxes, not delinquent; and (c) any liens, encumbrances, restrictions and charges against fee simple title which are expressly approved by Buyer or are Disapproved Exceptions in accordance with this Section 11 (collectively "**Permitted Exceptions**").

c. **Title Objections.** Within fifteen (15) days after receipt of the specified Title Documents, Buyer shall give Seller written notice (“**Buyer’s Title Notice**”) of Buyer's approval or disapproval of the legal description and every item or exception disclosed by the Title Documents, which approval or disapproval may be exercised by Buyer in its sole and absolute discretion. Buyer’s failure to provide Buyer’s Title Notice to Seller within the specified time period shall be deemed Buyer's approval of all liens, encumbrances, restrictions and claims against the Property reflected in the Title Documents. If Buyer so disapproves of any matter of title shown in the Title Documents, then within twenty (20) days of Buyer's receipt of such Title Documents, Seller may give Buyer written notice (“**Seller’s Title Notice**”) of those disapproved exceptions that Seller is willing to eliminate or cure. Seller’s failure to deliver Seller’s Title Notice by the time set forth herein, shall be deemed Seller's refusal to remove the disapproved title matters (“**Disapproved Exceptions**”). If Seller is unable or unwilling to remove, or is deemed to refuse to remove, any of the title matters objected to by Buyer, Buyer may elect to either (1) purchase the Property subject to the Disapproved Exceptions, or (2) terminate this Agreement, provided such election is made before expiration of the Due Diligence Period. If no election is made, it shall be deemed to have been made so as to purchase the Real Property subject to the Disapproved Exceptions. Regardless of the foregoing, Seller must remove any Monetary Liens (if any) prior to Closing. If this Agreement is terminated pursuant to this Section 11(c), (x) any further obligations of the parties under this Agreement shall cease (except those obligations that are expressly intended to survive the termination of this Agreement); (y) all Deposits shall immediately be returned to Buyer, net of any escrow or title costs charged by the Title Company; and (z) Buyer shall return to Seller all Due Diligence Materials within five (5) business days from such termination date.

12. **Title Policy.** Title Company will issue a title commitment for an ALTA Extended Coverage Owner’s Title Insurance Policy (“**Title Policy**”) in the amount of \$ _____ for the benefit and protection of Buyer, showing title to the Property vested in Buyer, subject only to the Permitted Exceptions (as defined below), including such endorsements as may reasonably be requested by Buyer. Buyer shall be responsible for all costs for issuance of the Title Policy as well as any fees for the title search, title commitment, or costs associated with extended coverage or other endorsements or lenders' title policies. Notwithstanding the foregoing, Buyer may, in its sole discretion, elect not to obtain such Title Policy.

13. **Conveyance of Title.** At the close of escrow, Seller shall convey by Grant Deed to Buyer fee simple title to the Property, free and clear of all recorded and unrecorded liens, encumbrances, easements, and leases, except the Permitted Exceptions and a right of reversion to Buyer as follows: a) in the event that Buyer fails to use the Property as an O & M Facility within ten (10) years of Closing Date, then the entire Property shall revert back to Seller or, alternatively, (b) in the event only a portion of the Property is used as an O & M Facility, then such portion of the Property that is not used either to satisfy a grant match requirement and/or constitutes non-exempt surplus land under the Surplus Land Act (as currently adopted) shall revert back to Seller, either reversion to occur ten (10) years from the Closing Date. The Grant Deed shall contain a reversionary interest to Seller in the event the Property is not used for the Project within ten (10) years of the Close of Escrow. The specific wording of the reversionary interest shall be subject to review by federal grant-making agencies to ensure that it will not interfere with the use of the Property as a local match for potential federal aid for the Project.

14. Closing Documents.

a. Seller. No later than three (3) business days prior to the Closing Date, Seller shall deposit into escrow all of the following:

i. A Grant Deed, substantially in the form attached hereto as Exhibit C, duly executed, and acknowledged, sufficient to convey to Buyer good and marketable fee simple title to all of the Property, subject only to the Permitted Exceptions and a right of reversion to Seller reflecting the terms set forth in Section 13, the specific language for which terms the Parties shall negotiate and finalize for the Grant Deed before Closing; and

ii. Such additional duly executed instruments and documents as the Escrow Agent may reasonably require to consummate the transaction contemplated hereby.

b. Buyer. No later than three (3) business days prior to the Closing Date, Buyer shall deposit into escrow all of the following:

i. Duly executed and acknowledged Certificate of Acceptance as required by Government Code Section 27281; and

ii. Such additional duly executed instruments and documents as the Escrow Agent may reasonably require to consummate the transaction contemplated hereby.

15. Close of Escrow. As used in this Agreement, the “**Close of Escrow**” or “**Closing**” or “**Close**” shall mean the date the Grant Deed (“**Grant Deed**”) conveying fee title to the Property to Buyer is recorded in the Office of the Recorder of the County of San Joaquin, California (the “**Official Records**”) as provided for herein.

i. The Closing must occur within sixty (60) days after the Due Diligence Period ends, provided all conditions to close have been met at least five (5) business days prior to Closing. The Parties shall execute such additional escrow instructions as may be customarily and reasonably requested by Escrow Holder to enable the Closing to proceed. At least one (1) Business Day prior to the scheduled Closing Date, Seller and Buyer shall each deposit with the Escrow Holder executed estimated closing statements consistent with this Agreement, in the form reasonably required by the Escrow Holder.

ii. The Escrow Agent shall close escrow by: (a) causing the Grant Deed to be recorded in the Official Records; (b) issuing the Title Policy and delivering same to Buyer (unless Buyer has waived this requirement); and (d) delivering to Buyer a conformed copy of the Grant Deed, indicating recording information thereon. Possession of the Property shall be delivered to Buyer at the close of escrow.

16. Closing Costs. Buyer shall pay all costs of title insurance and title reports, escrow fees (including the costs of preparing documents and instruments), recording fees, conveyance fees and transfer taxes (if any).

17. Prorations. At the close of escrow, the Escrow Agent shall make the following prorations: property taxes (if any are applicable to the Property) shall be prorated as of the close of escrow

based upon the most recent tax bill available, including any property taxes which may be assessed after the close of escrow but which pertain to the period prior to the transfer of title to the Property to Buyer, regardless of when or to whom notice thereof is delivered.

18. Buyer's Conditions to Closing. The close of escrow and Buyer's obligation to purchase the Property are conditioned upon: (i) the performance by Seller of each obligation to be performed by Seller under this Agreement within the applicable time period, or the waiver by Buyer of such obligations; (ii) Seller's representations and warranties contained in this Agreement being true and correct as of the Close of Escrow; (iii) the commitment by Title Company to issue and deliver the Title Policy, subject only to the Permitted Exceptions; and (iv) Buyer's approval of the condition of the Property pursuant to Section 8.

Should any condition to closing fail to occur, excepting any such conditions that have been waived by Buyer, Buyer shall have the right, exercisable by giving written notice to Seller, to cancel the escrow and terminate this Agreement, in which case Buyer shall recover any and all amounts paid by Buyer, as applicable, to Seller or deposited with the Escrow Agent by or on behalf of Buyer, net of any closing or escrow costs. The exercise of this right by Buyer shall not constitute a waiver by Buyer of any other rights Buyer may have at law or in equity.

19. Seller's Conditions to Closing. The Close of Escrow and Seller's obligation to sell the Property pursuant to this Agreement are conditioned upon: (i) the performance by Buyer of each obligation to be performed by Buyer under this Agreement within the applicable time period, or waiver by Seller of such obligation; and (ii) Buyer's representations and warranties contained in this Agreement being true and correct as of the Close of Escrow.

20. Seller's Representations and Warranties.

a. Seller hereby represents and warrants that to Seller's actual knowledge, except as disclosed in writing to Buyer, as of the Close of Escrow:

i. That Seller owns fee title to the Property. Seller has not previously sold, transferred, or conveyed the Property that would affect or impair Seller's ability to perform under this Agreement, and Seller has not entered into any executory contracts for the sale of the Property (other than this Agreement), nor do there exist any rights of first refusal or options to purchase the Property.

ii. Except for any Permitted Exceptions and any agreements that have been disclosed to Buyer in writing, there are no leases, licenses, contracts or other agreements relating to the Property which will be in force after the Closing Date.

iii. There is no pending (nor has Seller received notice of any threatened) action, litigation, condemnation or other proceeding against the Property or against Seller with respect to the Property.

iv. Seller has not received written notice from any governmental authority having jurisdiction over the Property to the effect that the Property is not in compliance with applicable laws and ordinances (including any laws concerning the use, generation, handling, disposal or storage of Hazardous Materials (as defined below)).

v. Seller has not received written notice of any action, suit or proceeding pending, and Seller has no actual knowledge of any threatened against or affecting all or any portion of the Property, or relating to or arising out of the ownership, management, development, proposed development or operation of the Property, or which would affect Seller's ability to perform its obligations under this Agreement in any court or arbitration or other quasi-judicial proceeding or before or by any governmental or quasi-government authority.

vi. Seller has not received any notice from any insurer of defects or conditions relating to the Property that must be corrected.

vii. There has been no release of any Hazardous Material at, under or upon the Property, in an amount which would, as of the date hereof, give rise to an Environmental Compliance Cost (as defined below). The term "**Hazardous Material**" shall mean asbestos, petroleum products, and any other hazardous waste or substance which has, as of the date hereof, been determined to be hazardous or a pollutant by the U.S. Environmental Protection Agency, the U.S. Department of Transportation, or any State or Federal instrumentality authorized to regulate substances in the environment which has jurisdiction over the Property (each being referred to herein as an "**Environmental Agency**") which substance causes the Property (or any part thereof) to be in material violation of any applicable Environmental Law, and shall include, but not be limited to: (A) a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 (14), Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. §1321; (B) a "hazardous waste" pursuant to Section 1004 or Section 3001 of the Resource Conservation and Recovery Act, 42 U.S.C. §§6903, 6921; (C) a toxic pollutant under Section 307(a)(1) of the Federal Water Pollution Control Act, 33 U.S.C. §1317(a)(1); (D) a "hazardous air pollutant" under Section 112 of the Clean Air Act, 42 U.S.C. §7412; (E) a "hazardous material" under the Hazardous Materials Transportation Uniform Safety Act of 1990, 49 U.S.C. App. §1802(4); (E) a "hazardous material" pursuant to the California Health & Safety Code; or (F) toxic or hazardous pursuant to regulations promulgated under the aforementioned laws (all of the foregoing laws, rules and regulations as any may be amended from time to time being collectively referred to herein as "**Environmental Laws**"); provided, however, that the term "**Hazardous Material**" shall not include (x) motor oil and gasoline contained in or discharged from vehicles not used primarily for the transport of motor oil or gasoline, or (y) materials which are stored, used, held, or disposed of in compliance with all applicable Environmental Laws. The term "**Environmental Compliance Cost**" means any out-of-pocket cost, fee or expense reasonably incurred directly to satisfy any requirement imposed by an Environmental Agency to bring the Property into compliance with applicable Environmental Laws directly relating to the existence on the Property of any Hazardous Material but excepting therefrom any costs resulting actions or omissions of Buyer caused by Buyer or its agents, either from its Feasibility Studies or otherwise.

b. Seller further represents and warrants that this Agreement and all other documents delivered or to be delivered in connection herewith prior to or at the close of escrow shall at the time of their delivery: (a) have been duly authorized, executed, and delivered by Seller; (b) be the binding obligations of Seller; (c) collectively be sufficient to transfer all of Seller's right, title and interest in and to the Property; and (d) not be in violation of the provisions of any agreement to which Seller is a party or which affects the Property. Seller further represents and warrants that the persons who have executed this Agreement on behalf of Seller are authorized to do, that Seller

has the legal right to enter into this Agreement and to perform all of its terms and conditions, and that this Agreement is enforceable against Seller in accordance with its terms.

c. Seller shall notify Buyer of any facts that would cause any of the representations contained in this Agreement to be untrue as of the close of escrow. If Buyer reasonably believes that any such fact materially and adversely affects the Property, Buyer shall have the option to terminate this Agreement by delivering written notice thereof to Seller. In the event Buyer elects to terminate this Agreement, all funds and documents deposited into escrow by or on behalf of Buyer shall be returned to Buyer, and all rights and obligations hereunder shall terminate.

21. Seller's Covenants. Seller covenants that from the Notice Exercise Date and through the Close of Escrow, Seller: (i) shall not permit any liens, encumbrances, or easements to be placed on the Property other than Permitted Exceptions; and (ii) shall not enter into any agreement regarding the sale, lease, rental, management, repair, improvement, or any other matter affecting the Property that would be binding on Buyer or the Property after the Close of Escrow without the prior written consent of Buyer, which may be given or withheld in Buyer's reasonable discretion. (.

22. Buyer's Representations, Warranties and Covenants. Buyer represents, warrants and covenants that this Agreement and all other documents delivered in connection herewith, prior to or at the Close of Escrow shall at the time of their delivery: (i) have been duly authorized, executed, and delivered by Buyer; (ii) be the binding obligations of Buyer; and (iii) not be in violation of the provisions of any agreement to which Buyer is a party. Buyer further represents and warrants that the persons who have executed this Agreement on behalf of Buyer have been duly authorized to do, that Buyer has the legal right to enter into this Agreement and to perform all of its terms and conditions, and that Agreement is enforceable against Buyer in accordance with its terms.

23. Buyer's Post-Closing Obligations. If the Property is not used for the Project within ten (10) years of the Close of Escrow, Buyer's interest in the Property shall terminate and the Property will revert to Seller pursuant to Seller's Power of Termination, as detailed in the Grant Deed. Buyer shall remain obligated under this Section after the transfer of the Property, and the restrictions on use and conditions for continued ownership by Buyer contained in this Section 23 shall be contained in the Grant Deed and survive closing.

24. Condemnation. If prior to Close of Escrow, any portion of the Property is taken by eminent domain (or an action of eminent domain has been commenced against all or any portion of the Property) (excluding for purposes of this Section, the exercise of any eminent domain powers by Buyer), upon Seller's receipt of notice thereof Seller shall promptly notify Buyer of such fact, and Buyer shall have the option to terminate this Agreement upon notice to Seller given not later than twenty (20) days after Buyer's receipt of Seller's notice. If Buyer elects to terminate this Agreement, all funds and documents deposited into escrow by or on behalf of Buyer shall be returned to Buyer, net of any escrow or title costs, and all rights and obligations hereunder shall terminate.

25. Notices. Except as otherwise specified in this Agreement, all notices to be sent pursuant to this Agreement shall be made in writing and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by:

- a. personal delivery, in which case notice is effective upon delivery;
- b. certified or registered mail, return receipt requested, in which case notice shall be deemed delivered on receipt if delivery is confirmed by a return receipt;
- c. nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service; or

To Seller: City of Tracy
City Attorney
333 Civic Center Plaza
Tracy, CA 95376

To Buyer: Tri-Valley – San Joaquin Valley Regional Rail Authority
2600 Kitty Hawk Road, Suite 103
Livermore, CA 94551
Attn. Executive Director

With a copy to: Michael N. Conneran
Hanson Bridgett LLP
1676 N. California Blvd., Suite 620
Walnut Creek, CA 94596

26. No Brokers. Buyer hereby represents and warrants to Seller that Buyer has retained no broker or other party on behalf of Buyer to whom a commission or finder's fee is due with respect to the transactions contemplated hereby. Buyer shall defend, indemnify and hold Seller harmless from and against all claims, expenses, costs, or arising in connection with a breach of this warranty and representation by Buyer. Seller hereby represents and warrants to the Buyer that Seller has retained no broker or other party on behalf of Seller to whom a commission or finder's fee is due with respect to the transactions contemplated hereby. Seller shall defend, indemnify and hold Buyer harmless from and against all claims, expenses, costs, or arising in connection with a breach of this warranty and representation by Buyer. The terms of this Paragraph shall survive the expiration or earlier termination of this Agreement.

27. Expenses. Except as otherwise provided herein, each party will bear their own expenses associated with this Agreement, the acquisition and other transactions contemplated herein, including, without limitation, legal, accounting, due diligence and other fees and disbursements of consultants and advisors.

28. Attorneys' Fees. If either Party fails to perform any of its obligations under this Agreement, or if any dispute arises between the Parties concerning the meaning or interpretation of any provision hereof, then the prevailing party in any proceeding in connection with such dispute shall be entitled to the costs and expenses it incurs on account thereof and in enforcing or establishing its rights hereunder, including, without limitation, court costs and reasonable attorneys' fees and disbursements.

29. Survival. The representations and warranties in this Agreement and all indemnification obligations shall survive the Closing. The obligation to perform those provisions of this Agreement that are not to be performed until after Close of Escrow shall survive the Close of Escrow until such time as all obligations described in this Agreement have been fully performed (and all payments and costs described herein shall have been fully paid) by the responsible party.

30. General Provisions.

a. Entire Agreement. This Agreement, together with Exhibits A through C constitutes the entire agreement of the Parties with respect to the subject matter hereof and supersedes all prior negotiations and agreements with respect thereto.

b. No Merger. The obligations stated herein that are intended to operate after the Closing shall not merge with the transfer of title to the Property but shall remain in effect until fulfilled as provided herein.

c. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to principles of conflicts of laws.

d. Interpretation; Captions. The section headings used herein are solely for convenience and shall not be used to interpret this Agreement. The Parties acknowledge that this Agreement is the product of negotiation and compromise on the part of both Parties, and the Parties agree, that since both Parties have participated in the negotiation and drafting of this Agreement, this Agreement shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

e. Exhibits. Exhibits A through C attached hereto are incorporated herein by this reference and made a part of this Agreement.

f. No Third-Party Beneficiaries. Nothing contained in this Agreement is intended by the Parties, nor shall any provision of this Agreement be deemed or construed by the Parties or by any third person, to be for the benefit of any third party, nor shall any third party have any right to enforce any provision of this Agreement or be entitled to damages for any breach by Buyer or Seller of any of the provisions of this Agreement, except as expressly provided herein with respect to Buyer.

g. Amendments. This Agreement may be modified or amended only by an instrument in writing executed by both Buyer and Seller.

h. Assignment Prohibited. This Agreement and the rights conferred hereunder may not be assigned by operation of law or otherwise absent the express written consent of the Parties, except as otherwise expressly provided herein.

i. Escrow Cancellation Charges. If the escrow fails to close by reason of a default by Buyer, or Seller hereunder, such defaulting party shall pay all escrow or other Title Company charges. If the escrow fails to close for any reason other than default by Buyer or Seller, then Buyer and Seller shall each pay one-half of such charges.

j. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original, and all of which taken together shall constitute one agreement. This Agreement may be executed and transmitted by facsimile, or may be executed, scanned and transmitted by e-mail, and when so transmitted shall be a binding obligation on the party that signed and transmitted the document and shall be deemed to be in full compliance with the provisions of California Civil Code §1624.

k. Further Assurances. Seller and Buyer each agree to undertake such other actions as may reasonably be necessary to carry out the intent of this Agreement, including without limitation, the execution of any additional documents which may be required to effectuate the transactions contemplated hereby.

l. Severability. If any term, provision, or condition of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged thereby.

m. Non-Liability of Officials, Employees and Agents. No member, official, employee or agent of Buyer or Seller shall be personally liable in the event of any default or breach hereunder by either Party.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

CITY OF TRACY

**TRI-VALLEY – SAN JOAQUIN
VALLEY REGIONAL RAIL
AUTHORITY**

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

EXHIBIT A

DESCRIPTION OF PROPERTY

EXHIBIT B

MEMORANDUM OF OPTION

EXHIBIT C

DRAFT FORM OF GRANT DEED

RECORDING REQUESTED BY)
AND WHEN RECORDED)
MAIL TO:)
)
)
)
)
)
)

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER’S USE)

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §§6103, 27383
EXEMPT FROM DOCUMENTARY TRANSFER TAX
PER REV. AND TAXATION CODE §11922

APN: _____

GRANT DEED

For valuable consideration, receipt of which is hereby acknowledged, the City of Tracy, a municipal corporation of the State of California (“**Grantor**”) hereby grants to the Tri-Valley – San Joaquin Valley Regional Rail Authority, a _____, as “**Grantee**”, all that real property located in the County of San Joaquin and more particularly described in Exhibit A attached hereto and incorporated herein by reference (“**Property**”), subject to a right of reversion *to Seller reflecting the terms set forth in Section 13, the specific language for which terms the Parties shall negotiate and finalize for the Grant Deed before Closing.*

IN WITNESS WHEREOF, Grantor has executed this Grant Deed as of _____, 20____.

GRANTOR

CITY OF TRACY

By: _____

ATTEST: _____

APPROVED AS TO FORM:

TRACY CITY COUNCIL

RESOLUTION NO. _____

ADOPT A RESOLUTION APPROVING THE PROPERTY TRANSFER OPTION AND SALE AGREEMENT WITH JOINT ESCROW INSTRUCTIONS GRANTING TRI-VALLEY – SAN JOAQUIN VALLEY REGIONAL RAIL AUTHORITY A TEN YEAR OPTION TO PURCHASE, FOR INDEPENDENT CONSIDERATION OF \$100 FOR APPROXIMATELY 200 ACRES OF CITY-OWNED EXEMPT SURPLUS LAND LOCATED AT 15580 AND 15178 WEST SCHULTE ROAD (APNs 209-230-029 AND 209-230-030)

WHEREAS, The City of Tracy (**City**) is the owner of two parcels totaling approximately 200 acres located on 15580 and 15178 West Schulte Road (APNs 209-230-029 and 209-230-030) (**Property**); and

WHEREAS, In 2006, the City acquired the Property from the United States Department of Energy, of which 150.18 acres were deed restricted for educational or recreational purposes; and

WHEREAS, In 2020, the City acquired 300 acres of recreation land in North Tracy from the Wastewater Fund to transfer the deed restriction of educational and recreational use from the Property to the new Legacy Fields and the future Nature Park; and

WHEREAS, The Property has not been utilized by the City for any public purpose other than for the siting of public safety antennae; and

WHEREAS, The California Legislature adopted Assembly Bill (AB) 758 in 2017 to establish a regional rail authority known as the Tri-Valley -- San Joaquin Valley Regional Rail Authority (**Authority**); and

WHEREAS, The City appoints a member to the Board of Directors governing the Authority; and

WHEREAS, To address regional economic and transportation challenges, the Valley Link Authority is planning and intends to deliver transit connectivity between the San Francisco Bay Area Rapid Transit District's system and the Altamont Corridor Express commuter service through a new 42-mile, 7-station passenger rail project known as "Valley Link" (the "**Project**"); and

WHEREAS, The *Valley Link Feasibility Report* prepared by the Authority identified the City of Tracy as a location for a future Valley Link rail station and a proposed operations and maintenance facility on the Property; and

WHEREAS, On September 15, 2020, the City Council adopted Resolution 2020-168, approving a term sheet for an option contract to convey the Property to the Authority, which desires to use the Property for an Operations and Maintenance Facility (**O&M Facility**); and

WHEREAS, Pursuant to Government Code Section 54221(b)(1) of the California Surplus Land Act (SLA), the City must declare the Property as either surplus or exempt surplus prior to beginning the disposition process; and

WHEREAS, The California Housing and Community Development (HCD) Guidelines for the Surplus Land Act requires a city to transmit any declaration of exempt surplus to HCD and to wait for 30 days prior to disposition of any such property declared surplus; and

WHEREAS, Pursuant to Government Code Section 54221(f)(1)(D), property that is transferred to another public agency for its use is "exempt surplus land"; and

WHEREAS, The Authority intends to use the Property as the O&M Facility for the Project; and

WHEREAS, The Authority is seeking federal funding and must demonstrate local match, which the City's Property will satisfy; and

WHEREAS, On September 6, 2022, pursuant to Resolution 2022-____, the City Council declared the Property as exempt surplus land in accordance with the SLA Government Code Section 54221(f)(1)(D); and

WHEREAS, In accordance with HCD Guidelines for the SLA, the City of Tracy transmitted Resolution 2022-____ to HCD; and

WHEREAS, As effectuation of the Council's intent reflected in Resolution 2022-168, staff has negotiated an option agreement with the following key provisions:

- There is no cost to the Authority for the purchase value of the Property, except that the Authority must pay \$100 of Independent Consideration for the option and all closing costs, as well as the cost to relocate the existing antenna facility to a suitable site if the Authority does not wish to keep it at the Property.
- The value of the Property will be considered an in-kind contribution by the City to the Authority to be leveraged for additional grant funding, and the consummation of the conveyance will constitute the City's full contribution to the Project.
- The Authority will have a term of ten years to exercise the option.
- If the Property is not used by the Authority within ten (10) years of the purchase date, the Property will revert to the City, and if less than the entire Property is used for the O&M Facility, then such portion that either is not used for a grant match or constitute surplus land under the SLA will revert back to the City.

WHEREAS, the specific terms and conditions of the proposed option agreement are set forth in the form of agreement attached hereto as Exhibit A and referred to as the "Property Transfer Option and Sale Agreement with Joint Escrow Instructions" (**Agreement**); and

WHEREAS, the Board of Directors of Valley Link Authority will consider this same form of agreement for approval at its September 14, 2022 meeting; and

WHEREAS, On May 12, 2021, pursuant to the California Environmental Quality Act (**CEQA**), the Board of Directors of Valley Link Authority certified a Final Environmental Impact Report (FEIR) for the Project, which included the O&M Facility, and also adopted appropriate Findings of Fact, a Statement of Overriding Considerations, and a Mitigation Monitoring and Reporting Program; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby adopts the recitals as findings; and be it further

RESOLVED: That the City Council approves the Agreement and finds that consummation of such Agreement, on the terms and conditions set forth therein, shall constitute full satisfaction of the City’s contribution to the Project; and be it further

RESOLVED: That the City Council authorizes the execution of the Agreement upon satisfaction of the California SLA and the HCD Guidelines; and be it further

RESOLVED: That the City Council hereby finds and determines, after independent review and consideration, as supported by substantial evidence in the record and for the reasons set forth in this Resolution, and, each as a separate and independent basis, that the actions authorized by this Resolution were fully analyzed by the FEIR for the Project, which included the O&M Facility certified by the Board of Directors of Valley Link Authority on May 12, 2021, and their adopted Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program, and are exempt from additional review and analysis under CEQA and the CEQA Guidelines (Cal. Code Regs., title 14, section 15000 et seq.). Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance.

* * * * *

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

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

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

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

Agenda Item 3.D

RECOMMENDATION

Staff recommends that the City Council adopt a Resolution approving the Mayor's Community Youth Support Network (MCYSN) Reconnecting Our Youth (ROY) Grant Program for fiscal year 2022-2023 in the total amount of \$175,000 to eight local non-profit organizations and authorize the City Manager to execute the funding agreements.

EXECUTIVE SUMMARY

The City of Tracy's Mayor's Community Youth Support Network (MCYSN) Reconnecting our Youth (ROY) grant program is entering its fourteenth year of programming, referred to as Cycle 14. This program has served thousands of local youths, as a grant matching program, through prevention, intervention and crisis suppression services offered in partnership with local non-profits.

Staff is requesting that Council review and approve the recommendations from the MCYSN ROY Grant Scoring Committee, and award grant funding in the total amount of \$175,000 to eight local non-profits to support youth programs in Tracy.

BACKGROUND AND LEGISLATIVE HISTORY

During the Fall of 2006, Tracy community members voiced concerns about increases in school fights, vandalism in city parks, graffiti on property, and growing gang activity in the city. Following these growing concerns, community stakeholders, City officials and City staff partnered to form the Mayor's Community Youth Support Network (MCYSN). The objectives of the program are to reconnect youth to their families, schools, and community and to develop a gang prevention strategy that targeted at-risk youth.

Shortly following formation, MCYSN began meeting regularly to organize communication and formulate a strategic plan to guide the program. The MCYSN Strategic Plan was drafted in 2007 and focused on the four priority areas: 1) assessing current youth service gaps, 2) funding strategies, 3) creating a crisis response protocol and 4) developing a service delivery system. The MCYSN program was intended to partner with local non-profits to provide services such as counseling, mentoring, case management, after school tutoring, career preparation, technology training, life skills training, parent workshops, and gang intervention and prevention workshops.

On February 19, 2008, the City Council approved the MCYSN Strategic Plan and allocated \$1 million to kick-start the program. The allocation funded personnel to carry out the goals and objectives of the MCYSN program, which included: one Management Analyst in the City Manager's Office to oversee the MCYSN program, one Administrative Assistant, one part-time Recreation Coordinator, six part-time Recreation Leaders, and two sworn School Resource Officers. The funding was also utilized for contracted services via

the MCYSN - Reconnecting Our Youth (ROY) Grant Program, recreation programs (after school programs and "Rolling Rec" Truck), educational workshops, marketing and promotions, and operational supplies.

Following the economic downturn in 2009, the City initiated a pivot in resources which eliminated several positions and programs under MCYSN. The MCYSN program budget changed to \$200,000 annually. Historically, approximately \$25,000 of the program budget is allocated to provide administrative support to the program, and the remaining \$175,000 funds community youth programs in alignment with the strategic priorities and objectives of MCYSN.

In 2018, the MCYSN program transitioned from the City Manager's Office to the Parks and Recreation Department in order align the program with appropriate staff. During the 2020-2021 grant period, MCYSN was temporarily suspended in response to the COVID-19 pandemic. In 2021, City Council approved the return of the MCYSN grant program for Cycle 13.

ANALYSIS

This year, the City of Tracy's Mayor's Community Youth Support Network (MCYSN) is entering its 14th year of programming. The MCYSN Reconnecting Our Youth (ROY) Grant Program aims at supporting local programs that develop skills and competencies resulting in healthy and thriving youth and families. MCYSN's approach is to prevent and intervene on issues of youth violence via a network of community service providers.

The MCYSN ROY Grant application for FY 2022-23 was made available on June 27, 2022. This year the MCYSN application process was converted to an online application using the grant website, eCivis. A mandatory pre-submittal conference was held on July 12, 2022, and the grant application deadline was July 29, 2022. Eligible service areas for the ROY grant include youth outreach and education; substance abuse prevention and intervention; bullying prevention (physical, verbal, cyber); alternative after school and evening activities; gang prevention and intervention services; family or individual youth case management; behavioral health services (prevention and intervention). MCYSN ROY Grant contracts may not exceed \$75,000. The term of the FY 2022-23 contracts is from October 1, 2022, through June 30, 2023.

Funding recommendations for the MCYSN ROY Grant are made by an external review committee. Staff held the MCYSN ROY Grant Scoring Committee meeting on August 11, 2022. The scoring committee consisted of two Parks Commissioners, two Youth Advisory Commissioners, one Adult Commissioner, and one representative from Tracy Unified School District.

The City received eight eligible applications for the MCYSN ROY Grant, which are summarized in Attachment "A." Each Committee member scored each application using the MCYSN Scoring Sheet, example template provided in Attachment "B".

Each applicant received a score based off specific criteria such as organizational experience and reliability, program design, staffing plan and qualifications, program evaluation, and cost proposal. After careful review and discussion, the MCYSN Grant Scoring Committee made the following funding recommendations:

Organization	Amount Requested by Applicant	Amount Recommended by MCYSN Scoring Committee	Total Score out of 800
Boys and Girls Club of Tracy – Teen Program	\$50,000	\$45,000	785
Tracy Chamber Foundation – Hire Me First Program	\$45,000	\$40,000	785
Give Every Child a Chance – After School Tutoring Program	\$30,000	\$25,000	785
ITIFAQ Afghan Soccer Club – Youth Soccer Outreach Program	\$10,595	\$10,000	750
UNeed2. Inc. – Youth and Family Technology Training Center	\$74,935	\$16,198	700
Improve Your Tomorrow – College Academy Program	\$75,000	\$16,197	700
Tracy African American Association – Tracy African American Association Outreach	\$60,000	\$13,500	550
Tracy Earth Project, Inc.- Tracy Bike Life Youth Program	\$24,815	\$9,105	500
TOTAL			
	\$370,345	\$175,000	

Feedback from Grant Scoring Committee included:

- Boys and Girls Club of Tracy, Tracy Chamber Foundation, and Give Every Child a Chance all scored the highest based off their application. All three applications were well organized with details about the services they offer at

different school sites, they provided all the required documents based off the Request for Proposals (RFP) requirements, and each organization provided a detailed timeline for their programs.

- Improve Your Tomorrow requested the highest amount of \$75,000 and the amount recommended by the scoring committee is \$16,197 because their application had very strong outcomes for the program and their budget was well organized and easy to understand but Improve Your Tomorrow is a new organization within the City of Tracy and were unable to provide details of succession of their program.
- UNeed2, Inc. was the second organization to request the highest amount of \$74,935 and the amount recommended by the scoring committee is \$16,198 because the program has been around since 2011 but the review committee wanted to see a more detailed timeline of exactly what the program entails.
- Tracy Earth Project, Tracy African American Association, and ITIFAQ Afghan Soccer Club were all new organizations to apply for the MCYSN grant this year. The three applications proposed programming for a wide age range for youth, but the review committee wanted to see a more detailed staffing plan and financial budget.

Each organization received funding based off their initial budget request which was less than the amount being requested.

FISCAL IMPACT

The MCYSN program budget of \$200,000 has been allocated and approved as part of the Fiscal Year 2022-23 budget.

PUBLIC OUTREACH/ INTEREST

A public outreach meeting for MCYSN was held on July 12, 2022, to inform service providers about the background of MCYSN and a training on how to apply using the new application process, eCivis. Before this meeting, three (3) emails were sent to local businesses, non-profits, and schools advertising MSCYN and informing the community about the outreach meeting. Multiple social media posts to advertise MCYSN were also posted on Instagram and Facebook. Many non-profits that saw the emails and social media posts responded positively, acquiring more information about MCYSN and how to apply.

COORDINATION

N/A

CEQA DETERMINATION

N/A

STRATEGIC PLAN

This agenda item supports the City's Quality of Life Strategic Plan and specifically implements the following goal:

Quality of Life Strategy

Goal 2: Promote public health, safety, and community welfare throughout the community.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a Resolution approving the Mayor's Community Youth Support Network (MCYSN) Reconnecting Our Youth (ROY) Grant Program for fiscal year 2022-2023 in the total amount of \$175,000 to eight local non-profit organizations and authorize the City Manager to execute the funding agreements.

Respectfully submitted,

Katie Akre
Recreation Program Coordinator

Attachments:

Attachment "A" - Summary of MCYSN ROY Grant Scoring Committee funding recommendations and comments.

Attachment "B" - MCYSN ROY Grant, Scoring Sheet Template

ATTACHMENT "A"

MCYSN ROY Grant Scoring Committee Funding Recommendations – Cycle 14

Organization Name	Program Name and Description	# of youth proposing to serve	Funding Request	Recommended Award Amount	Scoring Committee Comments
Boys and Girls Club of Tracy	Teen Program	600	\$50,000	\$45,000	<ul style="list-style-type: none"> • Reliable, known organization • Outcomes of programs are strong • Culturally diverse staff and serves diverse population of students • Parent/student evaluation for pre/posttests records • Budget is organized and easy to understand • Financial Report Detailed
Organization Name	Program Name and Description	# of youth proposing to serve	Funding Request	Recommended Award Amount	Scoring Committee Comments
Tracy Chamber of Commerce	Hire Me First Program	2,500	\$45,000	\$40,000	<ul style="list-style-type: none"> • Long standing program with success rate • Student participants continue to increase • Strong connection with business community • Preparing juniors and seniors for workforce • Program should consider targeting at-risk youth • Offer programs in other locations in Tracy • Collaborate with other non-profits

ATTACHMENT "A"

Organization Name	Program Name and Description	# of youth proposing to serve	Funding Request	Recommended Award Amount	Scoring Committee Comments
Give Every Child A Chance	After School Tutoring Program	120	\$30,000	\$25,000	<ul style="list-style-type: none"> • 24 years of service and an established organization • Staff is experienced • Services offered at local school sites • Tutors speak different languages • Detailed graph on student standards and timeline • Assists low-income families, and any students with falling grades • Expanded services with Tracy Family Resource Center and two school districts • Communication between parent, child, and tutor is a plus • Reasonable requested amount
Organization Name	Program Name and Description	# of youth proposing to serve	Funding Request	Recommended Award Amount	Scoring Committee Comments
Uneed2, Inc.	Youth and Family Technology Center	80	\$74,935	\$16,198	<ul style="list-style-type: none"> • Program mission and vision is unique/ positive • Provide technical training and internships to students • Serving community since 2011 • STEM based and targets low-income youth • Certify kids and adults in computers and computer safety • They should elaborate on how they target at-risk youth • Organization gives refurbished computers to low-income households • Follow-up with students after they're done • Program timeline was not detailed

ATTACHMENT "A"

Organization Name	Program Name and Description	# of youth proposing to serve	Funding Request	Recommended Award Amount	Scoring Committee Comments
Improve Your Tomorrow	College Academy Program	75	\$75,000	\$16,197	<ul style="list-style-type: none"> • Since 2013, has served predominantly first-generation students • Serve highschoolers and young men of color • Operates at 53 school sites across five counties • Program will consist of family engagement, college tours, mentorships, and study hall • Detailed organizational chart • Funding is for student incentive
Organization Name	Program Name and Description	# of youth proposing to serve	Funding Request	Recommended Award Amount	Scoring Committee Comments
Tracy African American Association	Tracy African American Association Outreach	80	\$60,000	\$13,500	<ul style="list-style-type: none"> • Organization was founded in 1994 • A great source to educate the community on diverse cultures • Supports multiple events such as Martin Luther King Jr. Breakfast, Black History Month, Juneteenth, and provides college scholarships • Program mission and vision is positive • Budget is organized and easy to understand

ATTACHMENT "A"

Organization Name	Program Name and Description	# of youth proposing to serve	Funding Request	Recommended Award Amount	Scoring Committee Comments
ITIFAQ Afghan Soccer Club	Youth Soccer Outreach Program	45	\$10,595	\$10,000	<ul style="list-style-type: none"> • Proposed to serve 8-18 years old's • Organization wants to build youth confidence in a healthy competitive environment • Staff is experienced and all volunteers • Services offered at local sport complexes • Assists low-income families • Serving youth for over 25 years • Reasonable requested amount
Organization Name	Program Name and Description	# of youth proposing to serve	Funding Request	Recommended Award Amount	Scoring Committee Comments
Tracy Earth Project, Inc.	Tracy Bike Life Youth Program	120	\$24,815	\$9,105	<ul style="list-style-type: none"> • Serving a range of 6–17-year old's • Program utilized curriculum that introduces students to S.T.E.M • Youth learn bicycle safety, repair, and maintenance • Provides community services hours to youth at TUSD schools • Youth get to keep the bike they built at the end of the 8-week program • Reasonable requested amount

MCYSN Cycle XIV (14) -Evaluation Criteria Score Sheet

Service Provider Name:

Name of Reviewer:

Criteria	Notes	Score (20 pt. max)
<p>Organizational Experience & Reliability:</p> <ul style="list-style-type: none"> • <i>Experience providing services to high-risk youth</i> • <i>List of current and recent contracts</i> • <i>Description of outcomes</i> • <i>Financial capacity</i> • <i>Client recordkeeping system</i> • <i>Current year organization budget/audited financial statements</i> • <i>Reference sheet</i> 		
<p>Program Design:</p> <ul style="list-style-type: none"> • <i>Describe community's need for services, including local data</i> • <i>Describe target population & geography; numbers to be served</i> • <i>Describe ending based program model</i> • <i>Describe activities & dosage</i> • <i>Describe how program will be cultural competent</i> • <i>Describe how program will collaborate and communicate with City of Tracy</i> • <i>Provide detailed timeline</i> 		

MCYSN Cycle XIV (14) -Evaluation Criteria Score Sheet

<p>Staffing Plan & Qualifications:</p> <ul style="list-style-type: none"> • <i>Provide staffing plan, Include titles, number of full time employees, qualifications</i> • <i>Justify number, full time employees and types of positions, including job expectations</i> • <i>Describe how project will include staff/volunteers with experiences similar to target populations</i> • <i>Attached: Organization chart</i> • <i>Attached: Resumes</i> • <i>Attached: Job descriptions</i> 		
<p>Program Evaluation:</p> <ul style="list-style-type: none"> • <i>List expected outcomes</i> • <i>Describe how program will measure outcomes, including validated measurement tools</i> • <i>Describe how program will track activities, participants, units of service</i> • <i>Describe data system</i> 		
<p>Cost Proposal:</p> <ul style="list-style-type: none"> • <i>Attached: Line item budget</i> • <i>Includes all costs to be reimbursed</i> • <i>Indirect costs, overhead</i> 		
<p>Overall comments about program:</p>		

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

APPROVING THE MAYOR'S COMMUNITY YOUTH SUPPORT NETWORK (MCYSN) RECONNECTING OUR YOUTH (ROY) GRANT PROGRAM FOR FISCAL YEAR 2022-2023 IN THE TOTAL AMOUNT OF \$175,000 TO EIGHT LOCAL NON-PROFIT ORGANIZATIONS AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE FUNDING AGREEMENTS

WHEREAS, The MCYSN ROY Grant Program is a matching grant program that helps fund local youth services, and is budgeted pending appropriation and approval by the City Council; and

WHEREAS, The MCYSN ROY Grant application for FY 2022-2023 was made available on June 27, 2022, with an application deadline of July 29, 2022; and

WHEREAS, MCYSN ROY Grant contracts may not exceed \$75,000 with a term for the FY 2022-23 contracts being from October 1, 2022, through June 30, 2023; and

WHEREAS, The City of Tracy received eight eligible grant applications, and an external grant scoring committee reviewed the applications and recommended that all eight be funded based on the MCYSN ROY Grant scoring criteria, for a total award amount of \$175,000; and now therefore be it

RESOLVED: That the City Council of the City of Tracy hereby awards MCYSN ROY Grant funding for fiscal year 2022-2023 the following awardees:

ORGANIZATION	AWARD AMOUNT
Boys and Girls Club of Tracy	\$45,000
Tracy Chamber of Commerce – Hire Me First	\$40,000
Give Every Child a Chance	\$25,000
UNeed2, Inc.	\$16,198
Improve Your Tomorrow	\$16,197
Tracy African American Association	\$13,500
ITIFAQ Afghan Soccer Club	\$10,000
Tracy Earth Project, Inc.	\$9,105
Total Funding Award	\$175,000

FURTHER RESOLVED: That City Manager is authorized to execute the MCYSN ROY Grant funding agreements for fiscal year 2022-2023.

* * * * *

The foregoing Resolution 2022-_____ was adopted by the Tracy City Council on September 20, 2022, by the following vote:

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

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

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

AGENDA ITEM 3.E

REQUEST

ADOPT A RESOLUTION DECLARING CITY OWNED PROPERTY LOCATED AT 729/741 N. CENTRAL AVENUE (APN 235-068-06) AS SURPLUS PROPERTY UNDER GOVERNMENT CODE SECTION 54222 AND ISSUE NOTICE OF AVAILABILITY FOR LEASE OR PURCHASE TO PARTIES DESIGNATED IN THE SURPLUS LANDS ACT

EXECUTIVE SUMMARY

This item for consideration by the City Council is a Resolution declaring real property (the Property) located at 729/741 N. Central Avenue (APN 235-068-06) as “surplus” property under Government Code Section 54221. The Surplus Lands Act (SLA) of California (Government Code Section 54221 et.seq.) requires that a legislative body must declare city owned property to be “surplus land” or “exempt surplus land” before the agency can take any action (sale or lease) to dispose of the property. The City of Tracy had determined that the Property is no longer needed for any City public purpose.

Should the Council adopt the recommended resolution, staff will file a Notice of Availability regarding the declaration of the property as surplus land and provide a copy of the adopted resolution to California Department of Housing and Community Development (HCD), as required under the SLA.

BACKGROUND AND ANALYSIS

The City of Tracy is the owner of the downtown property known as the Westside Market located at 729/741 Central Avenue, APN 235-068-06. The City purchased the Westside Market Property with redevelopment funds prior to the program being eliminated by the State of California in 2012; the Property was later reverted to the General Fund (City) through the dissolution process. On September 7, 2021, the City Council directed staff to proceed with issuing a Request for Proposals (RFP) for disposition of the Property to developers and/or operators that would create economic activity and attract more visitors to Downtown Tracy.

On March 29, 2022, Staff recommended Council receive an update on the RFP and disposition effort for the Westside Market, select Gill Hospitality/Souza Realty & Development, Inc. as the top candidate, and authorize staff to negotiate an Exclusive Negotiating Rights Agreement with the top candidate. The RFP process came to the attention of the new City Attorney, who then informed the Economic Development Division that the disposition of the Westside Market property is subject to the California Surplus Land Act and related Guidelines issued by California Housing and Community Development (HCD) and the statute, as amended along with the guidelines are collectively referred to as the SLA. This process had not been completed prior to the commencement of the RFP process. Based on this information, staff informed the selected developers that the City needed to take the necessary specific actions to comply with the SLA.

The California Surplus Land Act has been in existence since 1968 and has been modified and interpreted over the years by case law and legislative amendments. Generally, the purpose of the SLA is to promote affordable housing development on unused or

underutilized public land throughout the State to respond to the existing affordable housing crisis. In October of 2019, Governor Brown signed into law Assembly Bill 1486 & 1255 which amended the SLA in substantial ways. Specifically, the amendments strengthened the SLA in three basic ways: clarified the definitions regarding surplus property and exemptions; required a more specific process that agencies must complete before disposition of surplus properties; and empowered the HCD to administer the SLA, including promulgating guidelines. The amendments to the SLA adopted with AB 1486 and AB 1255 became effective January 1, 2020.

Surplus land is defined as land owned by any local agency (city, county, or district) that is no longer necessary for the agency's use. The SLA also requires that surplus land be declared as either "surplus land" or "exempt surplus land" by the respective legislative body, as an initial step. Once a legislative body has adopted such a declaration (either as a resolution or ordinance), it must be sent to HCD and no disposition can occur, even if a property is declared exempt surplus property, earlier than 30 days from the date of that transmittal. If a City-owned property is deemed to be "exempt," the City could proceed with disposition after the end of the thirty-day period.

If City-owned land is deemed non-exempt surplus land (i.e., the City no longer uses the property and it is not covered by an exemption), then prior to the sale or lease of the property, it must be offered for housing, park, and/or school use through the Notice of Availability (NOA) process outlined in the SLA. The Westside Market property is considered non-exempt surplus land and is subject to the provisions of the SLA, which require the following actions:

- 1) Offer the property for development of affordable (moderate, low, or very-low) housing, open space, and schools by providing a NOA of surplus land for lease or purchase on the California Housing and Community Development Department website for 60 days.
- 2) The City must then negotiate in good faith with those parties who have expressed interest for a minimum amount of 90 days. The City is not required to accept less than Fair Market Value for the property. Council can provide direction to staff on price and terms of a sale in closed session.
- 3) After 90 days, if an agreement is not reached, then the City may proceed forward with other disposition plans for the property.

Estimated Timeline for Westside Market Disposition under the Surplus Land Act

Currently, the estimated timeline for the Westside Market Property disposition under the Surplus Land Act is as follows:

- **September 20, 2022:** Present item before the City Council to authorize the declaration of Westside Market as surplus property, under the SLA.
- **October 2022:** Release Notice of Availability (NOA) to housing sponsors that have notified the California Housing and Community Development Department of their interest in surplus land that is in the County or throughout the state.
- **October – December 2022:** Entities that are interested in developing the land must submit a notice of interest to the City of Tracy within 60 days of the NOA.

- **December 2022**: If no notice of interest is received from an eligible entity, then the City's Request for Proposal process can resume.
- **December 2022 – March 2023**: If the City receives a timely notice of interest from an eligible entity, then a 90-day, good faith negotiation period will begin.
- **March 2023**: If price or terms cannot be agreed upon with an eligible entity after the full 90-day good faith negotiation period, the City may dispose of the surplus land without further regard to the SLA with some provisions. One provision being that at least 15 percent of the total number of residential units developed on the parcels shall be sold or rented as affordable housing.

Based on this estimated timeline, the earliest the developer would be able to enter into agreement with the City to acquire the land would be December 2022 if no letters of interest are submitted through the NOA process, and March 2023, if no agreement can be made with an eligible entity after good faith negotiations. If either of these scenarios happen, then the RFP process for the disposition of the Westside Market property would not have to be repeated and the City could proceed with contract negotiations with the developer.

The proposed declaration of Surplus Land does not authorize the lease or sale of the affected properties. Once the above process is complete, the Property transaction is required to come before the City Council for approval.

FISCAL IMPACT

The value of the Property will be determined by the sale of the Property at fair market value.

STRATEGIC PLAN

This agenda item supports the City of Tracy's Economic Development Strategic Priority.

RECOMMENDATION

Staff recommends that the City Council adopt a resolution declaring City owned property located at 729/741 N. Central Avenue (APN 235-068-06) as surplus property under Government Code section 54222 and issue a Notice of Availability for lease or purchase to parties designated in the Surplus Lands Act.

Prepared by: Ed Wanket, Economic Development Management Analyst

Reviewed by: Vanessa Carrera, Assistant to the City Manager
Sara Cowell, Interim Finance Director
Karin Schnaider, Assistant City Manager

Approved by: Michael Rogers, City Manager

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

RESOLUTION DECLARING CITY OWNED PROPERTY LOCATED AT 729/741 N. CENTRAL AVENUE (APN 235-068-06) AS SURPLUS PROPERTY UNDER GOVERNMENT CODE SECTION 54222 AND ISSUE NOTICE OF AVAILABILITY FOR LEASE OR PURCHASE TO PARTIES DESIGNATED IN THE SURPLUS LANDS ACT

WHEREAS, The City of Tracy is the owner of the downtown property known as the Westside Market located at 729/741 Central Avenue, APN 235-068-06; and

WHEREAS, On September 7, 2021, the City Council directed staff to proceed with issuing a Request for Proposals (RFP) for disposition of the Property to developers and/or operators that would create economic activity and attract more visitors to Downtown Tracy; and

WHEREAS, On March 29, 2022, Staff recommended Council receive an update on the RFP and disposition effort for the Westside Market, select Gill Hospitality/Souza Realty & Development, Inc. as the top candidate, and authorize staff to negotiate an Exclusive Negotiating Rights Agreement with the top candidate; and

WHEREAS, The disposition of the Westside Market property is subject to the California Surplus Land Act (SLA) and related Guidelines issued by California Housing and Community Development (HCD) and the statute, as amended along with the guidelines are collectively referred to as the SLA; and

WHEREAS, The purpose of the SLA is to promote affordable housing development on unused or underutilized public land throughout the State to respond to the existing affordable housing crisis; and

WHEREAS, The Westside Market property is considered non-exempt surplus land and is subject to the provisions of the SLA, which require the following actions:

- 1) Offer the property for development of affordable (moderate, low, or very-low) housing, open space, and schools by providing a NOA of surplus land for lease or purchase on the California Housing and Community Development Department website for 60 days.
- 2) The City must then negotiate in good faith with those parties who have expressed interest for a minimum amount of 90 days. The City is not required to accept less than Fair Market Value for the property. Council can provide direction to staff on price and terms of a sale in closed session.
- 3) After 90 days, if an agreement is not reached, then the City may proceed forward with other disposition plans for the property; and

WHEREAS, The earliest the developer would be able to enter into agreement with the City to acquire the land would be December 2022 if no letters of interest are submitted through the NOA process, and March 2023, if no agreement can be made with an eligible entity after good faith negotiations; and

WHEREAS, If either of these scenarios happen, then the RFP process for the disposition of the Westside Market property would not have to be repeated and the City could proceed with contract negotiations with the developer; and

WHEREAS, Once the above process is complete, the Property transaction is required to come before the City Council for approval; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby adopts the Recitals as findings; and be it further

RESOLVED: That the City Council hereby finds that the Property is no longer needed for any City public purpose; and be it further

RESOLVED: That the City Council adopt a resolution declaring the Property located at 729/741 N. Central Avenue (APN 235-068-06) as surplus property under Government Code section 54222 and issue a Notice of Availability for lease or purchase to parties designated in the Surplus Lands Act; and be it further

RESOLVED: That the City Council directs the City Manager to transmit a copy of this Resolution to the California Department of Housing and Community Development no later than thirty (30) days prior to the disposition of the Property.

* * * * *

The foregoing Resolution 2022-_____ was adopted by the Tracy City Council on September 20, 2022 by the following vote:

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

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

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

Agenda Item 3.F

REQUEST

Adopt a Resolution declaring, as exempt surplus property under Government Code Section 54221(G), the following two properties owned by the City of Tracy: 1) 275.43 acres of land located at 5749 South Tracy Blvd, APN 25311031/25311016 at commonly known as the Tracy Airport; and 2) 393.99 acres of land located at 505 E. Durham Ferry Road, APN 25527008 and commonly known as the New Jerusalem Airport

EXECUTIVE SUMMARY

The California Surplus Land Act codified as California Government Code Section 54221 et seq. (SLA) requires that a legislative body must declare public property to be “surplus land” or “exempt surplus land” before the legislative body can take any action (sale or lease) to dispose of such property.

This item for consideration by the City Council of a Resolution declaring as exempt surplus property under Section 54221(G) of the SLA the following two properties owned by the City of Tracy (collectively, the Properties) :

- 1) 275.43 acres of land located at 5749 South Tracy Blvd, APN 25311031/25311016 at commonly known as the Tracy Airport (Tracy Airport); and
- 2) 393.99 acres of land located at 505 E. Durham Ferry Road, APN 25527008 and commonly known as the New Jerusalem Airport (New Jerusalem Airport).

Each of the properties has recorded deed restrictions that have been imposed by third parties, which restrictions expressly prohibit any long term uses other than the current uses on the Properties. Pursuant to Section 54221(G) of the SLA, the City Council can determine exempt any “surplus land that is subject to valid legal restrictions that are not imposed by the local agency and that would make housing prohibited, unless there is a feasible method to satisfactorily mitigate or avoid the prohibition on the site.” There are no feasible methods to mitigate or avoid the prohibition of residential uses on the Properties. As such, staff recommends the City Council declare the Properties as "exempt surplus land" pursuant to Section 54221(G).

Should the Council adopt the recommended resolution, staff will file a notice of exemption specifically regarding the declaration of the Properties as exempt surplus lands and provide a copy of the adopted Resolution to California Department of Housing and Community Development’s (HCD), as required under the SLA.

BACKGROUND & ANALYSIS

As noted above, pursuant to Government Code Section 54221(b)(1), the City must declare property to be “surplus land” before the City can take any action (sale or lease) to dispose of the Property. Surplus real property is defined as “land owned in fee simple by any local agency for

which the local agency's governing body takes formal action in a regular public meeting declaring that the land is surplus and is not necessary for the agency's use;" Pursuant to Section 54221(G) of the SLA, the City Council can determine exempt any "surplus land that is subject to valid legal restrictions".

Each of the properties has recorded deed restrictions imposed by third parties that expressly prevent uses other than the current uses of the Properties. Specifically, the deed restrictions are as follows:

- 1) Tracy Airport: Refer to Attachment "A" – Instrument of Transfer
- 2) New Jerusalem Airport: Refer to Attachment "B" – Quitclaim Deed

The SLA designates to HCD to administer and enforce the requirements of the SLA. As a part of this authority, HCD adopted guidelines that clarify and strengthen reporting and enforcement provisions of the SLA. One of these requirements is that a city must submit the formal declaration of surplus to HCD, after the legislative body has made such a written declaration.

FISCAL IMPACT

There is no fiscal impact associated with this action.

STRATEGIC PLAN

This agenda item supports the City of Tracy's Quality of Life Strategic Priority.

RECOMMENDATION

Staff recommends that the City Council adopt a Resolution declaring, as exempt surplus property under Government Code Section 54221(G), the following two properties owned by the City of Tracy: 1) 275.43 acres of land located at 5749 South Tracy Blvd, APN 25311031/25311016 at commonly known as the Tracy Airport; and 2) 393.99 acres of land located at 505 E. Durham Ferry Road, APN 25527008 and commonly known as the New Jerusalem Airport.

Prepared by: Karin Schnaider, Assistant City Manager

Reviewed by: Sara Cowell, Interim Finance Director

Approved by: Michael Rogers, City Manager

ATTACHMENTS:

Attachment "A" – Tracy Municipal Airport – Instrument of Transfer
Attachment "B" – New Jerusalem Airport – Quitclaim Deed

INSTRUMENT OF TRANSFER

KNOW ALL MEN BY THESE PRESENTS:

① That, THE UNITED STATES OF AMERICA, acting by and through the WAR ASSETS ADMINISTRATION, under and pursuant to Executive Order 9689, dated January 31, 1946, and the powers and authority contained in the provisions of the Surplus Property Act of 1944, as amended, and applicable rules, regulations and orders, party of the first part, in consideration of the assumption by the CITY OF TRACY, a municipal corporation in the State of California, party of the second part, of all the obligations and its taking subject to certain reservations, restrictions and conditions and its covenant to abide by and agreement to certain other reservations, restrictions and conditions, all as set out hereinafter, has remised, released and forever quitclaimed, and by these presents does remise, release, and forever quitclaim unto the said CITY OF TRACY, its successors and assigns, under and subject to the reservations, restrictions and conditions, exceptions, and reservation of property and rights hereinafter set out, all right, title, interest and claim in and to the following described property situate in the County of San Joaquin, State of California, to wit:

PARCEL 1:

Beginning at the NE corner of the SE $\frac{1}{4}$ of Section 8, township 3 South, range 5 East, Mount Diablo Base & Meridian, running thence northerly along the easterly line of Section 8 1,000 feet; running thence westerly parallel and distant 1,000 feet northerly from the south line of the northeast quarter of said Section 8 to a point on the westerly line of said NE $\frac{1}{4}$ a distance of 2,633.0 feet; running thence northerly along the westerly line of said NE $\frac{1}{4}$ 490 feet more or less to a point 1,490 feet northerly of the SE corner of the NW $\frac{1}{4}$ of said Section 8; running thence westerly parallel and distant 1,490 feet northerly at right angles from the southerly line of the NW $\frac{1}{4}$ of said Section 8 a distance of 2,633.0 feet more or less to a point on the west line of the NW $\frac{1}{4}$ of said Section 8; running thence southerly along the westerly line of said Section 8 a distance of 1,490 feet to the west corner of said Section 8; running thence easterly along the south line of the N $\frac{1}{2}$ of said Section 8 a distance of 5,266 feet to the NE corner of the SE $\frac{1}{4}$ of said Section 8, being the point of beginning; excepting therefrom that portion lying within Jefferson Road on the easterly boundary of said tract, containing 150.51 acres, more or less.

① TOGETHER WITH runways, taxiways, parking aprons and field lighting system, one 20x30' wood frame building and steel control tower.

② The above described premises are subject to existing easements for roads, highways, public utilities, railways and pipe lines, and irrigation ditches of the Banta-Carbona Irrigation District.

③ EXCEPTING, HOWEVER, from this conveyance all right, title and interest in and to all property in the nature of equipment, furnishings and other personal property located on the land above described and on the land leased from the City of Tracy as hereinafter set out, which can be removed from the land without material injury to the land or structures located thereon, other than property of such nature located on such premises which is required for the efficient operation for airport purposes of the structures and improvements specifically listed hereinabove as being transferred hereby; and further excepting from this conveyance all structures on such premises other than structures specifically described or enumerated above as being conveyed hereunder, and reserving to the party of the first part the right of removal from the premises of its property and structures excepted hereby within a reasonable period of time after the date hereof, which shall not be construed to mean any period less than one (1) year after the date of this instrument.

④ And further excepting from this conveyance and reserving to the United States of America a perpetual easement for the construction, use, maintenance, replacement and repair of a right of way for the Delta-Mendota Canal (Central Valley Project), over 25.52 acres of land, more or less, a portion of the above described land, which is more particularly delineated on map dated January 3, 1946, numbered p. 258 A, a copy of which is attached hereto and made a part hereof.

⑤ Further, the party of the first part, for the considerations hereinabove expressed, does hereby surrender, subject to

the terms and conditions of this instrument, to the party of the second part the former's leasehold interest in and to the premises set forth and described in a Lease No. W-868-eng-2143 from the City of Tracy to the United States of America, dated March 10, 1942, as modified by Supplemental Agreement No. 1 thereto, dated June 24, 1946, including 156.5 acres, more or less, of land situated in the County of San Joaquin, State of California.

(7) The party of the second part does hereby release the party of the first part from any and all claims which exist or may arise under the provisions of the aforesaid lease, as so modified, except claims which may be submitted under Section 17 of the Federal Airport Act.

(8) Said property transferred hereby was duly declared surplus and was assigned to the War Assets Administrator for disposal, acting pursuant to the provisions of the Surplus Property Act of 1944, as amended, Executive Order 9689, and applicable rules, regulations and orders.

(9) That by the acceptance of this instrument or any rights hereunder, the said party of the second part, for itself, its successors and assigns, agrees that the aforesaid surrender of leasehold interest and transfer of other property shall be subject to the following restrictions, set forth in subparagraphs (1) and (2) of this paragraph, which shall run with the land, imposed pursuant to the authority of Article 4, Section 3, Clause 2 of the Constitution of the United States of America, the Surplus Property Act of 1944, as amended, Executive order 9689, and applicable rules, regulations and orders:

(1) That the aforesaid leased premises and all property described in Parcel One above which together shall hereinafter be called the "airport", shall be used for public airport purposes, and only for such purposes, on reasonable terms and without unjust discrimination and without grant or exercise of any exclusive right for use of the airport within the meaning of

Section 303 of the Civil Aeronautics Act of 1938. As used herein, "public airport purposes" shall be deemed to exclude use of the structures conveyed hereby, or any portion thereof, for manufacturing or industrial purposes. However, until, in the opinion of the Civil Aeronautics Administration or its successor Government agency, it is needed for public airport purposes, any particular structure transferred hereby may be utilized for non-manufacturing or non-industrial purposes in such manner as the party of the second part deems advisable, provided that such use does not interfere with operation of the remainder of the airport as a public airport.

(2) That the entire landing area, as defined in WAA Regulation 16, dated June 26, 1946, and all structures, improvements, facilities and equipment of the airport shall be maintained at all times in good and serviceable condition to assure its efficient operation; provided, however, that such maintenance shall be required as to structures, improvements, facilities and equipment only during the remainder of their estimated life as determined by the Civil Aeronautics Administration or its successor Government agency. In the event materials are required to rehabilitate or repair certain of the aforementioned structures, improvements, facilities or equipment, they may be procured by demolition of other structures, improvements, facilities or equipment transferred hereby and located on the above described premises, which have outlived their use as airport property in the opinion of the Civil Aeronautics Administration or its successor Government agency.

That by the acceptance of this instrument, or any rights hereunder, the party of the second part, for itself, its successors and assigns, also assumes the obligations of, covenants to abide by and agrees to, and this surrender and transfer is made subject to, the following reservations and restrictions set forth in subparagraphs (1) to (6) of this paragraph, which shall run with the land, imposed pursuant to the authority of Article 4, Section 3,

Clause 2 of the Constitution of the United States of America, the Surplus Property Act of 1944, as amended, Executive Order 9639 and applicable rules, regulations and orders:

(1) That insofar as is within its powers and reasonably possible, the party of the second part, and all subsequent transferees, shall prevent any use of land either within or outside the boundaries of the airport, including the construction, erection, alteration, or growth of any structure or other object thereon, which use would be a hazard to the landing, taking-off, or maneuvering of aircraft at the airport, or otherwise limit its usefulness as an airport.

(2) That the building areas and non-aviation facilities, as such terms are defined in WAA Regulation 16, dated June 26, 1946, of or on the airport shall be used, altered, modified, or improved only in a manner which does not interfere with the efficient operation of the landing area and of the airport facilities, as defined in WAA Regulation 16, dated June 26, 1946.

(3) That itinerant aircraft owned by the United States of America (hereinafter sometimes referred to as the "Government"), or operated by any of its employees or agents on Government business, shall at all times have the right to use the airport in common with others; provided, however, that such use may be limited as may be determined at any time by the Civil Aeronautics Administration or the successor Government agency to be necessary to prevent interference with use by other authorized aircraft, so long as such limitation does not restrict the Government's use to less than twenty-five (25) per centum of capacity of the landing area of the airport. Government use of the airport by virtue of the provisions of this subparagraph shall be without charge of any nature other than payment for damage caused by such itinerant aircraft.

(4) That during the existence of any emergency declared by the President of the United States of America, or the Congress thereof, the Government shall have the right without charge, except as indicated below, to the full, unrestricted possession,

control and use of the landing area, building areas, and airport facilities, as such terms are defined in WAA Regulation 16, dated June 26, 1946, or any part thereof, including any additions or improvements thereto made subsequent to the declaration of any part of the airport as surplus; provided, however, that the Government shall be responsible during the period of such use for the entire cost of maintaining all such areas, facilities and improvements, or the portions used, and shall pay a fair rental for the use of any installations or structures which have been added thereto without Federal aid.

(5) That no exclusive right for the use of any landing area or air navigation facilities, as such terms are defined in WAA Regulation 16, dated June 26, 1946, included in or on the airport shall be granted or exercised.

(6) That the airport may be successively transferred only with the approval of the Civil Aeronautics Administration or the successor Government agency, and with the proviso that such subsequent transferee assumes all the obligations imposed upon the party of the second part by the provisions of this instrument.

By acceptance of this instrument, or any right hereunder, the party of the second part further agrees with the party of the first part as follows:

(1) That upon a breach of any of the aforesaid reservations or restrictions by the party of the second part, or any subsequent transferee, whether caused by the legal inability of said party of the second part or subsequent transferee to perform any of the obligations herein set out, or otherwise, the title, right of possession and all other rights transferred to the party of the second part, or any portion thereof, shall at the option of the party of the first part revert to the party of the first part upon demand made in writing by the War Assets Administration or its successor Government agency at least sixty (60) days prior to the date fixed for the reversion of such title, right of possession and other rights transferred, or any portion thereof;

Provided, that, as to installations or structures which have been added to the premises without Federal aid, the Government shall have the option to acquire title to or use of the same at the then fair market value of the rights therein to be acquired by the Government.

(2) That if the construction as covenants of any of the foregoing reservations and restrictions recited herein as covenants, or the application of the same as covenants in any particular instance is held invalid, the particular reservations or restrictions in question shall be construed instead merely as conditions upon the breach of which the Government may exercise its option to cause the title, right of possession and all other rights transferred to the party of the second part, or any portion thereof, to revert to it, and the application of such reservations or restrictions as covenants in any other instance and the construction of the remainder of such reservations and restrictions as covenants shall not be affected thereby.

TO HAVE AND TO HOLD the property transferred hereby, except the property and rights excepted and reserved above, and under and subject to the aforesaid reservations, restrictions and conditions, unto the said party of the second part, its successors and assigns forever.

IN WITNESS WHEREOF, the United States of America, acting by and through the War Assets Administrator, has caused these presents to be executed in its name and on its behalf by Walter H. Sullivan, Jr., Deputy Regional Director, War Assets Administration, and the CITY OF TRACY, to evidence its complete acknowledgment of, accord with, acceptance of and agreement to be bound by the terms, conditions, reservations and restrictions set forth in this instrument, has caused these presents to be executed in its name and on its behalf by J.W. Stocking, its Mayor, and attested by C.E. DeFreitas, its City Clerk, and its seal to be hereunto affixed, all as of 6th day of May, 1947.

WITNESSES:

/S/ C.E. Gilson

/S/ A.O. Jepson

WITNESSES:

/S/ C.L. Sheppard

/S/ F. Eagan

ATTEST:

Charles E. DeFreitas /S/
City Clerk

UNITED STATES OF AMERICA
acting by and through
WAR ASSETS ADMINISTRATION

By /S/ Walter H. Sullivan(L.S.)

WAR ASSETS ADMINISTRATION

CITY OF TRACY
a Municipal Corporation

By J.W. Stocking /S/
Its Mayor

STATE OF CALIFORNIA)
 (
CITY AND COUNTY OF SAN) SS
 FRANCISCO

On this 6th day of May, 1947, before me, MARION M. BENDER
A Notary Public in and for City and County of San Francisco
California, personally appeared WALTER H. SULLIVAN JR., known to
me to be the Deputy Regional Director

War Assets Administration, and known to me to be the person
whose name is subscribed to the within instrument on behalf of War
Assets Administration, who executed said instrument on behalf of
the United States of America, and acknowledged to me that he
executed the same as the free and voluntary act and deed of the
United States of America and the War Assets Administration and
as his own free and voluntary act and deed.

/s/ Marion M. Bender
Notary Public

(SEAL)

My commission expires:

NOTARY PUBLIC in and for the
City and County of San Francisco,
State of California.
My Commission Expires Dec.24, 1950.

STATE OF CALIFORNIA)
 (
CITY AND COUNTY OF SAN)
 JOAQUIN

On this 6th day of May, 1947, before me George Wadsworth,
a Notary Public in and for said County and State, personally
appeared J. W. Stocking, known to me to be the Mayor of the
CITY OF TRACY, and known to me to be the person whose name
is subscribed to the within instrument on behalf of the CITY OF
TRACY, and acknowledge to me that he executed the same as the
free and voluntary act and deed of the CITY OF TRACY and as his
own free and voluntary act and deed.

 /s/ GEORGE WADSWORTH
 Notary Public

(SEAL)

My commission expires: April 26, 1950

Stockton Aux. #6
(New Jerusalem)
W-Calif-172

QUITCLAIM DEED

1 THIS INDENTURE, made this 14th day of June, 1948,
2 between the UNITED STATES OF AMERICA, acting by and through the War Assets
3 Administration, under and pursuant to Reorganization Plan One of 1947 (12 Fed.
4 Reg. 4534) and the powers and authority contained in the provisions of the
5 Surplus Property Act of 1944, as amended, and applicable rules, regulations and
6 orders thereunder, GRANTOR, and the CITY OF TRACY, a municipal corporation
7 organized and existing under the laws of the State of California, GRANTEE,
8 WITNESSETH: That the said GRANTOR, for and in consideration of
9 the assumption by the GRANTEE of all the obligations and its taking subject
10 to certain reservations, restrictions and conditions and its covenant to
11 abide by and agreement to certain other reservations, restrictions and
12 conditions, all as set out hereinafter, conveys and quitclaims to the said
13 GRANTEE, its successors and assigns, under and subject to the reservations,
14 restrictions and conditions, exceptions, and reservation of fissionable
15 materials and rights hereinafter set out, all its right, title and interest
16 in the following described property situate in the County of San Joaquin,
17 State of California, to wit:

18 Commencing at the common corner of Sections 15, 16, 21 &
19 22, Township 3 South, Range 6 East, Mount Diablo Base & Meridian
20 thence from said point of commencement North 0° 05' 40" West
21 5294.88 ft. to a point which is common to the Tracy Land and
22 Water Company tract described as being conveyed in deed recorded
23 November 11, 1909 in Book "A" of Deeds, Vol. 185, page 95,
24 San Joaquin County Records at its Northwest corner and to the
25 C. and A. Boltzen tract as described in deed recorded October 15,
26 1937 in Vol. 587 of Official Records of San Joaquin County,
27 page 303, at its most Northeasterly corner, said point being
28 the point of beginning; thence from said point of beginning
29 North 44° 41' 20" East along the North line of the Tracy Land
30 and Water Company Tract 2260 ft., thence South 45° 18' 40"
31 East 4497.36 ft., thence South 49° 24' 50" West 3973.80 ft.,
32 thence North 45° 18' 40" West 2482.79 ft., to the West line
of said Tracy Land and Water Company tract, continuing thence
North 45° 18' 40" West 1687.13 ft., thence North 44° 41' 20"
East 1700 ft., to the point of beginning.

27 Also a perpetual easement over that certain real property with
28 the right of ingress and egress, described as follows:

29 Commencing at a point which is the common section corner
30 of Sections 15, 16, 21 & 22, Township 3 South, Range 6 East,
31 Mount Diablo Base & Meridian, thence North 0° 05' 40" West
32 25 ft., to a point on the Northerly line of J. Ohm Road
(50 ft. wide); thence along the Northerly line of said road,
North 89° 56' 35" East 2130.00 ft., to a one inch capped
pipe which is the point of beginning, thence from said
point of beginning North 18° 11' 10" East 2114.29 ft., to

1 a one inch capped pipe on the Southeasterly line of the above
2 described property, thence along said Southeasterly line North
3 49° 24' 50" East 2618.14 ft. to a one inch capped pipe at the
4 most Easterly corner of the above described property, thence
5 North 45° 18' 40" West 10.03 ft. along the Northeasterly line
6 of said property to a one inch capped pipe; thence North
7 49° 24' 50" East 2379.53 ft. to a one inch capped pipe in
8 the Southwest line of the West Side River Road (60 feet wide);
9 thence along the Southwest line of said West Side River Road,
10 South 40° 51' 55" East 20.00 ft. to a one inch capped pipe,
11 said one inch capped pipe being North 40° 51' 55" West 589.12
12 ft. and South 49° 24' 50" West 40.00 ft. from triangulation
13 point I, station 335 - 73.99 on the center line of the West
14 Side River Road as shown in San Joaquin County Survey #4608,
15 filed in Vol. 5, page 72, record of surveys, San Joaquin County
16 Records, thence South 49° 24' 50" West 4994.15 ft. to a one inch
17 capped pipe, said pipe being 10.00 ft. Southeasterly of the
18 Southeasterly line of said above described property and 10 ft.
19 Easterly of the aforementioned 1st course, thence South 18° 11' 10"
20 West 2108.20 ft. to a one inch capped pipe on the Northerly line
21 of J. Ohm Road; thence South 89° 56' 35" West along the Northerly
22 line of J. Ohm Road 10.53 ft. to the true point of beginning.

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Containing 393.981 acres in fee and
2.176 acres in permanent easement.

TOGETHER WITH improvements described as follows:

Runways, parking apron, and all fencing.

The above described premises are transferred subject to existing easements for roads, highways, public utilities, railways and pipelines.

EXCEPTING, HOWEVER, from this conveyance and reserving to the GRANTOR, in accordance with Executive Order 9908, approved on December 5, 1947 (12 F. R. 8223), all uranium, thorium, and all other materials determined pursuant to Section 5 (b) (1) of the Atomic Energy Act of 1946 (60 Stat. 761), to be peculiarly essential to the production of fissionable material, contained in whatever concentration, in deposits in the lands covered by this instrument for the use of the United States, together with the right of the United States through its authorized agents or representatives at any time to enter upon the land and prospect for, mine, and remove the same, making just compensation for any damage or injury occasioned thereby. However, such land may be used, and any rights otherwise acquired by this disposition may be exercised, as if no reservation of such materials had been made; except that, when such use results in the extraction of any such material from the land in quantities which may not be transferred or delivered without a license under the Atomic Energy Act of 1946; as it now exists or may hereafter be amended, such material

1 shall be the property of the United States Atomic Energy Commission, and the
2 Commission may require delivery of such material to it by any possessor thereof
3 after such material has been separated as such from the ores in which it was
4 contained. If the Commission requires the delivery of such material to it, it
5 shall pay to the person mining or extracting the same, or to such other person
6 as the Commission determines entitled thereto, such sums, including profits,
7 as the Commission deems fair and reasonable for the discovery, mining,
8 development, production, extraction, and other services performed with
9 respect to such material prior to such delivery, but such payment shall not
10 include any amount on account of the value of such material before removal
11 from its place of deposit in nature. If the Commission does not require
12 delivery of such material to it, the reservation hereby made shall be of no
13 further force or effect.

14 Said property transferred hereby was duly declared surplus and was
15 assigned to the War Assets Administration for disposal, acting pursuant to
16 the provisions of the above mentioned Act, as amended, Executive Order 9689,
17 and applicable rules, regulations and orders.

18 TO HAVE AND TO HOLD said premises, with appurtenances, except the
19 fissionable materials and other property excepted above and the rights re-
20 served above, and under and subject to the reservations, restrictions and
21 conditions set forth in this instrument, unto the said GRANTEE, its successors
22 and assigns forever.

23 By the acceptance of this deed or any rights hereunder, the said
24 GRANTEE, for itself, its successors and assigns agrees that the transfer of
25 the property transferred by this instrument, is accepted subject to the
26 following restrictions set forth in subparagraphs (1) and (2) of this para-
27 graph, which shall run with the land, imposed pursuant to the authority of
28 Article 4, Section 3, Clause 2, of the Constitution of the United States of
29 America, the Surplus Property Act of 1944, as amended, Executive Order 9689
30 and applicable rules, regulations and orders:

31 (1) That, except as provided in subparagraph (6) of the next
32 succeeding unnumbered paragraph, the land, buildings, structures, improvements

1 and equipment in which this instrument transfers any interest shall be used
2 for public airport purposes for the use and benefit of the public, on reason-
3 able terms and without unjust discrimination and without grant or exercise
4 of any exclusive right for use of the airport within the meaning of the terms
5 "exclusive right" as used in subparagraph (4) of the next succeeding paragraph.
6 As used in this instrument, the term "airport" shall be deemed to include at
7 least all such land, buildings, structures, improvements and equipment.

8 (2) That, except as provided in subparagraph (6) of the next
9 succeeding paragraph, the entire landing area, as defined in WAA Regulation 5,
10 as amended, and all structures, improvements, facilities and equipment in
11 which this instrument transfers any interest shall be maintained for the use and
12 benefit of the public at all times in good and serviceable condition, provided,
13 however, that such maintenance shall be required as to structures, improve-
14 ments, facilities and equipment only during the remainder of their estimated
15 life, as determined by the Civil Aeronautics Administrator or his successor.

16 By the acceptance of this deed or any rights hereunder, the
17 said GRANTEE, for itself, its successors and assigns, also assumes the
18 obligations of, covenants to abide by and agrees to, and this transfer is
19 made subject to the following reservations and restrictions set forth in
20 subparagraphs (1) to (7), inclusive, of this paragraph, which shall run with
21 the land, imposed pursuant to the authority of Article 4, Section 3, Clause 2,
22 of the Constitution of the United States of America, the Surplus Property Act
23 of 1944, as amended, Reorganization Plan One of 1947, and applicable rules,
24 regulations and orders:

25 (1) That insofar as it is within its powers, the GRANTEE shall
26 adequately clear and protect the arial approaches to the airport by removing,
27 lowering, relocating, marking or lighting or otherwise mitigating existing
28 airport hazards and by preventing the establishment or creation of future
29 airport hazards.

30 (2) That the United States of America (hereinafter sometimes
31 referred to as the "Government") through any of its employees or agents
32 shall at all times have the right to make nonexclusive use of the landing

1 area of the airport at which any of the property transferred by this instrument
2 is located or used, without charge: Provided, however, that such use may be
3 limited as may be determined at any time by the Civil Aeronautics Adminis-
4 trator, or his successor, to be necessary to prevent undue interference with
5 use by other authorized aircraft: Provided, further, that the Government shall
6 be obligated to pay for damages caused by such use, or if its use of the
7 landing area is substantial, to contribute a reasonable share of the cost of
8 maintaining and operating the landing area, commensurate with the use made
9 by it.

10 (3) That during any national emergency declared by the President
11 of the United States of America or the Congress thereof, the Government shall
12 have the right to make exclusive or nonexclusive use and have exclusive or
13 nonexclusive control and possession, without charge, of the airport at which
14 any of the property transferred by this instrument is located or used, or of
15 such portion thereof as it may desire, provided, however, that the Government
16 shall be responsible for the entire cost of maintaining such part of the air-
17 port as it may use exclusively, or over which it may have exclusive possession
18 or control, during the period of such use, possession, or control, and shall
19 be obligated to contribute a reasonable share, commensurate with the use made
20 by it, of the cost of maintenance of such property as it may use non-exclusive-
21 ly or over which it may have nonexclusive control and possession; Provided,
22 further, that the Government shall pay a fair rental for its use, control, or
23 possession, exclusively or nonexclusively of any improvements to the airport
24 made without United States aid.

25 (4) That no exclusive right for the use of the airport at which
26 the property transferred by this instrument is located shall be vested
27 (directly or indirectly) in any person or persons to the exclusion of others
28 in the same class, the term "exclusive right" being defined to mean

- 29 1. any exclusive right to use the airport for con-
30 ducting any particular aeronautical activity requir-
31 ing operation of aircraft;
32 2. any exclusive right to engage in the sale or

1 supplying of aircraft, aircraft accessories, equipment,
2 or supplies (excluding the sale of gasoline and oil),
3 or aircraft services necessary for the operation of
4 aircraft (including the maintenance and repair of
5 aircraft, aircraft engines, propellers, and appli-
6 ances).

7 (5) That, except as provided in subparagraph (6) of this paragraph,
8 the property transferred hereby may be successively transferred only with the
9 proviso that any such subsequent transferee assumes all the obligations im-
10 posed upon the GRANTEE by the provisions of this instrument.

11 (6) That no property transferred by this instrument shall be used,
12 leased, sold, salvaged, or disposed of by the GRANTEE for other than airport
13 purposes without the written consent of the Civil Aeronautics Administrator,
14 which shall be granted only if said Administrator determines that the property
15 can be used, leased, sold, salvaged or disposed of for other than airport
16 purposes without materially and adversely affecting the development, improve-
17 ment, operation or maintenance of the airport at which such property is
18 located.

19 (7) The GRANTEE does hereby release the Government, and will take
20 whatever action may be required by the War Assets Administration to assure
21 the complete release of the Government from any and all liability the Govern-
22 ment may be under for restoration or other damages under any lease or other
23 agreement covering the use by the Government of the airport, or part thereof,
24 owned, controlled or operated by the GRANTEE, upon which, adjacent to which,
25 or in connection with which, any property transferred by this instrument was
26 located or used; Provided, that no such release shall be construed as de-
27 priving the GRANTEE of any right it may otherwise have to receive reimburse-
28 ment under Section 17 of the Federal Airport Act for the necessary rehabil-
29 itation or repair of public airports heretofore or hereafter substantially
30 damaged by any Federal agency.

31 By acceptance of this instrument or any rights hereunder, the
32 GRANTEE further agrees with the GRANTOR as follows:

1 (1) That in the event that any of the aforesaid terms, conditions,
2 reservations, or restrictions are not met, observed, or complied with by the
3 GRANTEE or any subsequent transferee, whether caused by the legal inability of
4 said GRANTEE or subsequent transferee to perform any of the obligations herein
5 set out, or otherwise, the title, right of possession and all other rights
6 transferred by this instrument to the GRANTEE, or any portion thereof, shall
7 at the option of the GRANTOR revert to the GRANTOR sixty (60) days following
8 the date upon which demand to this effect is made in writing by the Civil
9 Aeronautics Administration, or its successor in function, unless within said
10 sixty (60) days such default or violation shall have been cured and all such
11 terms, conditions, reservations and restrictions shall have been met, observed
12 or complied with, in which event said reversion shall not occur and title,
13 right of possession, and all other rights transferred hereby, except such, if
14 any, as shall have previously reverted, shall remain vested in the GRANTEE,
15 its transferees, successors and assigns.

16 (2) That if the construction as covenants of any of the foregoing
17 reservations and restrictions recited herein as covenants or the application
18 of the same as covenants in any particular instance is held invalid, the
19 particular reservations or restrictions in question shall be construed instead
20 merely as conditions upon the breach of which the Government may exercise its
21 option to cause the title, right of possession and all other rights trans-
22 ferred to the GRANTEE, or any portion thereof, to revert to it, and the appli-
23 cation of such reservations or restrictions as covenants in any other instance
24 and the construction of the remainder of such reservations and restrictions
25 as covenants shall not be affected thereby.

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1 IN WITNESS WHEREOF, the GRANTOR has caused these presents to be
2 executed as of the day and year first above written.

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4
5 UNITED STATES OF AMERICA
Acting by and Through
6 WAR ASSETS ADMINISTRATION

7 WITNESSES:

8 By R. G. Deede
9 R. G. DEEDE
Deputy Regional Director
10 Office of Real Property Disposal
Region 10
War Assets Administration
San Francisco, California

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16 STATE OF CALIFORNIA)
17 CITY AND COUNTY OF SAN FRANCISCO) ss.

18 On this 14 day of June, 1948, before me _____

19 MARION M. BENDER, a Notary Public in and for the City and County of
20 San Francisco, State of California, personally appeared R. G. DEEDE,
known to me to be the Deputy Regional Director, Office of Real
21 Property Disposal, Region 10, War Assets Administration, San Francisco, Calif-
22 ornia, and known to me to be the person who executed the within instrument on
behalf of said War Assets Administration, which executed said instrument on
23 behalf of the United States of America, and acknowledged to me that he sub-
scribed to the said instrument the name of the United States of America and
24 the name of the War Assets Administration on behalf of the United States of
America, and further, that the United States of America executed said in-
strument.

25 WITNESS my hand and Official Seal.

26
27 Marion M. Bender
28 Notary Public
29 in and for the City and County of
San Francisco, State of California

30
31 My Commission Expires: 7-7-50

*I hereby accept this
Quitclaim Deed for and in
behalf of the City of Tracy,
Shasta County, California
City Clerk*

(NOTICE)

DELEGATION OF AUTHORITY NO.

DELEGATION OF AUTHORITY INCIDENT TO THE CARE, HANDLING, AND CONVEYANCING OF
SURPLUS REAL PROPERTY AND PERSONAL PROPERTY ASSIGNED FOR DISPOSAL THEREWITH

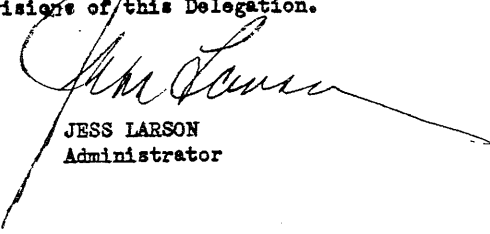
The Deputy Administrator, Office of Real Property Disposal, and each Associate Deputy Administrator, Office of Real Property Disposal, War Assets Administration; the Regional Director, the Deputy Regional Director for Real Property Disposal, the Associate Deputy Regional Director for Real Property Disposal, and the Assistant Deputy Regional Director for Real Property Disposal, in each and every War Assets Administration Regional Office; the District Director and Deputy District Director for Real Property Disposal, in each and every War Assets Administration District Office, and any person or persons designated to act, and acting, in any of the foregoing capacities, are hereby authorized, individually (1) to execute, acknowledge and deliver any deed, lease, permit, contract, receipt, bill of sale, or other instruments in writing in connection with the care, handling and disposal of surplus real property, or personal property assigned for disposition with real property, located within the United States, its territories and possessions, (2) to accept any notes, bonds, mortgages, deeds of trust or other security instruments taken as consideration in whole or in part for the disposition of such surplus real or personal property, and to do all acts necessary or proper to release and discharge any such instrument or any lien created by such instrument or otherwise created, and (3) to do or perform any other act necessary to effect the transfer of title to any such surplus real or personal property located as above provided; all pursuant to the provisions of the Surplus Property Act of 1944, as amended, (58 Stat. 765; 50 U.S.C. App. Supp. 1611); Public Law 181, 79th Cong. (59 Stat. 533; 50 U.S.C. App. Supp. 1614a, 1614b); Reorganization Plan 1 of 1947 (12 F.R.4534); Public Law 289, 80th Cong. (61 Stat. 678); and War Assets Administration Regulation No. 1 (12 F. R. 6661), as amended.

The Regional Director in each and every War Assets Administration Regional Office is hereby authorized to redelegate to such person or persons as he may designate the authority delegated to him by this instrument.

L. S. Wright, the Secretary of The General Board and Robert Whittet, Associate Deputy Administrator, Office of Real Property Disposal, War Assets Administration, are hereby authorized, individually, to certify true copies of this Delegation and provide such further certification as may be necessary to effectuate the intent of this Delegation in form for recording in any jurisdiction, as may be required.

This Delegation shall be effective as of the opening of business on
April 9, 1948.

This authority is in addition to delegations of authority previously granted under dates of May 17, 1946; May 29, 1946; July 30, 1946; September 16, 1946; October 31, 1946; November 22, 1946; January 13, 1947; June 6, 1947; and December 1, 1947; but shall not in any manner supersede provisions of said delegations as do not conflict with the provisions of this Delegation.


JESS LARSON
Administrator

Dated: APR 9, 1948.

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

RESOLUTION DECLARING, AS EXEMPT SURPLUS PROPERTY UNDER GOVERNMENT CODE SECTION 54221(G), THE FOLLOWING TWO PROPERTIES OWNED BY THE CITY OF TRACY: 1) 275.43 ACRES OF LAND LOCATED AT 5749 SOUTH TRACY BLVD, APN 25311031/25311016 AND COMMONLY KNOWN AS THE TRACY AIRPORT; AND 2) 393.99 ACRES OF LAND LOCATED AT 505 E. DURHAM FERRY ROAD, APN 25527008 AND COMMONLY KNOWN AS THE NEW JERUSALEM AIRPORT

WHEREAS, The City of Tracy (**City**) is the owner of the following two properties: totaling 1) 275.43 acres Of Land Located At 5749 South Tracy Blvd, APN 25311031/25311016 and commonly known as the Tracy Airport (**Tracy Airport**); and 2) 393.99 acres of land located at 505 E. Durham Ferry Road, APN 25527008 and commonly known as the New Jerusalem Airport (**New Jerusalem Airport**); and

WHEREAS, The Tracy Airport and the New Jerusalem Airport shall be collectively referred to as **Properties**; and

WHEREAS, The Tracy Airport was acquired by the City from the United States in 1946 per Instrument of Transfer and has a recorded deed restriction that requires the property to be used only for public airport purposes; and

WHEREAS, The New Jerusalem Airport was acquired by the City from the United States in 1948 per the Quitclaim Deed and has a recorded deed restriction that requires the property to be used only for public airport purposes; and

WHEREAS, The City of Tracy received the land that comprises of the Tracy Municipal Airport from the federal government as part of a war of the deed that the land must only be used for aviation and airport purposes. If the land is used for anything but airport purposes, the land can be taken from the city and returned to the federal government.

WHEREAS, Pursuant to Government Code Section 54221(b)(1) of the California Surplus Land Act (**SLA**), the City must declare the Property as either surplus or exempt surplus prior to beginning the disposition process; and

WHEREAS, The SLA designates the California Housing and Community Development (HCD) to administer and enforce the requirements of the SLA; and

WHEREAS, As a part of its authority, HCD adopted guidelines that clarify and strengthen reporting and enforcement provisions of the SLA (Guidelines); and

WHEREAS, The Guidelines define a lease of more than five years as a “disposition” that must comply with the SLA; and

WHEREAS, Pursuant to Government Code Section 54221(b)(1), the City must declare the Property as either surplus or exempt surplus prior to beginning the disposition process; and

WHEREAS, Pursuant Section 54221(G), the City Council can determine exempt any “surplus land that is subject to valid legal restrictions that are not imposed by the local agency and that would make housing prohibited, unless there is a feasible method to satisfactorily mitigate or avoid the prohibition on the site”; and

WHEREAS, There are no feasible methods to mitigate or avoid the prohibition of residential uses on the Properties, and a violation of the deed restrictions would require the City to return to the federal government at least two of the properties; and

WHEREAS, The SLA requires a city to transmit any declaration of exempt surplus to HCD; and

NOW THEREFORE BE IT:

RESOLVED: That the City Council of the City of Tracy hereby adopts the Recitals as findings; and be it further

RESOLVED: That the City Council hereby finds that the Properties are declared exempt surplus lands pursuant to Government Code Section 54221(G); and be it further

RESOLVED: That the City Council hereby finds that this action is not a “project” under CEQA and further discretionary actions will be needed before any foreseeable environmental impacts may occur; and be it further

RESOLVED: That the City Council directs the City Manager to transmit a copy of this Resolution to the California Department of Housing and Community Development.

* * * * *

The foregoing Resolution 2022-_____ was adopted by the Tracy City Council on September 20, 2022, by the following vote:

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

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

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

Agenda Item 3.G

RECOMMENDATION

Staff recommends that the City Council appoint, by motion, a subcommittee of two Council Members, and an alternate, to interview applicants to fill one term vacancy on the Transportation Advisory Commission.

EXECUTIVE SUMMARY

This item requests that Council appoint two members of the City Council, and an alternate, to a subcommittee to interview applicants to fill a term vacancy on the San Joaquin County Mosquito Abatement District Board. This action can be completed by a motion on the floor.

BACKGROUND AND LEGISLATIVE HISTORY

On August 8, 2022, the current City of Tracy representative on the Transportation Advisory Commission resigned. A recruitment was opened on August 24, 2022 and ended on September 16, 2022.

ANALYSIS

In accordance with Resolution No. 2021-200, a two-member subcommittee of Council Members, and an alternate, needs to be appointed to interview the applicants and make a recommendation to the full Council.

FISCAL IMPACT

None

PUBLIC OUTREACH/ INTEREST

Notification of Transportation Advisory Commission recruitment has been posted on the City's Social Media pages, Tracy Press, the City's website, and Channel 26.

COORDINATION

Not Applicable

CEQA DETERMINATION

Not Applicable

STRATEGIC PLAN

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

ACTION REQUESTED OF THE CITY COUNCIL

It is recommended that Council appoint, by motion, a two-member subcommittee of two Council Members, and one alternate, to interview applicants to fill one term vacancy on the Transportation Advisory Commission.

Respectfully submitted,

Necy Lopez
Deputy City Clerk

Attachments:

A- Resolution 2021-200

RESOLUTION 2021-200

ADOPTING A COUNCIL POLICY ESTABLISHING A SELECTION PROCESS FOR APPOINTMENTS TO CITY ADVISORY BODIES AND REPEALING RESOLUTION NO. 2021-131

WHEREAS, On September 7, 2021, the Tracy City Council adopted Resolution 2021-131 establishing a policy for the selection process for appointments to City advisory Bodies and repealing Resolution 2020-009;

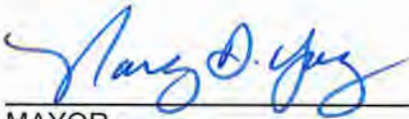
WHEREAS, The current policy states that Council shall appoint two Council Members to serve on a subcommittee to review applications, interview applicants and recommend a candidate for appointment to the board, commission or committee, and

WHEREAS, Council wishes to amend the language of Section 2 (D)(1) to state that Council shall appoint two members *and an alternate* to serve on a subcommittee to review applications, interview applicants and recommend a candidate for appointment to the board, commission or committee.

NOW, THEREFORE BE IT RESOLVED, the City Council of the City of Tracy hereby adopts the Council Policy Establishing a Selection Process for Appointments to City Advisory Bodies, attached as Exhibit A, and thereby repeals and supersedes Resolution No. 2021-131.

The foregoing Resolution 2021-200 was passed and adopted by the Tracy City Council on the 21st day of December, 2021, by the following vote:

- AYES: COUNCIL MEMBERS: ARRIOLA, BEDOLLA, DAVIS, VARGAS, YOUNG
- NOES: COUNCIL MEMBERS: NONE
- ABSENT: COUNCIL MEMBERS: NONE
- ABSTAIN: COUNCIL MEMBERS: NONE



 MAYOR

ATTEST:


 CITY CLERK

**COUNCIL POLICY ESTABLISHING A SELECTION PROCESS FOR APPOINTMENTS TO
CITY ADVISORY BODIES
(Exhibit "A" to Resolution No. 2021-200)**

SECTION 1: PURPOSE

To establish a selection process for appointments to City advisory bodies including defining residency requirements, in accordance with Government Code sections 54970 et seq.

SECTION 2: SELECTION PROCESS FOR APPOINTEE BODIES

- A. On or before December 31st of each year, the City Clerk shall prepare an appointment list of all regular and ongoing boards, commissions and committees that are appointed by the City Council of the City of Tracy. The list shall contain the following information:
1. A list of all appointee terms which will expire during the next calendar year, with the name of the incumbent appointee, the date of the appointment, the date the term expires and the necessary qualifications for the position.
 2. A list of all boards, commissions and committees whose members serve at the pleasure of the Council and the necessary qualifications of each position.
 3. The list of appointments shall be made available to the public for a reasonable fee that shall not exceed actual cost of production. The Tracy Public Library shall receive a copy of the list.
- B. Whenever a vacancy occurs in any board, commission or committee, whether due to expiration of an appointee's term, resignation, death, termination or other causes, a special notice shall be posted in the office of the City Clerk, The Tracy Public Library, the City website, and in other places as directed within twenty (20) days after the vacancy occurs. Final appointment to the board, commission or committee shall not be made by the City Council for at least ten (10) working days after the posting of the notice in the Clerk's office. If Council finds an emergency exists, the Council may fill the unscheduled vacancy immediately.
- C. Appointments shall be made for the remainder of the term created by the vacancy except as follows:
1. If appointee will fill an un-expired term with six months or less remaining, the appointment shall be deemed to be for the new term.
 2. If the vacancy is filled by an emergency appointment the appointee shall serve only on an acting basis until the final appointment is made pursuant to section 2.
- D. The Council shall use the following selection process to provide an equal opportunity for appointment to a board, commission or committee:

1. Council shall appoint two Council members and an alternate to serve on a subcommittee to review applications, interview applicants and recommend a candidate for appointment to the board, commission or committee.
 2. If the Council subcommittee determines there are multiple qualified candidates, the subcommittee may recommend the Council establish an eligibility list that will be used to fill vacancies that occur in the following twelve (12) months.
 3. At the Council subcommittee's discretion, the chair (or designee) of the board, committee or commission for which a member will be appointed, can participate in the interviews.
- E. An individual already serving on a City of Tracy board, committee or commission may not be appointed to serve on an additional City of Tracy board, committee, or commission concurrently.

SECTION 3: DEFINITION OF RESIDENCY REQUIREMENTS

- A. The following definitions shall be used to determine whether residency requirements are met for boards and commissions to which the Tracy City Council appoints members:
1. Tracy Planning Area means the geographical area defined in the City of Tracy General Plan and any amendments thereto.
 2. City of Tracy means within the city limits of the City of Tracy.
 3. Citizen means a resident of the City of Tracy.
 4. Tracy School District means the geographical area served by the Tracy Unified School District.
 5. Sphere of Influence shall be the geographical area approved by the Local Agency Formation Commission (LAFCo) of San Joaquin County and any amendments thereto.
- B. Residency, as defined above and as set forth in the applicable bylaws for each board or commission, shall be verified annually by the City Clerk. The residency must be verifiable by any of the following means:
1. Voter registration,
 2. Current California Driver's License or Identification,
 3. Utility bill information (phone, water, cable, etc.),
 4. Federal or State tax returns.

C. Members of boards or commissions shall notify the City Clerk in writing within thirty (30) days of any change in residency. If the change in residency results in the board member or commissioner no longer meeting the residency requirements, the member shall tender their resignation to the City Clerk who shall forward it to the City Council.