

Tuesday, February 7, 2023, 7:00 P.M.

Tracy City Hall Chambers, 333 Civic Center Plaza, Tracy

Web Site: [www.cityoftracy.org](http://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](http://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: 2555 489 1055** 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](mailto:Anonymous@example.com) when prompted to provide an email address.
  - **Join by phone by dialing +1-408-418-9388, enter 25554891055#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 agendized items of business, “Items from the Audience/Public Comment” following the Consent Calendar will be limited to 15-minutes maximum period. “Items from the Audience/Public Comment” listed near the end of the agenda will not have a maximum time limit. A five-minute maximum time limit per speaker will apply to all individuals speaking during “Items from the Audience/Public Comment”. For non-agendized items, Council Members may briefly respond to statements made or questions posed by individuals during public comment; ask questions for clarification; direct the individual to the appropriate staff member; or request that the matter be placed on a future agenda or that staff provide additional information to Council. When members of the public address the Council, they should be as specific as possible about their concerns. If several members of the public comment on the same issue an effort should be made to avoid repetition of views already expressed.

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

Full copies of the agenda are available on the City's website: [www.cityoftracy.org](http://www.cityoftracy.org)

CALL TO ORDER  
PLEDGE OF ALLEGIANCE  
INVOCATION  
ROLL CALL  
PRESENTATIONS

1. Employee of the Month
2. Certificates of Appointment - Parks and Community Services Commission
3. Police Department Swearing In Ceremony

1. CONSENT CALENDAR

- 1.A Adoption of December 21, 2022 Special Meeting Minutes, January 17, 2023 Closed Session Minutes, January 17, 2023 Special Meeting Minutes, January 17, 2023 Regular Meeting Minutes, January 30, 2023 Closed Session Minutes and January 30, 2023 Special Meeting Minutes.
- 1.B 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 February 8, 2023 through March 9, 2023 pursuant to the Brown Act.
- 1.C. Approving a General Services Agreement with Mountain Cascade, Inc. for the Wastewater Treatment Plant Filter Valve Replacement for a term of three (3) months and a not to exceed amount of \$166,000.
- 1.D. Approving a Professional Services Agreement with CH2M HILL Engineers, Inc. to perform a high-level analysis of Tracy Wastewater Treatment Plant expansion to 16 million gallons per day for a period of three (3) months and a total not to exceed amount of \$110,000.
- 1.E. Approving a Professional Services Agreement with Guidepost Solutions, LLC for the design of the Security System Implementation of the City's Water Facilities Project (CIP 75169) for a period of five (5) months and a total not-to-exceed amount of \$53,290.
- 1.F. Approving a General Services Agreement with Telstar Instruments for the Programmable Logic Controller and Primary Effluent Pumping Control Upgrade Project for a term of nine (9) months and a total not to exceed amount of \$293,250.
- 1.G. Approve the Inspection Improvement Agreement between City and Lennar Homes of California, LLC for Corral Hollow Road Widening Improvements at Tracy Hills Phase 2 Frontage.
- 1.H. Adopt two resolutions: (1) Approving a Professional Services Agreement with CH2M HILL Engineers, Inc. for the design of a recycled water booster pump station for the Recycled Water System Expansion Project (CIP 74168) for a term of five (5) months and a not to exceed amount of \$1,240,000; and (2) Approving a Professional Services Agreement with CH2M HILL Engineers, Inc. for the design of recycled water pipelines for the Recycled Water System Expansion Project (CIP 74168) for a term of five (5) months and a not to exceed amount of \$1,860,000.

2. ITEMS FROM THE AUDIENCE

3. REGULAR AGENDA

- 3.A. Receive the annual informational report regarding the City of Tracy's Senior Services Program for 2022.
  - 3.B. Discuss and provide direction, by motion, that 1) the City not advance the establishment of a Government Accountability Commission at this time and 2) the City Manager return with an agenda item for the City Council to consider the establishment of an Environmental Sustainability Commission.
  - 3.C. City Council 1) approve a resolution to form a standing committee of the Tracy City Council on Fiscal Sustainability (Committee) and 2) appoint, by motion, two members, to the Committee for an annual term, pursuant to the City Council's appointment procedures.
  - 3.D. Approving a Professional Services Agreement with: (1) Tripepi Smith and Associates, Inc. for the performance of community engagement services related to the creation of City Council Districts for a term of ten (10) months and in a total not to exceed amount of \$90,000; and 2) National Demographics Corporation for the performance of demographic and mapping services related to the creation of City Council Districts, for a term of ten (10) months and in a total not to exceed amount of \$60,000.
4. ITEMS FROM THE AUDIENCE
  5. STAFF ITEMS
  6. COUNCIL ITEMS
  7. ADJOURNMENT

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

**December 21, 2022, 6:30 p.m.**

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

Mayor Young called the meeting to order at 7:28 p.m.

Roll Call found Council Members Arriola, Bedolla, Evans, Mayor Pro Tem Davis and Mayor Young present.

1. ITEMS FROM THE AUDIENCE – Charles Jones shared excitement regarding the success of the homeless shelter and the decrease of individuals staying in the park. Mr. Jones expressed concerns with the rough start with the controversy regarding Mayor Pro Tem selection and shared that Mayor Pro Tem Davis should not have allowed negative messaging regarding the only gay elected in the County knowing the potential danger that members of the LGBTQ+ community face. Would like to see everyone work together because Tracy is better when you do.

Karen Moore shared concerns about the decisions that will be made as a new Council regarding the City's constitution for land use and land development. Ms. Moore spoke about the apartment complex on Valpico, Eleassia Davis and Alice English were against it and Rickman voted against it in 2019 and now because it is low to moderate income Council is overriding Planning Commission since these things are not in the General Plan and urged Council to read the General Plan.

Vannie Dart congratulated Council on their elections, welcomed Council Member Evans and congratulated Mayor Pro Tem Davis. Ms. Dart stated that 32% of voters voted for Eleassia Davis to be Mayor second to Mayor Young and hoped that Council can work together to serve the City of Tracy and the people to the best of their ability.

Raymond Dart congratulated all on their elections and new Council Member Dan Evans and congratulated Mayor Pro Tem Davis. Mr. Dart hoped Council works together to bring improvements to the City especially to the infrastructure and roads and wished Council good luck.

Dotty Nygard wanted to remind everyone that the dais represents the whole community and that residents of Tracy voted for Council and that Council vote on the community's behalf and best interest and continue the mission to be a robust, healthy, and thriving City by respectfully upholding the General Plan, Transportation Plan, Parks and Recreation Plan and Sustainability Action Plan. These plans will guide and assist in the vision of the community and will grow reflecting community values and shape the future.

Heather Smiddy shared that during the pandemic the downtown community came together, business owners and community saw a problem, faced it and fixed it together without Council support. Ms. Smiddy expressed her disappointment with Council conduct and encouraged Council to take a note from your downtown community and stand up for each other and have each other's backs. It would benefit the City that this start tonight and carry through to the end of your term.

Tim Silva expressed his frustration that the meeting started late and shared his concerns regarding the Mayor's conduct during the agenda item nominating Mayor Pro Tem at the

December 13, 2022 meeting. Mr. Silva reminded Council that they work for the people and not the other way around and the selection of the Mayor Pro Tem position should have been accepted with dignity and shared his opinion that the person most qualified is the veteran that sits on Council.

## 2. DISCUSSION ITEMS

### 2.A CITY COUNCIL DISCUSS A REQUEST FOR OUT-OF-STATE TRAVEL AND IF SUPPORTED, APPROVE BY MOTION, THE UPCOMING OUT-OF-STATE TRAVEL FOR CITY COUNCIL MEMBER(S) TO TRAVEL TO WASHINGTON DC FOR THE UNITED STATES CONFERENCE OF MAYORS 2023.

Midori Lichtwardt, Assistant City Manager provided the staff report.

Alice English asked if this travel would interfere with the next City Council Meeting in January.

Tim Silva expressed his support for the Mayor to travel to do outreach at the federal level and thanked the new council and looks forward to council doing good things.

**ACTION:** Motion was made by Mayor Pro Tem Davis and seconded by Council Member Evans to approve the upcoming out-of-state travel for City Council Member(s) to travel to Washington DC for the United States Conference of Mayors 2023. Roll call found all in favor; passed and so ordered.

3. STAFF ITEMS – Michael Rogers shared that there is no warming center but there is an administrative building at the homeless shelter that can be used if anyone would like a place to warm up at.

4. COUNCIL ITEMS AND COMMENTS – Council Member Bedolla moved that staff bring a resolution on or before the February 7th meeting to accept the Irrevocable Offer of Dedication of Fee Interest for 16-acres of community park land for an aquatics park from Ellis Village LLC. to City of Tracy so that the land can be accepted, and project can be done. Mayor Pro Tem Davis seconded the request.

Council Member Bedolla asked about the Brichetto site and wanted to clarify a rumor that the site had been taken off the table and requested the capacity of the temporary housing shelter. Midori Lichtwardt shared that the Brichetto site was at one point considered as a potential overflow site but ended up being able to fit more units on to the existing Arbor Road site so there was no need to use the Brichetto site and she shared the number of units at the Arbor Road site and that at this time it is close to capacity and that by January the estimate is about 89 beds.

Council Member Bedolla moved that staff under the shelter emergency immediately follow up on helping our City's displaced residents at Arnulfo Plascencia Fields and any other hotspot site where encampments are located or growing due to the changes at El Pescadero Park. If it's a capacity issue find more. Mayor Pro Tem Davis seconded the request.

Mayor Young clarified the process and procedure of making requests during Council Items.

Council Member Bedolla shared that he is proud of his nomination of Council Member Davis as Mayor Pro Tempore and his record on Council and working with all his

colleagues putting aside and refraining from alliances. As elected officials work for the residents of Tracy and not the insiders, keeping this in mind is how Tracy moves forward. Council Member Bedolla was pleased with the overwhelming support that his nomination was met with, proving that Mayor Pro Tem Davis, her availability, and community engagement makes her the right one for the role and it does not have any effect on voting. Council Member Bedolla expressed that he is always in support of upsetting the status quo even if it means standing alone if it is the best decision for the community. Council Member Bedolla wished everyone a Happy New Year and Merry Christmas.

Mayor Pro Tem Davis thanked Council Members Bedolla and Evans for their confidence and support and shared that she asked community members to attend this Council meeting to express their support on her behalf. Mayor Pro Tem Davis expressed that it was an honor and privilege to be a keynote speaker at the Fire pinning ceremony.

Mayor Pro Tem Davis requested for the third time, a memo about Prologis' responsibility to do the roadway and overpass repairs. Seconded by Council Member Bedolla.

Mayor Pro Tem Davis reiterated that she is looking forward to working alongside the Mayor and Council colleagues and looking forward in a positive manner and wished everyone a Merry Christmas and Happy New Year.

Council Member Arriola congratulated the new and promoted firefighters and is looking forward to working with the City Council for the betterment of the community in 2023 and beyond.

Council Member Evans shared that he saw Council come together and that in the past he was a vocal community advocate. He stated that there will be times where not all Council will agree all the time and that part of democracy requires spirited debates to get ideas going and that he is there to continue the hard work for the citizens of Tracy.

Mayor Young congratulated the newly pinned and promoted firefighters, requested that Resolution 2021-131 regarding commission and eligibility lists be reviewed and would like clarification on the eligibility list and criteria. Mayor Young shared community concerns about cannabis business going bankrupt due to delays, shared that she will write a note and send to staff. Mayor Young stated she was glad that there is a warming opportunity and that it had been mentioned to her that a church on Eden was possibly having a warming center and asked how the City is passing along the information. Midori Lichtwardt, Assistant City Manager shared that information regarding homelessness can be found on the City website. Mayor Young wished a Merry Christmas, Happy Kwanza, Happy New Year to everyone.

5. ADJOURNMENT – Time: 8:13 p.m.

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

The above agenda was posted at the Tracy City Hall on December 20, 2022. The above are action minutes. A recording is available at the office of the City Clerk.

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Mayor

ATTEST:

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City Clerk



TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

January 17, 2023, 5:30 p.m.

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

1. Mayor Pro Tem Davis called the meeting to order at 5:32 p.m.
2. Roll call found Council Members Arriola, Bedolla, Evans, and Mayor Pro Tem Davis present. Mayor Young absent.
3. ITEMS FROM THE AUDIENCE – None
4. CONSENT CALENDAR – Motion was made by Council Member Bedolla and seconded by Council Member Arriola to adopt the consent calendar. Roll call found Council Members Arriola, Bedolla, Evans and Mayor Pro Tem Davis in favor; passed and so ordered. Mayor Young absent.
  - 4.A 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 January 17, 2023 through February 15, 2023 pursuant to the Brown Act. – **Resolution 2023-001** adopted the findings and re-authorized remote teleconference meetings.

5. Request to Conduct Closed Session

Real Property Negotiations (Gov. Code. Section 54956.8)

Property Location: APN: 235-068-06  
729/741 N. Central Avenue, Tracy, CA

Negotiators for the City: Michael Rogers, City Manager  
Midori Lichtwardt, Assist. City Manager  
William Dean, Assist. Director of Development Services  
Ed Wanket, Eco. Development Management Analyst  
Scott Claar, Senior Planner  
Bijal Patel, City Attorney

Under Negotiation: Price & Terms of Payment

There was no public comment.

- 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, Evans and Mayor Pro Tem Davis in favor; passed and so ordered. Mayor Young absent. Time: 5:36 p.m.

6. Reconvened to Open Session – Time: 6:06 p.m.
7. Report of Final Action – None

8. Council Items and Comments – Council Member Arriola stated he brought to the City’s attention the possibility related to affordable housing and the implementation of what is called a builder’s remedy, essentially if the city does not have enough housing, we lose the ability to zone and requested a workshop related to addressing the builder’s remedy issue. Mayor Pro Tem Davis and Council Member Bedolla seconded the request.
9. Adjournment: Time: 6:07 p.m.

**ACTION:** Motion was made by Council Member Arriola and seconded by Council Member Evans to adjourn. Roll call found Council Members Arriola, Bedolla, Evans and Mayor Pro Tem Davis in favor; passed and so ordered. Mayor Young absent.

The above agenda was posted at the Tracy City Hall on January 12, 2023. The above are action minutes. A recording is available at the office of the City Clerk.

ATTEST:

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Mayor

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City Clerk

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

January 17, 2023, 6:00 p.m.

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

Mayor Pro Tem Davis called the meeting to order at 6:07 p.m.

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

1. ITEMS FROM THE AUDIENCE - None
2. CITY COUNCIL CONDUCT A WORKSHOP TO REVIEW THE USER FEE STUDY AND PROVIDE FEEDBACK

Sara Cowell, Finance Director introduced Lauren Guido, consultant from NBS who provided the presentation and responded to questions.

Council questions and comments followed.

Karin Schnaider, Assistant City Manager responded to questions.

City Council provided feedback.

Council Member Evans asked staff to look at the \$400,000 deficit for facility rentals as it could potentially be another opportunity for cost recovery.

Council Member Arriola asked staff to take into consideration, as we are going through the process, to ensure there are separate policies related to equity for low-income families and making sure we are maintaining those programs.

Mayor Pro Tem Davis asked to see cost recovery for the animal services unit.

3. COUNCIL ITEMS AND COMMENTS - None
4. ADJOURNMENT – Time: 6:36 p.m.

**ACTION:** Motion was made by Council Member Arriola and seconded by Council Member Evans to adjourn. Roll call found Council Members Arriola, Bedolla, Evans and Mayor Pro Tem Davis in favor; passed and so ordered. Mayor Young absent.

The above agenda was posted at the Tracy City Hall on January 12, 2023. The above are action minutes. A recording is available at the office of the City Clerk.

\_\_\_\_\_  
Mayor

ATTEST:

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City Clerk

January 17, 2023, 7:00 p.m.

City Hall, 333 Civic Center Plaza, Tracy

Web Site: [www.cityoftracy.org](http://www.cityoftracy.org)

Mayor Pro Tem Davis called the meeting to order at 7:00 p.m.

Scout Troop and Pack 525 led the Pledge of Allegiance.

Tim Heinrich, Crossroads Baptist Church provided the invocation.

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

Mayor Pro Tem Davis presented Certificates of Appointment to incoming Youth Advisory Commissioners.

1. CONSENT CALENDAR – Following the removal of Consent Item 1.A by Adrienne Richardson, City Clerk and 1.E by Council Member Evans motion was made by Council Member Bedolla and seconded by Council Member Arriola to adopt the Consent Calendar. Roll call found all in favor; passed and so ordered. Council Member Evans recused himself from voting on Item 1.G.

Arial Harris asked for clarification whether Council Member Evans pulled Item 1.G from the Consent Calendar or recused himself from Item 1.G. Adrienne Richardson, City Clerk confirmed Council Member Evans recused himself from Item 1.G.

- 1.B Waive second reading of full text and adopt an ordinance: 1) repealing the 2019 edition of the California Building Code, Fire Code, Mechanical Code, Plumbing Code, Energy Code, Residential Code, Existing Building Code, Green Standards Building Code, and the Historic Building Code, all codified under Tracy Municipal Code Title 9; 2) making findings to substantiate modifications to the 2022 California Building Codes and Standards, due to local climatic, geological or topographical conditions; 3) adopting, with local amendments, the 2022 California Building Codes and Standards, and codifying the same as Tracy Municipal Code Title 9; 4) adopting Appendices C, F, H, I, K, P under the California Building Code, Appendices D and G under the Mechanical Code, Appendices A, B, C, D, E, G, H, I, J and K under the Plumbing Code, Appendices H, I, O, R, S, W, Y, Z under the Residential Code, Appendix A under the Historical Building Code, and Appendices B, BB, C, CC, D, F, H, L, N, and O under the Fire Code, and codifying the same as Tracy Municipal Code Title 9; and 5) adopting California Environmental Quality Act Exemption Findings. – **Ordinance 1335 was adopted.**
- 1.C City Council adopt a resolution 1) approving the AB1600: Development Impact Fee Annual Report & Five-Year Report for Fiscal Year 21-22 regarding Development Impact Fee revenues and expenditures, and 2) making findings regarding unexpended funds in accordance with the Mitigation Fee Act.– **Resolution 2023-002** approved the AB1600: Development Impact Fee Annual

Report & Five-Year Report for Fiscal Year 21-22 and made findings regarding unexpended funds.

- 1.D City Council: (1) accept the demolition work of the structure at 2399 E. Grant Line Road, Tracy, California, a non-CIP project, which was completed by CVE Contracting Group, Inc. dba Central Valley Environmental, of Fresno, California; (2) authorize the City Clerk to File the Notice of Completion with the San Joaquin County Recorder's Office; (3) authorize the City Engineer to release the bonds and retention payment; and (4) authorize the Finance Department to close the project. - **Resolution 2023-003** accepted the demolition work completed by CVE Contracting Group, Inc. dba Central Valley Environment.
- 1.F City Council: 1) adopt a resolution approving a Quitclaim Deed for the conveyance of a twenty (20) foot wide temporary water line easement to Wright Family Holdings, LLC, and 2) authorize the City Clerk to sign the Quitclaim Deed. - **Resolution 2023-004** approved a Quitclaim Deed for conveyance of a twenty foot wide temporary water line easement to Wright Family Holdings, LLC.
- 1.G Council 1) approve the Final Subdivision Map and the Subdivision Improvement Agreement between City and Bright Homes, Inc, for Tract 3804 Larkspur Estates Unit 4, and 2) authorize the City Clerk to file the Subdivision Improvement Agreement with the San Joaquin County Recorder. - **Resolution 2023-005** approved the Final Subdivision Map and Subdivision Improvement Agreement with Bright Homes, Inc. for Tract 3804 Larkspur Estates Unit 4. Council Member Evans recused himself from voting on the item.
- 1.H City Council adopt two resolutions: (1) Awarding a construction contract to TNT Industrial Contractors, Inc. for the construction of the Ammonia Storage/Feed Systems (CIP 75162 - Well Improvements) in the amount of \$1,086,684 at Park & Ride Well No. 6 and Ball Park Well No. 7; and (2) Approving a Professional Services Agreement with Carollo Engineers, Inc. to provide design support services during construction of the Ammonia Storage/Feed Systems (CIP 75162 - Well Improvements) for a term of seven (7) months and a total not to exceed amount of \$137,651. - **Resolution 2023-006** awarded the contract to TNT Industrial Contractors, Inc. **Resolution 2023-007** approved a Professional Services Agreement with Carollo Engineers.
- 1.I City Council adopt a resolution (1) accepting improvements for Kagehiro Phase 2, Tract 3882, constructed by Taylor Morrison of California, LLC, a California Limited Liability Company, and assume responsibility for the future maintenance and repair, and (2) authorizing the City Engineer to release performance and payment, and monumentation bonds, and (3) authorizing the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office. - **Resolution 2023-008** accepted improvements for Kagehiro Phase 2, Tract 3882 constructed by Taylor Morrison of California, LLC.
- 1.J City Council adopt a resolution approving (1) a Public Right-of-Way Dedication of Fee Interest for existing Paradise Road; (2) a grant of a Public Utility Easement adjacent to Paradise Road, and (3) authorizing the City Clerk to file the Dedication and Easement documents with the San Joaquin County Recorder. - **Resolution 2023-009** approved a Public Right-of-Way Dedication of Fee Interest

for existing Paradise Road and grant of a Public Utility Easement adjacent to Paradise Road.

- 1.K City Council 1) approve the Final Subdivision Map and Subdivision Improvement Agreement between City and Lennar Homes of California, LLC for Tract 4112 – Tracy Hills Villages 10A and 10B, and 2) authorize the City Clerk to file the Subdivision Improvement Agreement with the Office of the San Joaquin County Recorder. – **Resolution 2023-010** approved the Final Subdivision Map and Subdivision Improvement Agreement with Lennar Homes of California, LLC., for Tract 4112 – Tracy Hills Villages 10A and 10B.
- 1.L City Council 1) approve the Final Subdivision Map and Subdivision Improvement Agreement between City and Lennar Homes of California, LLC for Tract 4114 – Tracy Hills Village 11B, and 2) authorize the City Clerk to file the Subdivision Improvement Agreement with the Office of the San Joaquin County Recorder. – **Resolution 2023-011** approved the Final Subdivision Map and Subdivision Improvement Agreement with Lennar Homes of California, LLC., for Tract 4114 – Tracy Hills Village 11B.
- 1.M City Council approve the Interstate 580/Patterson Pass Road/International Parkway Interchange Improvement project as the City of Tracy regional transportation project for congressional appropriation requests during San Joaquin Council of Governments’ One Voice trip to Washington D.C.– **Resolution 2023-012** approved the Interstate 580/Patterson Pass Road/International Parkway Interchange improvement project as the City of Tracy regional transportation project for congressional appropriation request during the San Joaquin Council of Governments’ One Voice trip to Washington D.C.
- 1.N City Council approve a one-year extension of the 2016-2021 Community Development Block Grant (CDBG) and HOME Program local funding priorities, previously extended on November 16, 2021 up to the fiscal year 2022-2023, for use in scoring of the fiscal year 2023-2024 CDBG and Home Program applications. - **Resolution 2023-013** approved a one-year extension of the 2016-2021 CDBG and HOME Program local funding priorities.
- 1.O City Council adopt a resolution: (1) accepting improvements for Tracy Hills Phase 1A/1B At Grade Water Tank and Pump Station and assuming responsibility for the future maintenance and repair; (2) authorizing the City Engineer to release performance and payment bonds; and (3) authorizing the City Clerk to file the Notice of Completion with the San Joaquin County Recorder’s Office.– **Resolution 2023-014** accepted improvements for Tracy Hills Phase 1A/1B At Grade Water Tank and Pump Station and assuming responsibility for future maintenance and repair.
- 1.P City Council 1) approve the Subdivision Improvement Agreement for Ellis Western Park and Ellis Orchard Park between City and LS-Tracy, LLC, located within Ellis Phase 3 – Town and Country Tract 4007, and 2) authorize the City Clerk to file the agreement with the Office of the San Joaquin County Recorder. – **Resolution 2023-015** approved the Subdivision Improvement Agreements for Ellis Western Park and Ellis Orchard Park with LS-Tracy, LLC., located within Ellis Phase 3 – Town and Country Tract 4007.

- 1.Q City Council adopt a resolution approving a Professional Services Agreement with Tripepi Smith and Associates, Inc. for economic development marketing and communication services for a three-year term and a total not-to-exceed amount of \$106,000. – Resolution 2023-016 approved a Professional Services Agreement with Tripepi Smith and Associates, Inc.
- 1.A Adoption of December 13, 2022, Special Meeting Minutes, December 21, 2022 Closed Session Minutes, December 21, 2022 Special Meeting Minutes and January 9, 2023 Special Meeting Minutes

Adrienne Richardson, City Clerk pulled the item to request Council adopt the minutes minus the December 21, 2022, special meeting minutes due to those minutes being incomplete. The December 21, 2022, special meeting minutes will be brought back to Council for adoption on the February 7, 2023, agenda.

There was no public comment.

There were no Council comments.

**ACTION:** Motion was made by Council Member Arriola and seconded by Council Member Bedolla to adopt Consent Item 1.A. Roll call found all in favor; passed and so ordered.

- 1.E City Council: (1) accept the demolition work of the structure at 714 N. Central Avenue, Tracy, California, a non-CIP project, which was completed by Unlimited Environmental, Inc., of Long Beach, California; (2) authorize the City Clerk to File the Notice of Completion with the San Joaquin County Records Office; (3) authorize the City Engineer to release the bonds and retention payment; and (4) authorize the Finance Department to close the project.

Council Member Evans pulled the item to ask about the approved change orders. Ten percent is not a lot but for a demo project it is a lot and asked what the reason for the change order cost was.

Koosun Kim, Interim City Engineer responded to the question. Mr. Kim also stated he would provide more information to Council Members.

Robert Tanner stated it was the Great Plate that was torn down; project cost was \$82,000 but with change orders was \$106,000 plus and asked what the owners of the property will be charged and when will the City collect the fees.

Karin Schnaider, Assistant City Manager and Bijal Patel, City Attorney responded to the questions.

**ACTION:** Motion was made by Council Member Arriola and seconded by Council Member Bedolla to adopt **Resolution 2023-017** 1) Accepting the demolition work of the structure at 714 N. Central Avenue, Tracy, California, a non-CIP project, which was completed by Unlimited Environmental, Inc. of Long Beach, California; 2) Authorizing the City Clerk to file the Notice of Completion with the San Joaquin County Records Office; 3) Authorizing the City Engineer to release the bonds

and retention payment; and 4) Authorizing the Finance Department to close the project. Roll call found all in favor; passed and so ordered.

Michael Rogers, City Manager announced Item 3.E will be pulled from the agenda. Due to some inconsistent language which needed to be corrected and staff will bring back the item at the next meeting.

2. ITEMS FROM THE AUDIENCE – Karen Moore thanked Council for moving fast and creating a warming center.

Dotty Nygard encouraged Council to create an Environmental Sustainability Action Plan Ad Hoc committee to guide the development, implementation, communication, and future community engagement to meet the environmental regulatory needs of our community. Ms. Nygard stated Tracy Earth Project is proud to partner with the City in April for Tracy Earth Day to educate the public to address our climate change crisis. The event is on April 29 from 9:00 a.m.-3:00 p.m.

Ms. Wood spoke in favor of an Environmental Sustainability Action Committee, urged Council to move to create a committee tonight or on the next agenda and spoke about benefits the committee would bring to the City.

Dustin Smith-Salinas stated he lives at the corner of Reddington at Belconte in Tracy. New Years Eve was hit by rainstorm and the channel way behind their house overflowed causing multiple cars to be stuck in the road and ultimately the road was closed. Mr. Smith-Salinas felt the flooding in the neighborhood could have been prevented if channel ways were properly maintained and asked Council to evaluate channel ways, upkeep schedules, create an updated maintenance plan, and present at a Council meeting sometime this year and ensure maintenance is proactive and not reactive.

William Muetzenberg spoke on behalf of Public Health Advocates (PHA), shared information on PHA and asked Council to bring forward the creation of an Environmental Accountability Committee for discussion.

Alice English congratulated the following 2022 nomination and elected officials: Council Member Evans, Mayor Pro Tem Davis for her nomination to Mayor Pro Tem, Ron Freitas as District Attorney, Assembly Member Villapudua, and Robert Rickman as Chair on the Board of Supervisors. Ms. English also congratulated Fire Chief Bradley and Robert Rickman for working together during the storm and shared her appreciation for first responders. Has confidence this Council will get the needs of the City done.

Ram Kedlaya echoed what other citizens talked about regarding an Environmental Sustainability Committee. Ram spoke about the effects of composting and shared examples of what can and cannot be composted and suggested using the website: [whatbin.com](http://whatbin.com).

Council Member Arriola asked staff when the Environmental Committee item will be coming to Council.

Karin Schnaider, Assistant City Manager responded two additional committee requests will be brought back with the Environmental Committee on March 7 for Council consideration.



### 3. REGULAR AGENDA

- 3.A Approve by motion, after discussion, out-of-state travel for designated City Council Members to 1) Washington, D.C. for the following conference and lobbying trips: 2023 National League of Cities Congressional City Conference, a Federal Lobby Trip by the City of Tracy, and the San Joaquin Council of Governments Lobby Trip Known As The One Voice®; and 2) Dallas, Texas for the 2023 Public-Private Partnership Conference and Expo.

Karin Schnaider, Assistant City Manager provided the staff report.

There was no public comment.

Council comments and questions followed.

**ACTION:** Motion was made by Council Member Bedolla and seconded by Council Member Arriola to approve out-of-state travel for designated City Council Members to 1) Washington, D.C. for the following conference and lobbying trips: 2023 National League of Cities Congressional City Conference, a Federal Lobby Trip by the City of Tracy, and the San Joaquin Council of Governments Lobby Trip known as The One Voice®, and 2) Dallas, Texas for the 2023 Public-Private Partnership Conference and Expo.

Mayor Young requested to attend the National League of Cities in March and the Annual African American Mayor's Association Conference will be just prior to the lobbying trip in April and asked to leave a few days earlier to be able to attend that as well.

Council Member Bedolla made a friendly amendment to include the National League of Cities trip and the Annual African American Mayor's Association Conference. Council Member Arriola seconded the friendly amendment to the motion. Roll call found all in favor; passed and so ordered.

Bijal Patel, City Attorney asked if the Mayor included a conference that was not on the agenda because that cannot be included in the friendly amendment. Ms. Patel asked for clarification if Mayor Young's request was for all Council to attend or just for the Mayor and confirmed a request to bring back the item can be made under Council items.

**ACTION:** Motion was made by Council Member Bedolla and seconded by Council Member Arriola to approve out-of-state travel for all City Council Members to 1) Washington, D.C. for the following conference and lobbying trips: 2023 National League of Cities Congressional City Conference, a Federal Lobby Trip by the City of Tracy, and the San Joaquin Council of Governments Lobby Trip known as The One Voice®, and 2) Dallas, Texas for the 2023 Public-Private Partnership Conference and Expo. Roll call found all in favor; passed and so ordered.

- 3.B City Council appoint, by motion, Lori Souza and Scott Arbogast to serve the remainder of two (2) vacated terms beginning January 18, 2023 and ending

January 31, 2024 to the City of Tracy Parks and Community Services Commission.

Adrienne Richardson, City Clerk provided the staff report.

Mayor Young and Mayor Pro Tem Davis spoke about their recommendation.

There was no public comment.

**ACTION:** Motion was made by Council Member Arriola and seconded by Mayor Young to appoint Lori Souza and Scott Arbogast to serve the remainder of two (2) vacated terms beginning January 18, 2023 and ending January 31, 2024 to the City of Tracy Parks and Community Services Commission. Roll call found all in favor; passed and so ordered.

3.C City Council appoint, by motion, a subcommittee of two Council Members, and an alternate, to interview applicants to fill three-term expirations on the Building Board of Appeals.

Adrienne Richardson, City Clerk provided the staff report.

Council questions and comments followed.

**ACTION:** Motion was made by Council Member Bedolla and seconded by Council Member Arriola to appoint Council Member Bedolla and Council Member Evans to the subcommittee and Council Member Arriola to serve as alternate to interview applicants to fill three term expirations on the Building Board of Appeals. Roll call found all in favor; passed and so ordered.

3.D City Council appoint, by motion, a subcommittee of two Council Members, and an alternate, to interview applicants to fill two-term expirations on the Measure V Residents' Oversight Committee.

Adrienne Richardson, City Clerk provided the staff report.

Council questions and comments followed.

**ACTION:** Motion was made by Council Member Bedolla and seconded by Council Member Arriola to appoint Council Member Evans and Mayor Pro Tem Davis to the subcommittee and Council Member Bedolla to serve as alternate to interview applicants to fill two term expirations on the Measure V Residents' Oversight Committee. Roll call found all in favor; passed and so ordered.

3.E City Council approve a resolution to extend for one-year the term of the City Council Ad-Hoc Fiscal Sustainability Subcommittee. – ITEM PULLED FROM AGENDA

3.F City Council review and determine appointments to Council committees and other committees, boards and commissions.

Adrienne Richardson, City Clerk provided the staff report.

Council questions followed.

Karen Moore asked to appoint a Council Member in addition to staff to the Solid Waste Management Advisory Commission.

Pat Howell requested Council Member Arriola remain on the East Bay Community Energy Committee and the City/School Liaison Committee.

Dotty Nygard recommended keeping committee members on committees where they are already serving to continue their hard work they have already initiated, and recommended Council Member Arriola stay on East Bay Community Energy and the City/School Liaison Committee.

Alice English shared her reasons for recommending the Council Members to various following committees: EBCE - Council Member Arriola, South San Joaquin County Fire Authority - Mayor Pro Tem Davis and Council Evans, Homeless Advisory Committee – Mayor Pro Tem Davis, Tri Valley Rail Authority – Council Member Bedolla and Mayor Pro Tem Davis as alternate.

Council questions and comments followed.

Bijal Patel, City Attorney responded to Mayor Pro Tem Davis's question regarding information related to the validity of Valley Link being a Mayoral appointment stating she has been in communication with the outside Counsel for Valley Link and also got a copy of the By-laws as well as the State Enabling Legislation. For clarity the legislation notes the member agencies would have appointments to the Valley Link Board and it says that those directors are to be appointed by the Governing Board/Mayor or Supervisor of each entity. That language is flexibly noting these are all differently formed entities and is recognizing the entities may have their own processes. Section 2.4 of the Council Code of Conduct governs how this Council body appoints its members to the different committees whether they are Council formed advisory boards/commissions or committee or third-party committees and they need to be approved by a majority of the Council.

Council Member Arriola asked if our protocols are in contrast with State Law would not the State Law be the fulfilling agency by which we would have to comply.

Ms. Patel referred to the State Enabling Legislation, it's not dictating how the local entity appoints, it is indicating they can be appointed in one of those three forms by the Mayor, Supervisor or governing board. These are all special districts which had its own set of enabling legislation and other special districts and enabling means it's the actual legislation that was adopted by the State Legislature when those special districts were formed. Ms. Patel explained she reached out to outside Valley Link Counsel who indicated that this is the

language, but suggested the City have clarity in any resolution adopted by this Council as to who is the appointed member by this Council as well as the alternate. It is not inconsistent with the State Enabling Legislation for Valley Link Board.

Council comments continued.

**ACTION:** Motion was made by Council Member Bedolla and seconded by Council Member Evans to appoint Mayor Pro Tem Davis and Council Member Bedolla to the Tracy Homelessness Advisory Committee and appoint Council Member Bedolla as the representative and Council Member Arriola as the alternate to East Bay Community Energy (EBCE) and Council Member Bedolla as representative and Mayor Pro Tem Davis as alternate to Tri-Valley-San Joaquin Valley Regional Rail Authority (Valley Link).

Council discussion continued.

Mayor Young made a substitute motion to approve the slate as presented with fill ins that have already been done and then fill in section by section with the vacancies. There was no second for the motion.

**ACTION:** Council Member Arriola made a separate substitute motion to appoint Council Member Arriola to EBCE and Council Member Bedolla as alternate. Mayor Young seconded the motion. Roll call found Council Member Arriola and Mayor Young in favor. Council Members Bedolla, Evans and Mayor Pro Tem Davis opposed. Motion failed.

Council comments continued.

**ACTION:** Council Member Bedolla repeated the following original motion. Motion was made by Council Member Bedolla and seconded by Council Member Evans to appoint Mayor Pro Tem Davis and Council Member Bedolla to the Tracy Homelessness Advisory Committee and appoint Council Member Bedolla as representative and Council Member Arriola as the alternate to the EBCE board and Council Member Bedolla as representative and Mayor Pro Tem Davis as the alternate to Tri-Valley-San Joaquin Valley Regional Rail Authority (Valley Link). Roll call found Council Members Bedolla, Evans and Mayor Pro Tem Davis in favor. Council Member Arriola opposed.

Mayor Young requested to invoke suspending the item at this time.

Ms. Patel responded there is a motion on the floor that has already started counting and needs to be finalized as the final voting did not occur.

Mayor Young responded it can be suspended at any time.

Ms. Patel confirmed with Mayor Young that she was referencing the Rules of Procedure and requested a pause in the meeting to research and understand the authority by which the Mayor may suspend the item.

Mayor Pro Tem Davis called for a break at 8:36 p.m.

Mayor Pro Tem Davis reconvened the meeting at 8:42 p.m.

Ms. Patel confirmed that Mayor Young can make a motion to table any item however there is a timing requirement. The voting process for the motion on the floor has to be completed. After the voting has been completed a motion can be made and could be heard if there is a second to the motion. The current motion cannot be stopped because the voting has already started and needs to be finished in terms of voting.

Mayor Young asked Council to reconsider and bring back the item in its entirety and bring it all back together as it should be.

Ms. Patel reiterated the motion has already been approved and there is the majority vote, but it needs for formality to finish the full roll call vote and then that motion gets passed and in order to change the occurrence you have to do a motion for reconsideration.

Mayor Young disagreed with the City Attorney and felt Council has the ability to stop it now and bring back the whole item in its entirety because if there is something found legally unstable it would have to come back.

Ms. Patel confirmed Council Member Bedolla's question regarding the only way a motion to reconsider can be brought up is if the person making the motion is in the affirmative. Mayor Young would have to vote in the affirmative right now to then pursue a course of motion to reconsider.

Ms. Patel clarified the motion made by Council Member Bedolla is being voted on and needs to be completed. After the conclusion of that roll call vote a motion can be made to table the remainder of the item. That motion like any other motion will require a second and under Rosenberg's Rules that motion to table is just a majority vote not a super majority vote. A motion for reconsideration can only be made by someone who voted for the original motion in the affirmative.

Mayor Young stated she would vote in the affirmative so that she can bring it back for reconsideration. Mayor Young moved that and asked to table the entire item until the next Council meeting when Council can get answers and the correct procedure for this.

Mayor Pro Tem Davis asked Mayor Young if her vote was in the affirmative in support of Council Member Bedolla's slate.

Mayor Young confirmed it is in the affirmative so she can technically bring it back.

Ms. Patel stated in order to make this current motion undone a motion needs to be made for reconsideration. That motion for reconsideration needs to be done before the conclusion of this meeting. Ms. Patel believed that separately Mayor Young wished to table the consideration of the remainder of the items and that is definitely a motion that can be made and a second is needed along with a vote.

**ACTION:** Mayor Young made a motion to table the item and bring it back at the next Council meeting. There was no second to the motion.

Council continued on with reviewing the appointments to the Council Committees/Boards/Commissions/Agencies.

City/Chamber Liaison Committee

Motion was made by Council Member Bedolla and seconded by Council Member Evans to appoint Council Member Arriola to the City/Chamber Liaison Committee and Council Member Bedolla as alternate. Roll call found all in favor; passed and so ordered.

**ACTION:** City/School Liaison Committee  
Motion was made by Council Member Evans and seconded by Council Member Bedolla to appoint Council Member Evans and Mayor Young to the City/School Liaison Committee. Roll call found Council Member Bedolla, Evans, Mayor Pro Tem Davis and Mayor Young in favor. Council Member Arriola opposed.

Mayor Young requested a friendly amendment to the motion to include Council Member Arriola as the alternate. Council Member Evans and Council Member Bedolla supported the friendly amendment. Roll call vote found Council Members Bedolla, Evans, Mayor Pro Tem Davis and Mayor Young in favor; passed and so ordered. Council Member Arriola opposed.

Mayor Young motioned to reconsider the previous motion to appoint Council Member Evans and Council Member Arriola to the City/School Liaison Committee and Mayor Young as alternate. Council Member Arriola seconded the motion. Roll call found all in favor; passed and so ordered.

**ACTION:** South San Joaquin County Fire Authority  
Motion was made by Council Member Bedolla and seconded by Council Member Evans to appoint Council Member Evans and Mayor Pro Tem Davis to the South San Joaquin County Fire Authority and Council Member Bedolla as the alternate.

Mayor Young made a substitute motion to appoint Mayor Pro Tem Davis and Mayor Young to serve on the board and Council Member Bedolla as alternate. Roll call vote found Council Member Arriola and Mayor Young in favor. Council Members Bedolla, Evans and Mayor Pro Tem Davis opposed. Motion failed.

Roll call for the original motion for appointment to South San Joaquin County Fire Authority found Council Members Arriola, Bedolla, Evans, Mayor Pro Tem Davis in favor; passed and so ordered. Mayor Young opposed.

**ACTION:** Investment Review Committee  
Motion was made by Mayor Young and seconded by Council Member Evans to appoint Council Member Bedolla and Council Member Evans to serve on the Investment Review Committee. Roll call found all in favor; passed and so ordered.

**ACTION:** Solid Waste Management Plan Advisory Task Force  
Motion was made by Council Member Bedolla and seconded by Council Member Arriola to appoint Council Member Arriola to serve on the Solid Waste Management Plan Advisory Task Force and Council Member Bedolla as alternate. Roll call found all in favor; passed and so ordered.

**ACTION:** League of California Cities Central Valley Division Executive Committee  
Motion was made by Council Member Evans and seconded by Council Member Bedolla to appoint Mayor Pro Tem Davis and Council Member Evans as alternate to the League of California Cities Central Valley Division Executive Committee. Roll call found all in favor; passed and so ordered.

**ACTION:** San Joaquin Partnership  
Motion was made by Council Member Arriola and seconded by Council Member Bedolla to appoint Mayor Young to serve on the San Joaquin Partnership and Council Member Arriola as alternate. Roll call found all in favor; passed and so ordered.

**ACTION:** San Joaquin Valley Pollution Control District Special City Selection Committee  
Motion was made by Council Member Bedolla and seconded by Council Member Evans to appoint Council Member Bedolla to the San Joaquin Valley Air Pollution Control District.

Mayor Pro Tem Davis asked about an alternate and Council Member Evans volunteered to serve as alternate. Council Member Bedolla and Council Member Evans accepted the friendly amendment. Roll call found all in favor; passed and so ordered.

**ACTION:** Tracy Chamber Governmental Affairs Committee  
Motion was made by Council Member Bedolla and seconded by Council Member Evans to appoint Mayor Pro Tem Davis to the Tracy Chamber Governmental Affairs Committee and Council Member Bedolla to serve as alternate.

Council Member Bedolla made a friendly amendment to the motion to include the City Manager or designee as a City representative. Council Member Evans seconded the friendly amendment. Roll call found all in favor; passed and so ordered.

Altamont Regional Traffic Authority (ARTA) JPA  
The Mayor of the City of Tracy is appointed by the legislation for ARTA.

City Selection Committee  
The Mayor of the City of Tracy is appointed by the legislation for the City Selection Committee.

**ACTION:** San Joaquin Council of Governments  
Motion was made by Mayor Young and seconded by Council Member Bedolla to appoint Mayor Young to serve on the San Joaquin Council of Governments and Mayor Pro Tem Davis as alternate. Roll call found all in favor; passed and so ordered.

**ACTION:** San Joaquin County Water Advisory Commission  
Motion was made by Mayor Young and seconded by Council Member Bedolla to appoint Council Member Bedolla to serve on the San Joaquin County Water Advisory Commission along with staff. Roll call found all in favor; passed and so ordered.

San Joaquin Regional Rail Commission  
Appointed by SJCOG and the Mayor is in that seat.

Mayor Pro Tem Davis confirmed that the appointments to the Ad Hoc Fiscal Sustainability Subcommittee will not be done at this time.

Mayor Young announced there was a public comment received via email from Margo Praus in support of an Environmental Committee.

4. ITEMS FROM THE AUDIENCE – Alice English apologized to staff for leaving out Public Works acknowledging their hard work through the storms, added she saw that MacArthur Blvd is closed in the County due to a road cave in and asked if the City is working with the County.
5. STAFF ITEMS – Michael Rogers, City Manager thanked staff at City of Tracy and South San Joaquin County Fire Authority for all their hard work throughout the storm. Mr. Rogers provided the following updates:
  - Tracy Material Recovery Facility – roads are impacted, and the garbage trucks cannot drop off the waste so they are going to Manteca. Waste pickup is continuing to happen. There may be some delays however they will pick up each day. We are trying to make sure to give as much support to the County as possible as there are a lot of roads impacted throughout the county.
  - For those looking for road closures and things of that nature, go to SJReady.org and it is important for residents who have suffered private property damage to report to the County at SJReady.org as well. The information is also on the City website.

Bijal Patel, City Attorney shared that she recently travelled to India and visited a village in her home state and there is a charitable foundation that does tremendous work that started in the late 70's by a women who wanted to provide better access to health care and education to the indigenous people in that area. Ms. Patel met the Chairman of Board of that massive facility, who has large donors in Tracy and visits Tracy twice a year. In the middle of this village that has limited infrastructure the City of Tracy is known.

6. COUNCIL ITEMS – Council Member Evans thanked first responders, there is a lot going on with this storm event and those that are affected, his heart and prayers are with you. Has been reading reports from Tracy Press and South San Joaquin County Fire Authority who have been keeping us on top of what is going on. Tracy River Club, Kasson Road was closed, was a potential evacuation. Lot of boots on ground doing great work. Thank you and be safe.



Council Member Arriola thanked our first responders, been incredible work. Continue to be safe and continue to look for alerts.

Council Member Bedolla stated there is a website called whatbin.com that gives information about what can be put in what bin, and asked staff to look into this if it fits within their operational procedures and to see if worth sharing with residents.

Council Member Bedolla asked for support for the request by Mayor Young to attend the Mayor's African American Association conference from April 19 – 21, 2023. Mayor Pro Tem Davis supported the request.

Council Member Bedolla thanked all public servants for the warming center that was put up in a short amount of time during the new year and the response to the flash rains experienced in the new year also. Council Member Bedolla provided an update on Valley Link and the Cal Cities Transportation Communication and Public Works Policy Committee. Council Member Bedolla thanked Mayor Young for her advocacy in Washington D.C. she is doing on behalf of the City and Mayor Pro Tem Davis for filling in for Mayor Young today. Council Member Bedolla thanked everyone for coming out today and tuning in and urged all as a Council that it is important to understand our basic Rosenberg Rules of Orders. As a Council we are elected and trusted by citizens, and it is great to have the passion and energy, but it is a disservice and disrespectful to people when actions by Council Members are called in an attempt to sink the ship especially when that charge is a blatant misunderstanding of how City appointments work. Always in favor of full transparency and expeditious process and that requires our Council to work together. As we have seen today, it was not pretty but this is democracy in action.

Mayor Young thanked Mayor Pro Tem Davis for running the meeting. Mayor Young asked for clarification of when Agenda Item 3.E will be coming back.

Karin Schnaider, Assistant City Manager responded the ad hoc is coming back on the next agenda and the environmental, DEI and one on governmental accountability are the three she is working on for March 7.

Mayor Young announced February 1 is the first day of Black History Month and at 10:00 am that day the flag will be raised and there will be a special ceremony honoring the very first African American Council Member which is Evelyn Tolbert and will be inside the lobby.

Mayor Pro Tem Davis expressed gratitude to first responders, OES team, Public Works, and staff. Mayor Pro Tem Davis mentioned the Black Student Union pancake breakfast was outstanding and congratulated them on the event. Council Member Arriola was also in attendance. Thanked staff for getting the homeless warming center up for unhoused members of our community.

Mayor Pro Tem Davis asked again about Prologis road improvements and when they are going to be done and also Corral Hollow widening. Have asked four times and would like an update sooner than later. The weather is getting worse and people are driving and we need to get our roads done. Council Member Bedolla supported the request.

Mayor Pro Tem Davis thanked Mayor Young for trusting her with the responsibility and thanked the community for coming out and bearing with her during this time.

7. ADJOURNMENT – Time: 9:49 p.m.

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

The above agenda was posted at the Tracy City Hall on January 12, 2023. The above are action minutes. A recording is available at the office of the City Clerk.

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Mayor

ATTEST:

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City Clerk

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

January 30, 2023, 5:00 p.m.

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

1. Mayor Young called the meeting to order at 5:01 p.m.
2. Roll call found Council Members Arriola, Bedolla, Evans, Mayor Pro Tem Davis and Mayor Young present.
3. ITEMS FROM THE AUDIENCE – None
4. Request to Conduct Closed Session
  - 4A. 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
  - 4.B Conference with Legal Counsel — Existing Litigation (Gov. Code § 54956.9(d)(1))  
Rosebrook 58, LLC v City of Tracy, et al. San Joaquin County Superior Court, Case STK-CV-UST-2022-10145 - Item not discussed and will be moved to a later date.

Mayor Pro Tem Davis stated she will be recusing herself from Item 4.A until she has formal advice from the FPPC.

There was no public comment.

- ACTION:** Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Davis to recess to closed session. Roll call found all in favor; passed and so ordered. Time: 5:04 p.m.
5. Reconvened to Open Session – Time: 6:32 p.m. Mayor Young announced item 4.B was not discussed and will be heard at a later date.
  6. Report of Final Action – None.
  7. Council Items and Comments – Council Member Bedolla reported on meeting held as the Latino Caucus’s representative for Cal Cities on the Transportation and Communication and Public Works Committee and spoke about the adoption of the 2023 workplan. Council Member Bedolla shared related to two items published by Tracy Press: 1) The vote for the Mayor Pro Tem position and votes for the Council Committee position. The reporting was not in line with the Council minutes. In this case the Mayor Pro Tem nomination was characterized as something that he made without regard. Council Member Bedolla stated he would save further comments for later.

8. Adjournment – Time: 6:35 p.m.

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

The above agenda was posted at the Tracy City Hall on January 26, 2023. The above are action minutes. A recording is available at the office of the City Clerk.

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Mayor

ATTEST:

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City Clerk

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

January 30, 2023, 6:00 p.m.

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

Mayor Pro Tem Davis called the meeting to order at 6:35 p.m.

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

1. ITEMS FROM THE AUDIENCE – Karen Moore stated in the past during an agenda item there will be discussion from Council then the public and then a motion, second and vote. Last meetings Council voted differently. Ms. Moore added it is becoming less transparent and asked to go back to the way Council previously voted.

Gabriela Machucca, owner of Johnny’s Diner stated she spoke at the October 18, 2022 Council meeting and requested amending the mobile food ordinance. Ms. Machucca stated she now only has a food trailer and needs to seek special approval from Development Services to see if they will approve the land use to existing operating restaurants to serve as her commissary per the Health Department and Development Services. Ms. Machucca shared her experience with Development Services and facing red tape regarding land use and added it needs to stop, it is harassment and hoped Council could help address some of the problems she is having.

Council Member Bedolla requested to move Council items before the regular items as he had to leave early due to a prior commitment. Council Member Bedolla made a motion to amend his prior motion of the acceptance of 16 acres of land based on the Offer of Dedication be moved from February 7, 2023 to a meeting before the next case management conference on April 12, 2023. Council Member Evans supported the request. Council Member Bedolla shared he coaches a basketball team.

2. DISCUSSION ITEMS

- 2.A Adopt a Resolution Authorizing: 1) The Display of the Pan-African Flag in honor of Black History Month on the City Flagpole Located Outside of City Hall, for the Month of February, Each Year; 2) Use of City Resources to Conduct A One-Time Flag Ceremony on February 1, 2023; and 3) Waiver of the Requirement Set Forth in Section 2.3.1 of the City of Tracy Flag Policy that Requests be Made by May 1st of Each Year, as related to the Foregoing Actions

Midori Lichtwardt, Assistant City Attorney provided the staff report.

Bobby Bivens represents NAACP of Stockton, showed the Pan African flag and explained what the colors represent and shared the importance of recognizing the work African American people have done, and the value and benefits brought to America. Asked Council to fly the flag during Black History Month starting February 1.

Ameni Alexander urged support of a waiver for this resolution stating it is important to bring the City together. If Council leaves off this flag it will be a disservice and urged Council to look at the Pan African flag, it should be represented.

June Yasemsky shared her support for raising the Pan African flag in recognition of Black History Month and provided some history on Black History Month.

Melvin Lagasca stated the Pan African flag symbolizes more than Black History Month. Ever since the Civil War black Americans have served in every branch of the military service in all levels, symbolism of American history.

Richard Voss stated he was born and raised in a racist segregated town in California, did not become racist. Mr. Voss shared he met his African American wife, began to study black history in America and discovered how privileged he is. Mr. Voss spoke to other white people to spread the word of equality. The flag is a symbol and supported raising of the flag.

Yolande Barial Knight, TAAA, Democratic Club and NAACP asked Council to approve the resolution authorizing the display of the Pan African flag for the month of February annually, use of City resources for ceremony to honor Evelyn Tolbert and a waiver for the annual May request to the flag policy and a one time event scheduled on Wednesday, February 1, 2023. Ms. Knight shared her concerns regarding the display of the flag annually for Black History Month not being adopted by resolution previously and stated we all represent your constituents and asked Council for support of the amendment.

Karen Moore stated she was in support of rectifying the resolution and do fly the flag.

Gurtej Atwal stated he supported and urged Council's support of the Pan African flag in honor of Black History Month and for the month of February each year. Including the Pan African flag will solidify our city's vision towards inclusiveness and take the opportunity to embrace and honor diversity.

Victor Silva stands for unity and solidarity and tomorrow is a great opportunity to celebrate the black Americans who have contributed to American history. This is a time for change. Mr. Silva stated he is tired of seeing U.S. flags half-mast on Government buildings. It is time to make a positive change and join other cities to fly the Pan African flag and asked for approval of an amendment to allow the display.

Lisa Roth supported the flag raising and spoke about solidarity and appreciation for African American history as well as the respect and courtesy and also the celebration of first African Americans elected and Police Chief in Tracy. This should be an easy vote for Council to support because it is the right thing to do.

Kevin James, Pastor of New Creation Bible Fellowship stated since 2007 it has been our City's focus to affirm all people who strive for inclusion. Mr. James spoke about Black History Month, and about a previous meeting when flags were approved and this flag was not. Council has an opportunity to get it right. Appealed to Council to do the right thing.

Veronica Vargas hoped the error can be corrected and stated let's bring the community together, do the right thing and bring all the minorities that we have, the challenges and opportunity to show case the trail blazing people that we have in Tracy, and celebrate the diversity of our town. Ms. Vargas has hope and faith Council will do the right thing.

Luana Johnson Bivens, President the oldest African American Sorority which represents educated black women urged celebration and inclusion of Black History Month because it is important that we celebrate Black History Month which provides an opportunity to gain a deeper understanding of our history. Ms. Bivens shared she was proud Evelyn Tolbert will be celebrated and urged Council to vote to include the raising of the Pan African flag this year and every year.

Chris Cannon stated he was in full support of the flag being raised, it does not have fiscal impact so there is no cost. The City wants to be inclusive and not exclusive.

Gwendolyn White, TAAA President stated she was raised in Columbus, Ohio in a segregated neighborhood and did not even know it and learned because of history that she was in a segregated community. Children here need to know about the Pan African flag, that they did what was necessary to get this country going. This goes further than Tracy and there is more to be done. Ms. White stated for the sake of solidarity fly the flag.

Elizabeth Baker, Chapter President of a Sorority stated the symbol of the flag is an opportunity for the City of Tracy to tell children that your race matters. The ceremony on February 1<sup>st</sup> recognizes affluent or prominent African Americans in Tracy, but let's do better than those that are trying to suppress us and fly the flag and have a sense of pride and stand together.

Ron Tait, African American President for Chamber of Commerce in Stockton stated the City of Tracy is a gateway city and culturally is a melting pot and has the opportunity as the flag is raised to create a standard and a narrative for different cultures that don't understand.

Mr. Bivens shared his concerns regarding the City Attorney not being at the dais during the public comment.

**ACTION:** Motion was made by Council Member Bedolla and seconded by Mayor Pro Tem Davis to adopt a **Resolution 2023-018** authorizing: 1) The display of the Pan-African Flag in honor of Black History Month on the City flagpole located outside of City Hall, for the month of February, each year; 2) Use of City resources to conduct a one-time flag ceremony on February 1, 2023; and 3) Waiver of the requirement set forth in Section 2.3.1 of the City of Tracy Flag Policy that requests be made by May 1<sup>st</sup> of each year, as related to the foregoing actions.

Council comments followed.

Roll call found all in favor; passed and so ordered.

Mayor Young announced there was an email received from Victor Silva regarding the item. Mr. Silva also spoke virtually.

Council Member Bedolla left at 7:38 p.m.

3. COUNCIL ITEMS AND COMMENTS – Council Member Evans stated last Friday he and Mayor Pro Tem Davis visited the temporary homeless shelter and came back with a list of bulletized items. There are eight new portable shelters on site that have been there for a number of weeks. Each have four bedrooms so potentially 42 rooms available. Also, the day before went to El Pescadero Park and counted approximately 30 tents so

about the right number of rooms to get that park cleaned up. Council Member Evans added he came back with list of items remaining to get those units open and houseable and drafted a letter to the City Manager and is hopeful those items are being worked on along with the request that City Council receives an ongoing report every week of all the critical items to get those units into shape so they can be used as housing. Council Member Evans stated he was lucky to be there when the gas generators were being fueled, burning approximately 150 gallons a day of diesel so there is approximately 500 gallons of diesel on site at any given time which is a big environmental risk on site, and he is concerned. There is a possibility of getting electricity out there and the City Manager is in receipt of a company that he knows that can get temporary power on site in an expedited fashion. Looking forward to a staff report on getting those items checked off so we can get the unhoused housed in El Pescadero Park and get the park cleaned up for our kids and move the city forward.

Mayor Young stated she will present her updates at next meeting. Mayor Young stated in the ten years being on the Council she has never not been here in person. The last meeting was, and the next Council meeting will be run by Mayor Pro Tem Davis as she will be in Cancun for her son's wedding. Mayor Young also wished her daughter Lydia a happy birthday next week.

4. ADJOURNMENT – Time: 7:43 p.m.

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

The above agenda was posted at the Tracy City Hall on January 26, 2023. The above are action minutes. A recording is available at the office of the City Clerk.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



Agenda Item 1.B

RECOMMENDATION

**Staff recommends that the City Council adopt a Resolution making findings and re-authorizing remote teleconference meetings of the City Council and all legislative bodies of the City of Tracy for the period from February 8, 2023 through March 9, 2023 pursuant to the Brown Act.**

EXECUTIVE SUMMARY

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

BACKGROUND AND LEGISLATIVE HISTORY

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

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

On January 17, 2023, City Council adopted Resolution 2023-001, which made findings and authorized remote teleconference meetings of the City Council and all legislative bodies of the City of Tracy, including Boards and Commissions, for the period of January 17, 2023 through February 15, 2023. In order to maintain compliance with Section 54953(e) of the Ralph M. Brown Act (Gov. Code section 54950 – 54963) which allows the continued use of teleconferencing, Council must make the required findings and re-authorize remote teleconferencing meetings of the legislative bodies for the City of Tracy.

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

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

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

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

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

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

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

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

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

## ANALYSIS

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

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

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

## FISCAL IMPACT

There is no fiscal impact.

## STRATEGIC PLAN

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

## ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a Resolution making findings and re-authorizing remote teleconference meetings of the City Council and all legislative bodies of the City of Tracy for the period from February 8, 2023, through March 9, 2023 pursuant to the Brown Act.

Prepared by: Adrienne Richardson

Reviewed by: Karin Schnaider, Assistant City Manager

Approved by: Michael Rogers, City Manager

Attachments:

A - Assembly Bill

**Assembly Bill No. 361**

**CHAPTER 165**

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

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

**LEGISLATIVE COUNSEL'S DIGEST**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This bill would make legislative findings to that effect.

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

This bill would make legislative findings to that effect.

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

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

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

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

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

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

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

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

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

(D) Post agendas at all teleconference locations.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

(D) Post agendas at all teleconference locations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) Any of the following circumstances exist:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

(B) Any of the following circumstances exist:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**TRACY CITY COUNCIL**

**RESOLUTION NO. \_\_\_\_\_**

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**MAKING FINDINGS AND RE-AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE CITY COUNCIL AND ALL LEGISLATIVE BODIES OF THE CITY OF TRACY FOR THE PERIOD OF FEBRUARY 8, 2023, THROUGH MARCH 9, 2023 PURSUANT TO THE BROWN ACT**

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

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

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

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

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

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

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

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

**RESOLVED:**

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

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

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

Section 3. Remote Teleconference Meetings. The City Council, including Council subcommittees, and all Boards and Commissions of the City of Tracy are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, continuing to conduct open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act for the period of February 8, 2023 through March 9, 2023.

\* \* \* \* \*

The foregoing Resolution 2023-\_\_\_\_\_ was adopted by the Tracy City Council on February 7, 2023 by the following vote:

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

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

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



Agenda Item 1.C

RECOMMENDATION

**Staff recommends that the City Council adopt a Resolution approving a General Services Agreement with Mountain Cascade, Inc. for the Wastewater Treatment Plant Filter Valve Replacement for a term of three (3) months and a not to exceed amount of \$166,000.**

EXECUTIVE SUMMARY

Proposed improvements under the project include the removal and installation of four (4) tertiary filter valves. The project will improve the efficiency of the tertiary treatment and the City's ability to effectively and efficiently produce wastewater effluent to meet the City's National Pollutant Discharge Elimination System (NPDES) Permits. This agenda item requests authorization to enter into a General Services Agreement (GSA) with Mountain Cascade Inc., selected through a Request for Proposal (RFP) process, to provide such services for a not-to-exceed amount of \$166,000.

BACKGROUND AND LEGISLATIVE HISTORY

The City of Tracy wastewater treatment plant receives and treats a daily average of 10 million gallons per day (MGD) of sewage. The sewage undergoes several different processes including one of the final processes, which is filtering through eight (8) Tertiary Filters before disinfection and discharge to the delta.

Currently, four (4) of the filter valves have valve seats that are in various stages of failure and do not completely isolate the filters during backwash or when trying to isolate the filters. The ability to isolate the filters is vital in the efficient treatment and operation of the filters to meet our discharge permit requirements.

The removal and installation of four (4) new valves will improve the effectiveness and efficiency of the filters and our ability to produce final effluent that meets our NPDES permit requirements.

The scope of work for this project includes the removal and installation of large pneumatic actuators, installation and removal of stop logs to isolate each filter, installation of new stainless steel connecting hardware, and removal and replacement of four (4) new 42" owner supplied butterfly valves. This project will ensure we continue to meet the City's wastewater discharge permits as efficiently as possible by having tertiary filter valves that can isolate the filters for proper operation.

ANALYSIS

On October 19, 2022, a Request for Proposal was posted on the City's website. Three (3) proposals were received on November 10, 2022, for the project. After careful review of the proposals, the City has determined that Mountain Cascade, Inc. demonstrates a high degree of relevant experience and past performance in completing projects of similar type, size, and complexity in a satisfactory manner.

FISCAL IMPACT

Funding for the agreement with Mountain Cascade in the amount of \$166,000 is available in the FY 2022-23 Utilities - Wastewater maintenance budget.

PUBLIC OUTREACH/ INTEREST

No public outreach activity was conducted for this agenda item.

COORDINATION

No departments, agencies, and/or consultants, outside of Mountain Cascade, Inc. were consulted with, for this agenda item.

CEQA DETERMINATION

This agenda item is exempt from CEQA requirements.

STRATEGIC PLAN

This agenda item is consistent with the City's Quality of Life Strategy and meets the goals to ensure water quality that meets state and federal requirements.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a Resolution approving a General Services Agreement with Mountain Cascade, Inc. for the Wastewater Treatment Plant Filter Valve Replacement for a term of three (3) months and a not to exceed amount of \$166,000.

Prepared by: Ken Merkle, Maintenance Operations Superintendent

Reviewed by: James A. Jackson, Operations & Utilities Director  
Sara Cowell, Finance Director  
Midori Lichtwardt, Assistant City Manager

Approved by: Michael Rogers, City Manager

Attachments: A – GSA Mountain Cascade Inc.

DocuSign Envelope ID: 4FB481A5-AA5A-4506-9BEA-7C3A884C3317

City of Tracy – General Services Agreement with Mountain Cascade, Inc.

**CITY OF TRACY  
GENERAL SERVICES AGREEMENT WITH  
Mountain Cascade, Inc. for Four (4) Tertiary Filter Valve Replacement at the  
Wastewater Treatment Plant**

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

**Recitals**

**A.** City desires to retain Contractor to perform repair services; and

**B.** On October 19, 2022, the City issued a Request for Proposals (RFP) for Wastewater Treatment Plant Tertiary Filter Valves Replacement (**Project**). On November 10, 2022, Contractor submitted its proposal for the Project to the City. City has determined that Contractor possesses the skills, experience and certification required to provide the services.

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

**D.** This Agreement is being executed pursuant to Resolution No. 2023-\_\_\_\_ approved by Tracy City Council on February 7, 2023.

**Now therefore, the Parties mutually agree as follows:**

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

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

**2.1 Term.** The term of this Agreement shall begin on February 8, 2023 and end on May 8, 2023, unless terminated in accordance with Section 6.

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

**3.1 Not to Exceed Amount.** Contractor's total compensation under this Agreement shall not exceed \$166,000. Contractor's billing rates shall cover all costs and expenses for Contractor's

performance of this Agreement. No work shall be performed by Contractor in excess of the total compensation amount provided in this section without the City's prior written approval.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**8.1 Rates.** These prevailing wage rates are on file with the City and are available online at <http://www.dir.ca.gov/DLSR>. Each Contractor and Subcontractor must pay no less than the specified

*City of Tracy – General Services Agreement with Mountain Cascade, Inc.*

rates to all workers employed to perform the services described herein. The schedule of per diem wages is based upon a working day of eight hours. The rate for holiday and overtime work must be at least time and one-half. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the City harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker, or any other third party.

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

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

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

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

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

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

City of Tracy – General Services Agreement with Mountain Cascade, Inc.

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

To City:  
City of Tracy  
Director of Operations & Utilities  
520 N. Tracy Blvd.

To Contractor:  
Mountain Cascade, Inc.  
Peter Foote  
555 Exchange Ct.  
Livermore, CA 94550

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

**14. Miscellaneous.**

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

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

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

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

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

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

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

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

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

*City of Tracy – General Services Agreement with Mountain Cascade, Inc.*

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

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

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

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

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

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

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

**[SIGNATURES ON FOLLOWING PAGE]**



City of Tracy – General Services Agreement with Mountain Cascade, Inc.

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

**City of Tracy**

By: Nancy D. Young  
Title: Mayor  
Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Adrienne Richardson, City Clerk

Approved as to form:

\_\_\_\_\_  
Bijal M. Patel, City Attorney

**Contractor**

Mountain Cascade, Inc., a California Corporation

DocuSigned by:  
*Roger Williamson*  
By: Roger Williamson  
Title: Public Works Vice President  
Date: 1/24/2023 4:22 PM EST

Federal Employer Tax ID No. \_\_\_\_\_

DocuSigned by:  
*Michael Duke Fuller*  
By: Michael Duke Fuller  
Title: Chief Financial Officer  
Date: 1/26/2023 1:49 PM PST

**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

Work to be performed includes:

- Disconnect/remove the existing pneumatic actuators on each valve prior to accessing the valve
- Reconnect/install after completion of the required work
- Provide OSHA compliant Confined Space Entry with monitor.
- Remove and replace existing valve actuator including wiring.
- Install the City supplied stop logs to isolate individual sections required for performing the work.
- Ensure that the stop logs are removed after completion of the work.
- Install new 316 Stainless Steel hardware and gaskets.
- Remove and replace four (4) 42" (inch) owner supplied butterfly valves; preferably within one mobilization.

EXHIBIT B - Compensation

The total not to exceed cost for the work to be performed is \$166,000.00

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_

**APPROVING A GENERAL SERVICES AGREEMENT WITH MOUNTAIN CASCADE, INC. FOR THE WASTEWATER TREATMENT PLANT FILTER VALVE REPLACEMENT FOR A TERM OF THREE (3) MONTHS AND A NOT TO EXCEED AMOUNT OF \$166,000**

**WHEREAS**, the City of Tracy Wastewater Treatment Plant receives and treats a daily average of 10 million gallons per day (MGD) of sewage; and

**WHEREAS**, the sewage undergoes several different processes including one of the final processes, which is filtering through eight (8) Tertiary Filters before disinfection and discharge to the Delta; and

**WHEREAS**, on October 19, 2022, a Request for Proposals was posted on the City's website for the removal and installation of four (4) tertiary filter valves, and three (3) proposals were received on November 10, 2022, for the project; and

**WHEREAS**, the City has determined that Mountain Cascade, Inc. demonstrates a high degree of relevant experience and past performance in completing projects of similar type, size, and complexity in a satisfactory manner; and

**WHEREAS**, the project will improve the efficiency of the tertiary treatment and the City's ability to effectively and efficiently produce wastewater effluent to meet the City's National Pollutant Discharge Elimination System (NPDES) permit requirements; and now therefore be it

**RESOLVED**: that the City Council hereby approves a General Services Agreement with Mountain Cascade, Inc. for the Wastewater Treatment Plant Filter Valve Replacement for a term of three (3) months and a not to exceed amount of \$166,000.

\* \* \* \* \*

The foregoing Resolution 2023-\_\_\_\_\_ was adopted by the Tracy City Council on February 7, 2023, by the following vote:

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

---

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

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

Agenda Item 1.D

RECOMMENDATION

**Staff recommends that the City Council adopt a resolution approving a Professional Services Agreement with CH2M HILL Engineers, Inc. to perform a high-level analysis of Tracy Wastewater Treatment Plant expansion to 16 million gallons per day for a period of three (3) months and a total not to exceed amount of \$110,000.**

EXECUTIVE SUMMARY

The proposed PSA will provide the City with a technical memorandum-review to help determine whether future facilities may be constructed, with relevant costs quantified, within the existing footprint of the City of Tracy Wastewater Treatment Plant (WWTP) parcel. The memorandum will include conceptual sizing and layout of alternatives, and preliminary life-cycle cost to facilitate alternatives evaluation with respect to capital and Operations & Maintenance (O&M) costs. This agenda item requests authorization to enter into a Professional Services Agreement (PSA) with CH2M HILL Engineers, Inc. selected through a Request for Proposal process, to provide these services for a not-to-exceed amount of \$110,000.

BACKGROUND AND LEGISLATIVE HISTORY

1. Background

In 2003, the City of Tracy prepared a Facility Plan and completed Environmental Impact Statement (EIS) to obtain National Pollutant Discharge Elimination System (NPDES) permit from the State Regional Board to expand the WWTP capacity from 9 MGD to 16 MGD. This permitted capacity of 16 MGD is based on the available dilution water in the Old River since City's treated effluent is sent to the Old River. As the City grows, additional treatment capacity will be needed in the future to remain in compliance with said permit.

2. Project

City wishes to optimize the use of existing City-owned lands and consider various options including the option to lease a part of the land for beneficial use to groups interested in developing any land available for any given fixed term.

Due to water conservation efforts associated with the California drought, solids in the influent loadings to the Tracy WWTP had increased more than 50 percent since the last major expansion in 2004. Therefore, addition of future mechanically intensive basins will be necessary to achieve the desired treatment capacity of 16 MGD at current and future influent loading conditions, even if there were no change in the NPDES permit requirements. Typically, NPDES permit requirements change every 5 or 10 years.

Therefore, any reviews of land development options around the WWTP site need to consider the quantitative analysis of the plant lay-outs for various options, including consideration of process-intensification analyses and the relevant costs for each option.

3. Professional Services Agreement

The proposed PSA will produce a technical memorandum to aid the City in making an informed decision based on current and future needs of the WWTP.

ANALYSIS

The City of Tracy is in the process of reviewing land development options around the Wastewater Treatment Plant (WWTP) site. On November 17, 2022, City requested proposals from professional services firms to prepare a scope of work to conduct a high-level planning analysis to assess expandability of current facilities and consider opportunities for implementation of process-intensification technologies. City received one (1) proposal on November 30, 2022, from CH2M HILL, Engineers. After review of the proposal, City staff have determined CH2M HILL, Engineers demonstrated a high degree of relevant experience and past performance in completing projects for the City in a satisfactory manner.

FISCAL IMPACT

The analysis for the WWTP is part of WWTP Expansion Phase II Project (CIP 74107). Sufficient funds are available in the budget to cover the cost of the Professional Services Agreement with CH2M HILL for the not to exceed amount of \$110,000.

PUBLIC OUTREACH/ INTEREST

No public outreach activity was conducted for this agenda item since the purpose of proposed study is to obtain information.

CEQA DETERMINATION

This agenda item is exempt from CEQA requirements.

STRATEGIC PLAN

This agenda item is consistent with the City's Quality of Life Strategy and meets the goals of ensuring water quality that meets state and federal requirements to ensure public health and safety.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution approving a Professional Services Agreement with CH2M HILL Engineers, Inc. for high level analysis for Tracy Wastewater Treatment Plant expansion to 16 million gallons per day for a period of three (3) months and a total not to exceed amount of \$110,000.

Prepared by: Alope Vaid, Wastewater Operations Superintendent

Reviewed by: James Jackson, Operations and Utilities Director  
Sara Cowell, Director of Finance  
Midori Lichtwardt, Assistant City Manager

Approved by: Michael Rogers, City Manager

Attachment: A - Professional Services Agreement CH2M HILL, Inc.

**CITY OF TRACY  
PROFESSIONAL SERVICES AGREEMENT WITH  
CH2M HILL Engineers, Inc. for High Level Analysis for Tracy Wastewater Treatment  
Plant Expansion to 16 mgd**

This Professional Services Agreement (**Agreement**) is entered into between the City of Tracy, a municipal corporation (**City**), CH2M HILL Engineers, Inc. a Delaware Corporation (**Consultant**). City and Consultant are referred to individually as "Party" and collectively as "Parties."

**Recitals**

A. City desires to retain Consultant to perform technical analysis services; and

B. On November 17, 2022, the City issued a Request for Proposals (RFP) for High Level Analysis for the Tracy Wastewater Treatment Plant Expansion to 16 million gallons per day (mgd) (**Project**). On November 30, 2022, Consultant submitted its proposal for the Project to the City. City has determined that Consultant possesses the skills, experience and certification required to provide the services.

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

D. This Agreement is being executed pursuant to Resolution No. 23- \_\_\_\_ approved by Tracy City Council on \_\_\_\_\_, 2023.

**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: Vijay Kumar, P.E. 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. Consultant shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be started and completed by 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 be as shown in Exhibit A, unless terminated in accordance with Section 6. This Agreement may be extended for an additional 2 months 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 on a lump sum basis.



**3.1 Not to Exceed Amount.** Consultant's total compensation under this Agreement shall not exceed \$110,000. 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 monthly invoice(s) to the City that describe the services performed, including times, dates, and names of persons performing the services.

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

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

**3.3 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:  
Operations & Utilities Director  
520 N. Tracy Blvd.  
Tracy, CA 95376

To Consultant:  
CH2M, HILL Engineers, Inc.  
Vijay Kumar, P.E.  
2485 Natomas Park Drive  
Suite 600  
Sacramento, CA 95833

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

13. **Miscellaneous.**

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

**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 will 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**

\_\_\_\_\_  
By: Nancy D. Young  
Title: Mayor  
Date: \_\_\_\_\_

Attest:

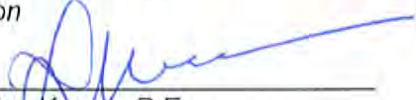
\_\_\_\_\_  
Adrienne Richardson, City Clerk

Approved as to form:


\_\_\_\_\_  
Bijal M. Patel, City Attorney

**Consultant**

CH2M HILL Engineers, Inc., a Delaware Corporation

  
\_\_\_\_\_  
By: Vijay Kumar, P.E.  
Title: Business Vice President  
Date: 01/11/2023

Federal Employer Tax ID No. 32-0100027

  
\_\_\_\_\_  
By: Cheryl Rimas

Title: Assistant Secretary

Date: 1/25/2023

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

The last facility plan update in 2019 showed that influent loadings to the Tracy wastewater treatment plant (WWTP) had increased by more than 50 percent since the last major plant expansion in 2004. A recent cursory review of the data conducted for the NPDES renewal process demonstrated that BOD and SS loadings continue to show an upward trend. Therefore, the addition of future mechanically intensive basins will be necessary to achieve the desired treatment capacity of 16 mgd, at current and future influent loading conditions, and no change in the NPDES permit requirements.

Further, the CITY is in the process of reviewing land development options around the WWTP site.

Therefore, this, High Level Analysis for the Wastewater Treatment Plant Expansion to 16 mgd, shall:

1. Identify process-intensification technologies such as those using various membranes.
2. Produce conceptual treatment facilities layout for future expansion of the WWTP up to 16 MGD capacity.
3. Include capital cost estimates.
4. Ensure that the facilities layout provide adequate spacing of all facilities associated with future liquid treatment train improvements that impact or are impacted by implementation of new biological treatment processes. As such, improvements shall include but not be limited to:

- Equalization Basin
- Primary Effluent pumping
- Biological treatment process facilities, including solids treatment
- Air supply system
- RAS and WAS pumping equipment and distribution boxes.
- Storm water storage strategies

The deliverables shall include:

- Preparation of a technical memorandum summarizing the conceptual sizing and layouts of the main equipment associated with at least three alternatives.
- Develop a preliminary life-cycle cost to facilitate alternatives evaluation with respect to capital and long-term O&M costs.

### SCHEDULE:

Notice to Proceed by City: mid-February 2022  
Data from City: within One week after NTP  
Draft TM – 4 weeks after receipt of Data  
Final TM – 1 weeks after City comments on Draft TM

EXHIBIT B - Compensation

HIGH-LEVEL ANALYSIS FOR THE CITY OF TRACY WWTP TREATMENT EXPANSION 16 mgd													
Task	Description	Office staff								Total Hours	Labor (\$)	Expenses (\$)	Total Fee (\$)
		Principal Project Manager	Engineer Specialist/Project Manager	Associate Engineer	Staff Engineer 2	Staff Engineer 1	Engineering/Env. Tech 2	Engineering/Env. Tech 1	Office/Clerical/Accounting				
2023 Hourly Billing Rates		\$316	\$268	\$186	\$165	\$143	\$107	\$94	\$110				
1	Data Collection			2		8		16		26	\$ 3,020	\$ 160	\$ 3,180
2	Data Analysis	2		24		40		40	4	110	\$ 15,020	\$ 760	\$ 15,780
3	Evaluate Treatment Alternatives	8	0	40		40	24	40	4	156	\$ 22,450	\$ 1,130	\$ 23,580
4	Prepare Facility Layouts	2	0	32	80	18	0	18	4	152	\$ 24,210	\$ 1,220	\$ 25,430
5	Develop Cost Comparison of Treatment Alternatives	4	40	24					4	72	\$ 16,490	\$ 2,440	\$ 18,930
6	Conduct Operations and Maintenance Specialist Review	4	4	24		22	24	16	4	98	\$ 14,420	\$ 730	\$ 15,150
7	Project Administration and Accounting	2	2	12		12	12	8	4	52	\$ 7,570	\$ 380	\$ 7,950
	Subtotal	22	46	158	80	138	60	138	24	666	\$ 103,180	\$ 6,820	\$ 110,000



**TRACY CITY COUNCIL**

**RESOLUTION NO. \_\_\_\_\_**

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**APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH CH2M HILL ENGINEERS, INC. FOR HIGH LEVEL ANALYSIS FOR TRACY WASTEWATER TREATMENT PLANT EXPANSION TO 16 MILLION GALLONS PER DAY FOR A PERIOD OF THREE (3) MONTHS AND A TOTAL NOT-TO-EXCEED AMOUNT OF \$110,000**

**WHEREAS**, in 2003, the City of Tracy prepared a Facility Plan and completed Environmental Impact Statement (EIS) to obtain National Pollutant Discharge Elimination System (NPDES) permit from the State Regional Board to expand the Wastewater Treatment Plant capacity from 9 million gallons a day (mgd) to 16 mgd; and

**WHEREAS**, this permitted capacity to 16 mgd is based on the available dilution water in the Old River since City's treated effluent is sent to the Old River, and as the City grows, additional treatment capacity will be needed in the future; and

**WHEREAS**, City wishes to optimize the use of existing City-owned lands and consider various options including the option to lease a part of the land for beneficial use to groups interested in developing any land available for any given fixed term; and

**WHEREAS**, due to water conservation efforts associated with the California drought, solids in the influent loadings to the Tracy Wastewater Treatment Plant (WWTP) had increased more than 50 percent since the last major expansion in 2004; and

**WHEREAS**, addition of future mechanically intensive basins will be necessary to achieve the desired treatment capacity of 16 mgd at current and future influent loading conditions, even if there were no change in the NPDES permit requirements; and

**WHEREAS**, the City of Tracy is in the process of reviewing land development options around the WWTP site; and

**WHEREAS**, on November 17, 2022, City requested proposals from professional services firms to prepare a scope of work to conduct a high-level planning analysis to assess expandability of current facilities and consider opportunities for implementation of process-intensification technologies; and

**WHEREAS**, City received one (1) proposal on November 30, 2022, from CH2M HILL, Engineers, and two other firms, Larry Walker Associates and West Yost Associates declined to participate, and after review of the proposal, City staff have determined CH2M HILL, Engineers demonstrated a high degree of relevant experience and past performance in completing projects for the City in a satisfactory manner; and

**WHEREAS**, the proposed Professional Services Agreement will produce a technical memorandum to help City make informed decisions based on current and future needs of the WWTP; and now therefore be it

**RESOLVED**: that the City Council of the City of Tracy hereby approves a Professional Services Agreement (PSA) with CH2M HILL Engineers, Inc. for high level analysis for Tracy Wastewater Treatment Plant expansion to 16 million gallons per day for a term of three (3) months and a total not-to-exceed amount of \$110,000.

\* \* \* \* \*

The foregoing Resolution 2023-\_\_\_\_\_ was adopted by the Tracy City Council on February 7, 2023, by the following vote:

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

---

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

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

Agenda Item 1.E

RECOMMENDATION

**Staff recommends that City Council adopt a resolution approving a Professional Services Agreement with Guidepost Solutions, LLC for the design of the Security System Implementation of the City's Water Facilities Project (CIP 75169) for a period of five (5) months and a total not-to-exceed amount of \$53,290.**

EXECUTIVE SUMMARY

In December 2020, a consultant completed a Risk and Resilience Assessment (RRA) of the City's water facilities and submitted a report to the Environmental Protection Agency (EPA) for certification. The EPA requires that a drinking water municipality design and implement the necessary security measures outlined in the City's RRA report to protect its water facilities from malevolent acts and to ensure a safer and more secure work environment for its workers. This agenda item requests authorization to enter into a PSA with the most qualified proposer, Guidepost Solutions, selected through a Request for Proposal (RFP) process, to provide the essential design services for a not-to-exceed amount of \$53,290.

BACKGROUND AND LEGISLATIVE HISTORY

The America's Water Infrastructure Act of 2018 (AWIA) requires community water systems that serve more than 3,300 people to complete a Risk Resilience Assessment (RRA). Through a competitive RFP process, the City hired a Consultant to conduct the RRA and submit certification of its completion to the U.S. EPA by December 31, 2020. After submission of the completed RRA, the EPA requires that the drinking water municipality (City) implement the necessary safety and security measures outlined in the assessment report.

To proceed with next steps, a Request for Proposals for the design of the necessary safety and security measures was posted on the City website on October 19, 2022, and a total of two (2) proposals were received on November 9, 2022.

After careful review of the proposals, the City believes that Guidepost Solutions, LLC demonstrates a higher degree of relevant experience and past performance in completing projects of similar type, size, and complexity in a satisfactory manner.

ANALYSIS

The RRA identified a number of security enhancements that would reduce the threat of potential outside infiltration to the city-wide water distribution network. With the facilities currently having soft external security standards and relative ease of entry, an individual or group could contaminate the water supply of the entire City. Implementation of the recommended safety and security measures, outlined in the RRA report, will greatly reduce such risk.

To provide better security and prevent intrusion, the RRA report identified the following security enhancements:

- upgrade the security fences
- incorporate additional and updated lightings (i.e., LED lighting)
- incorporate intrusion technology such as a loud alarm system
- install updated cameras
- update the access control system at the City's
  - water treatment plant
  - pump stations
  - reservoirs
  - well sites

If approved, Guidepost Solutions, LLC will design the security system in alignment with the security enhancements identified in the RRA.

#### FISCAL IMPACT

The design of the Security System Implementation for City's Water Facilities Project is an approved component of Capital Improvement Program project (CIP 75169). Sufficient funds are available in the budget to cover the cost of the Professional Services Agreement with Guidepost Solutions, LLC for the not to exceed amount of \$53,290.

#### PUBLIC OUTREACH/INTEREST

No public outreach activity was conducted for this agenda item.

#### COORDINATION

No departments, agencies, and/or consultants, outside of Guidepost Solutions, were consulted with, for this agenda item.

#### CEQA DETERMINATION

This agenda item is exempt from CEQA requirements.

#### STRATEGIC PLAN

This agenda item is consistent with the City's Public Safety Strategy and meets the goals to ensure the implementation of robust security infrastructure and intrusion technology.

#### ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that City Council adopt a resolution approving a Professional Services Agreement with Guidepost Solutions, LLC for the design of the Security System Implementation of the City's Water Facilities Project (CIP 75169) for a period of five (5) months and a total not-to-exceed amount of \$53,290.

Agenda Item 1.E  
February 7, 2023  
Page 3

Prepared by: Lemar Saffi, Associate Engineer

Reviewed by: James Jackson, Director of Operations and Utilities  
Sara Cowell, Finance Director  
Midori Lichtwardt, Assistant City Manager

Approved by: Michael Rogers

Attachments: A – PSA Guidepost Solutions LLC

**CITY OF TRACY  
PROFESSIONAL SERVICES AGREEMENT WITH GUIDEPOST SOLUTIONS, LLC  
FOR SECURITY SYSTEMS DESIGN AT CITY'S WATER FACILITIES**

This Professional Services Agreement (**Agreement**) is entered into between the City of Tracy, a municipal corporation (**City**), and Guidepost Solutions LLC, a Limited Liability Company (**Consultant**). City and Consultant are referred to individually as "Party" and collectively as "Parties."

**Recitals**

**A.** City desires to retain Consultant to provide design services for security services; and

**B.** On October 19, 2022, the City issued a Request for Proposals (RFP) for the Security Assessment at City's Water Facilities (**Project**). On November 9, 2022, Consultant submitted its proposal for the Project to the City. City has determined that Consultant possesses the skills, experience and certification required to provide the services.

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

**D.** This Agreement is being executed pursuant to Resolution No.2023-\_\_\_\_\_ approved by Tracy City Council on February 7, 2023.

**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: David Rickerson. 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 February 8, 2023 and end on June 9, 2023, unless terminated in accordance with Section 6.

**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 \$53,290. 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 monthly invoice(s) to the City that describe the services performed, including times, dates, and names of persons performing the services.

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

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

**3.3 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.

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**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.

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**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:  
Director Operations & Utilities  
520 N. Tracy Blvd  
Tracy, CA 95376

To Consultant:  
Guidepost Solutions LLC  
2121 N California Blvd., Suite 800  
Walnut Creek, CA 94596

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

**13. Miscellaneous.**

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

**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 will 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**

\_\_\_\_\_  
By: Nancy D. Young  
Title: Mayor  
Date: \_\_\_\_\_

Attest:


\_\_\_\_\_  
Adrienne Richardson, City Clerk

Approved as to form:

\_\_\_\_\_  
Bijal M. Patel, City Attorney

**Consultant**

Guidepost Solutions, LLC, a Limited Liability Company

  
\_\_\_\_\_  
By: Nicholas Heywood  
Title: Associate Vice President - Technology Design  
Date: 01/09/2023

Federal Employer Tax ID No. 80-0581535

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

- Attend security system design coordination meetings with City staff to review the security requirements and to coordinate final security device locations, installation details and finish requirements.
- Document and coordinate the security system infrastructure requirements including security equipment layout and space requirement, IT network, 120 VAC power, electric door hardware and interfaces to other building systems such as required.
- Check applicable codes, regulations, and restrictions governing the design.
- Prepare security system design plans for the infrastructure improvements to be installed. The plans should include a security device symbols legend, block diagrams, rough-in details, equipment installation details and device location site/floor plans.
- Prepare security system specifications including general conditions, functional and technical system and device requirements and execution requirements.
- Evaluate Contractor bids for compliance with the construction documents and document the findings in a bid evaluation letter.
- Participate in meetings to review the bid evaluation letter.
- Review the Contractor's prefabrication submittals.
- Participate in progress/coordination meetings during the security system installation
- Conduct one system installation progress inspections per site and prepare field reports to document the results.
- Conduct final system acceptance testing and prepare a punch list to document results.
- Review the security contractor's O&M and as-built documentation for accuracy.

EXHIBIT B – Compensation

Compensation for completion of all items listed in Exhibit A shall be a not to exceed amount of \$53,290.

TRACY CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_

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**APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH GUIDEPOST SOLUTIONS LLC FOR THE SECURITY SYSTEM IMPLEMENTATION FOR THE CITY'S WATER FACILITIES PROJECT (CIP 75169) FOR A TERM OF FIVE (5) MONTHS AND A TOTAL NOT-TO-EXCEED AMOUNT OF \$53,290**

**WHEREAS**, to comply with Section 2013 of America's Water Infrastructure Act of 2018 (AWIA), requiring community water systems that serve more than 3,300 people to complete a Risk and Resilience Assessment (RRA); and

**WHEREAS**, City hired a Consultant through a competitive Request for Proposal (RFP) process to conduct the RRA and submit certification of its completion to the U.S. Environmental Protection Agency (EPA) by December 31, 2020; and

**WHEREAS**, after submission, the EPA requires that the drinking water municipality (City) implement the necessary safety and security measures outlined in the assessment report; and

**WHEREAS**, in December 2020, an RRA report was completed by the appointed consultant after performing the assessment for the City's water facilities and was certified to the EPA for completion subsequently; and

**WHEREAS**, the RRA report identified the following security enhancements: upgrade the security fences, incorporate additional and updated lighting (i.e., LED lighting), incorporate intrusion technology such as a loud alarm system, install updated cameras, and update the access control system at the City's water treatment plant, pump stations, reservoirs, and well sites to provide better security and to prevent intrusion; and

**WHEREAS**, a Request for Proposals for the design of the necessary safety and security measures was posted on the City's website on October 19, 2022; and

**WHEREAS**, a total of two proposals were received on November 9, 2022 and after careful review of the two proposals, the City has determined that Guidepost Solutions, LLC demonstrates a higher degree of relevant experience and past performance in completing projects of similar type, size, and complexity in a satisfactory manner; and

**WHEREAS**, the facilities currently have soft external security standards and ease of entry, an individual or group can contaminate the water supply of the entire City, which would bring great damage with loss of life, trust, and fines; and

**WHEREAS**, the design of the security system implementation for City's water facilities project is an approved Capital Improvement Program project (CIP 75169) with sufficient funds available in the budget; and now therefore be it

**RESOLVED:** that the City Council of the City of Tracy hereby approves a Professional Services Agreement with Guidepost Solutions, LLC for the Security System Implementation for the City's Water Facilities Project (CIP 75169) for a term of five (5) months and a total not-to-exceed amount of \$53,290.

\* \* \* \* \*

The foregoing Resolution 2023-\_\_\_\_\_ was adopted by the Tracy City Council on February 7, 2023, by the following vote:

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

---

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

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



Agenda Item 1.F

RECOMMENDATION

**Staff recommends that the City Council adopt a Resolution approving a General Services Agreement with Telstar Instruments for the Programmable Logic Controller and Primary Effluent Pumping Control Upgrade Project for a term of nine (9) months and a total not to exceed amount of \$293,250.**

EXECUTIVE SUMMARY

The primary effluent pump station at the Wastewater Treatment Plant (WWTP) has been identified by staff as a critical step in the treatment process that requires additional redundancy to prevent failures. This project will add a redundant Programmable Logic Controller (PLC) to the primary effluent pump station located at the WWTP. This new PLC will also serve as a replacement to an older and obsolete PLC that currently provides automation over other plant process equipment. This agenda item requests authorization to enter into a General Services Agreement (GSA) with Telstar Instruments, selected through a Request for Proposal (RFP) process, to provide these services for a not-to-exceed amount of \$293,250.

BACKGROUND AND HISTORY

1. Background

The primary effluent pump station is the first of three pump stations within the wastewater treatment plant. Unlike the other two pump stations, the primary effluent pump station does not have an upstream storage reservoir where it may divert flow during an emergency period. The pump station is already fed by two different power sources, however, there is only one PLC to operate the pumps. This project will integrate a second PLC into the pump station that will take over pump station control in the event of a failure of the primary controller. In addition to redundant control, the new PLC installed in this project will replace some obsolete control systems. One control system was installed in 2003 and the other was installed pre-1977. Due to the age of the control system, the electronic monitoring system is currently unable to monitor the pre-1977 pump station at the plant.

2. Project

The scope of work for this project includes the replacement of a PLC; installation of a high-level float, alarm logic, and backup control logic; and update of the WWTP sewer pump control and level transmitter. The project will ensure an increase in reliability of the primary effluent pump station by replacing aging equipment that no longer meet City standards.

ANALYSIS

On October 31, 2022, a Request for Proposal was posted on the City's website and only one (1) proposal was received on November 29, 2022. After careful review of the Proposal, the City feels that Telstar Instruments demonstrates a high degree of relevant

experience and past performance in completing projects of similar type, size, and complexity in a satisfactory manner.

FISCAL IMPACT

The nine-month Agreement is not to exceed \$293,250 and the funding is provided through the Wastewater operating budget in the Wastewater Fund.

PUBLIC OUTREACH/ INTEREST

No public outreach activity was conducted for this agenda item.

COORDINATION

No departments, agencies, and/or consultants were consulted with for this agenda item.

CEQA DETERMINATION

This agenda item is exempt from CEQA requirements.

STRATEGIC PLAN

This agenda item is consistent with the City's Quality of Life Strategy and meets the goals to ensure water quality that meets state and federal requirements.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a Resolution approving a General Services Agreement with Telstar Instruments for the Programmable Logic Controller and Primary Effluent Pumping Control Upgrade Project for a term of nine (9) months and a total not to exceed amount of \$293,250.

Prepared by: Alope Vaid, Wastewater Treatment Plant Superintendent

Reviewed by: Stephanie Reyna-Hiestand, Acting Assistant Director of Utilities  
Sara Cowell, Director of Finance  
Midori Lichtwardt, Assistant City Manager

Approved by: Michael Rogers, City Manager

Attachments: A – GSA Telstar Instruments

**CITY OF TRACY  
GENERAL SERVICES AGREEMENT WITH  
Telstar Instruments for the Programmable Logic Controller (PLC)  
and Primary Effluent Pumping Control Upgrade Project**

This General Services Agreement (**Agreement**) is entered into between the City of Tracy, a municipal corporation (**City**), and Telstar Instruments, a California Corporation (**Contractor**). City and Contractor are referred to individually as "Party" and collectively as "Parties."

**Recitals**

**A.** City desires to retain Contractor to perform upgrade services; and

**B.** On October 31, 2022, the City issued a Request for Proposals (RFP) for PLC and Primary Effluent Pumping Control Upgrade (**Project**). On November 29, 2022, Contractor submitted its proposal for the Project to the City. City has determined that Contractor possesses the skills, experience and certification required to provide the services.

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

**D.** This Agreement is being executed pursuant to Resolution No. 2023-\_\_\_\_\_ approved by Tracy City Council on February 7, 2023.

**Now therefore, the Parties mutually agree as follows:**

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

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

**2.1 Term.** The term of this Agreement shall begin on February 8, 2023 and end on October 31, 2023, unless terminated in accordance with Section 6

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

**3.1 Not to Exceed Amount.** Contractor's total compensation under this Agreement shall not exceed \$293,250. Contractor's billing rates shall cover all costs and expenses for Contractor's

performance of this Agreement. No work shall be performed by Contractor in excess of the total compensation amount provided in this section without the City's prior written approval.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**8.1 Rates.** These prevailing wage rates are on file with the City and are available online at <http://www.dir.ca.gov/DLSR>. Each Contractor and Subcontractor must pay no less than the specified

rates to all workers employed to perform the services described herein. The schedule of per diem wages is based upon a working day of eight hours. The rate for holiday and overtime work must be at least time and one-half. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the City harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker, or any other third party.

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

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

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

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

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

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To City:  
Director of Operations & Utilities  
520 N. Tracy Blvd.  
Tracy, CA, 95376

To Contractor:  
Telstar Instruments  
1717 Solano Way, Unit 34  
Concord, CA 94520

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

**14. Miscellaneous.**

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

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

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

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

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

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

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

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

[SIGNATURES ON FOLLOWING PAGE]



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

**City of Tracy**

\_\_\_\_\_  
By: Nancy D. Young  
Title: Mayor  
Date: \_\_\_\_\_

Attest:

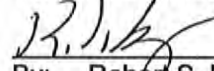
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Adrienne Richardson, City Clerk

Approved as to form:

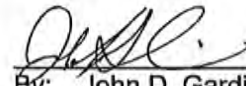
\_\_\_\_\_  
Bijal M. Patel, City Attorney

**Contractor**

Telstar Instruments, a California Corporation

  
\_\_\_\_\_  
By: Robert S. Marston  
Title: President  
Date: January 23, 2023

Federal Employer Tax ID No. 94-2785168

  
\_\_\_\_\_  
By: John D. Gardiner  
Title: Treasurer  
Date: January 23, 2023

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

- A. Replace one (1) Programmable Logic Controller (PLC) currently known as RTU41. The new PLC shall be Schneider M340 or approved equivalent and shall also be named PLC41.
  - 1. Program the PLC to mimic the used functions of RTU41 and not include older functions that are no longer needed.
  - 2. Program the PLC with new functions related to equipment installed as part of this work.
  - 3. Install the PLC and related equipment in existing cabinet.
  - 4. Program the existing SCADA screens to work with the new PLC and add new graphics for all new electronic equipment outside the PLC that is associated with this RFP.
  - 5. Ensure that the RAS pump controls mimic the controls currently on RTU41.
  
- B. Contractor shall install a high-level float in the Primary Effluent Wet well and install alarm logic and backup control logic.
  - 1. In the event of a high-level float activation, PLC41 will generate a high priority SCADA alarm. In addition, the PLC41 will start 1 pump at 100% speed until float drops and an adjustable "period of seconds" has elapsed.
    - a. Speed control for Primary Effluent Pumps is currently controlled and will continue to be controlled by a different PLC. Proposer will propose a backup control solution that allows the Primary Effluent Pumps to be controlled by 2 different PLCs.
  - 2. High-level float installation and wiring to PLC will be the responsibility of the Proposer. Float shall be installed in a location that is accessible for adjustment and testing.
  - 3. Program "disable" feature for backup control, accessible from SCADA.
  
- C. Contractor shall update the plant sewer pump controls and level transmitter with modern equipment including,
  - 1. Wet well level transmitter or new bubbler system.
  - 2. Pump run indication signals.
  - 3. Adjustable pump level control setpoints.
  - 4. A high-level float installed in Plant Sewer Pump sump. This float will be separate from the above-mentioned level transmitter.
    - a. High level float will generate an alarm in SCADA.
  - 5. Program PLC41 with level controls with adjustable setpoints accessible from SCADA.
  
- D. Warranty and Service
  - 1. Contractor shall warranty parts and labor for a period of five (5) years. Contractor shall perform annual routine maintenance of the PLC and calibration, verification, and testing of all installed equipment during annual visit.
  
- E. Spare Parts
  - 1. Spare PLC Processor, M340 or match to what is installed.
  - 2. 1 Spare PLC I/O card for each model module provided.
    - a. For example, if three (3) of the same model input modules are installed, provide one (1) spare.
  
- F. Cleanup:

1. Job site shall be cleaned up upon completion of work.
2. Proposer may retain any old parts and garbage OR may present them to the City for disposal by the City with disposal costs also paid by the City.

EXHIBIT B - Compensation

The total not to exceed amount for the services listed in Exhibit A is \$293,250. Contractor shall submit monthly invoices with details of project progress.

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_

**APPROVING A GENERAL SERVICES AGREEMENT WITH TELSTAR INSTRUMENTS FOR THE PROGRAMMABLE LOGIC CONTROLLER AND PRIMARY EFFLUENT PUMPING CONTROL UPGRADE PROJECT FOR A TERM OF NINE (9) MONTHS AND A TOTAL NOT TO EXCEED AMOUNT OF \$293,250**

**WHEREAS**, the Primary Effluent Pump Station at the Wastewater Treatment Plant (WWTP) has been identified as a critical step in the treatment process that requires additional redundancy to prevent failures; and

**WHEREAS**, this project will add a redundant Programable Logic Controller (PLC) to the Primary Effluent Pump Station, which will serve as a replacement to an older and obsolete PLC that currently provides automation over other plant process equipment; and

**WHEREAS**, the Primary Effluent Pump Station is the first of three pump stations within the WWTP and unlike the other two pump stations, the Primary Effluent Pump Station does not have an upstream storage reservoir where it may divert flow during an emergency period; and

**WHEREAS**, this project will integrate a second PLC into the pump station that will take over pump station control in the event of a failure of the primary controller, and the new PLC installed in this project will replace some obsolete control systems; and

**WHEREAS**, on October 31, 2022, a Request for Proposal was posted on the City's website and only one (1) proposal was received on November 29, 2022; and

**WHEREAS**, after careful review of the proposal, the City has determined that Telstar Instruments, Inc. demonstrates a high degree of relevant experience and past performance in completing projects of similar type, size, and complexity in a satisfactory manner; and now therefore be it

**RESOLVED**: that the City Council of the City of Tracy hereby approves a General Services Agreement with Telstar Instruments for the Programmable Logic Controller and Primary Effluent Pumping Control Upgrade Project for a term of nine (9) months and a total not to exceed amount of \$293,250.

\*\*\*\*\*

The foregoing Resolution 2023-\_\_\_\_\_ was adopted by the Tracy City Council on February 7, 2023, by the following vote:

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

---

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

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

Agenda Item 1.G

RECOMMENDATION

**Staff recommends that City Council approve the Inspection Improvement Agreement between City and Lennar Homes of California, LLC for Corral Hollow Road Widening Improvements at Tracy Hills Phase 2 Frontage.**

EXECUTIVE SUMMARY

This item involves the approval of the Inspection Improvement Agreement (IIA) which will allow Lennar Homes of California, LLC (Developer) to proceed at the Developer's sole and exclusive risk with the construction of the public roadway improvements within and adjacent to Tracy Hills Phase 2 known as the Corral Hollow Road Widening Improvements at Tracy Hills Phase 2 Frontage (Project), which are ultimately intended to be dedicated to the City, prior to the City Engineer's formal approval of the improvement plans for the Project.

ANALYSIS

The Project is geographically located within the boundaries of the Tracy Hills Specific Plan Area, which was approved by City Council on April 5, 2016, and is further situated within and along the frontage of that certain tentative map known as Vesting Tentative Map, Tract 4057, Tracy Hills Phase 2, approved by the City Council on October 19, 2021, by Resolution No. 2021-154. The Tracy Hills Phase 2 Project is generally bordered by Corral Hollow Road to the east and Interstate 580 to the north.

The approval of the Vesting Tentative Subdivision Map for Tracy Hills Phase 2 by the City Council was subject to specified Conditions of Approval which describe, among other things, improvements that are required for approval of the Final Subdivision Maps pursuant to the Subdivision Map Act, the Subdivision Ordinance, and applicable City Standards. The Corral Hollow Road Widening Improvements are part of the public improvements that are required to be designed and constructed by the Developer under the Conditions of Approval.

Improvement Plans for the Corral Hollow Road Widening Improvements at Tracy Hills Phase 2 Frontage have been prepared on behalf of the Developer and are under review by the City Engineer, with staff having performed multiple review and comment cycles. The partially approved submitted plans and specifications are on file with the City Engineer under Tracking No. ENG22-0006 and include the improvement plans entitled "Improvement Plans, Corral Hollow Road Widening, Phase 2 Frontage."

In order to meet its development schedule, Developer intends to commence construction of the required public improvements based on the partially approved submitted plans before the City completes its review and approval plans. Approval of the IIA will facilitate Developer's efforts to meet its development schedule.

Developer acknowledges and agrees that it will be proceeding with the work at its sole and exclusive risk, and that if any of the work completed by Developer does not conform, in the City Engineer's determination, to the improvement plans ultimately approved by the City, Developer may be required to remove and/or correct any non-conformities to the reasonable satisfaction of

the City Engineer in accordance with the approved plans, at the Developer's sole cost, before the City will approve the temporary or final occupancy of any residence within the first Final Map in Tracy Hills Phase 2.A.

In an effort to minimize the risk of such non-conformities, the City will periodically inspect Developer's work in constructing the public improvements shown on the partially approved submitted plans, and will periodically advise Developer whether the work appears to be proceeding in conformance with the partially approved submitted plans.

The Developer will enter into an Offsite Improvement Agreement with the City at a later date. Staff will return to City Council for approval of the Offsite Improvement Agreement, which will supersede the Inspection Improvement Agreement. Subsequent to the approval of Offsite Improvement Agreement and completion of improvements, acceptance of the public improvements will proceed in accordance with normal City procedures.

The Developer has executed the Inspection Improvement Agreement and has submitted the required security to guarantee the completion of the public improvements. The Inspection Improvement Agreement and associated improvement plans are on file with the City Engineer.

#### FISCAL IMPACT

There will be no fiscal impact associated with this action. Developer will pay for the cost of plan checking, engineering inspection and processing of the Inspection Improvement Agreement.

#### PUBLIC OUTREACH / INTEREST

All public outreach for the Tracy Hills Phase 2 development (notifications, public hearings, etc.) was conducted for the Planning Commission and City Council hearings that were held in October 2021 to consider the General Plan Amendment, Specific Plan Amendment and Vesting Tentative Subdivision Map for the overall project. Additional public outreach specifically for the IIA for the Corral Hollow Road Widening Improvements is not required.

#### COORDINATION

This Staff Report was prepared by the Development Services Department – Engineering Division. No coordination was required with other departments, etc., for the preparation of this report.

#### CEQA DETERMINATION

An Environmental Impact Report (EIR) for the Tracy Hills Specific Plan was certified by the City Council on April 5, 2016. The Corral Hollow Road Widening Improvements are within the scope of the development evaluated by the existing EIR and therefore no further environmental review is required for the Project under CEQA.

#### STRATEGIC PLAN

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



ACTION REQUESTED OF THE CITY COUNCIL

That City Council, by resolution, approve the Inspection Improvement Agreement between City and Lennar Homes of California, LLC for Corral Hollow Road Widening Improvements at Tracy Hills Phase 2 Frontage.

Prepared by: Al Gali, Associate Engineer

Reviewed by: Koosun Kim, PE, Interim City Engineer  
Sara Cowell, Finance Director  
Midori Lichtwardt, Assistant City Manager

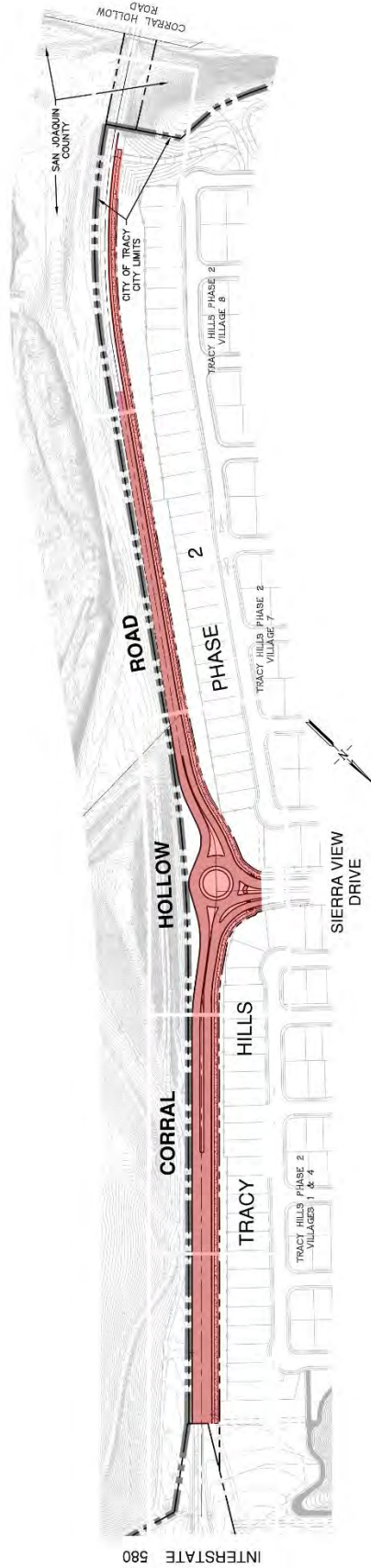
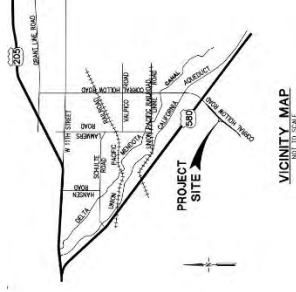
Approved by: Michael Rogers, City Manager

ATTACHMENTS

Attachment A – Location Map

Attachment B – Inspection Improvement Agreement

# ATTACHMENT A Location Map



INTERSTATE 580

**City of Tracy**  
**INSPECTION IMPROVEMENT AGREEMENT**  
**CORRAL HOLLOW ROAD WIDENING IMPROVEMENTS**  
**AT TRACY HILLS PHASE 2 FRONTAGE**

This **Inspection Improvement Agreement** (“**Agreement**”) is entered into by and between the City of Tracy, a municipal corporation (“**City**”), and **LENNAR HOMES OF CALIFORNIA, LLC**, a California limited liability company (“**Developer**”).

**Recitals**

**A.** Developer is the party responsible for the construction of the public roadway improvements known as the **Corral Hollow Road Widening Improvements at Tracy Hills Phase 2 Frontage** that are to be constructed within the existing and proposed Corral Hollow Road right-of-way, as more particularly depicted in Exhibit “**A**” (“**Project**”).

**B.** The Project is geographically located within the boundaries of the Tracy Hills Specific Plan Area, which was approved by City Council on April 5, 2016, and is further situated within and along the frontage of that certain tentative map known as Vesting Tentative Map, Tract 4057, Tracy Hills Phase 2, approved by the City Council on October 19, 2021, by Resolution No. 2021-154 (the “**Tentative Map**”).

**C.** The Tentative Map approval was subject to certain Conditions of Approval (“**Conditions**”). The Conditions are attached here as Exhibit “**B**” and incorporated by reference.

**D.** Among other things, the Conditions describe certain improvements that are required for approval of final subdivision maps under the Subdivision Map Act (California Government Code sections 66410, *et seq.*), City’s Subdivision Ordinance (Tracy Municipal Code, Title 12), and applicable City Standards.

**E.** In accordance with the Subdivision Map Act and City’s Subdivision Ordinance, Developer has submitted to City numerous final maps for the residential development known as Tracy Hills Phase 2A (the “**Final Maps**”). The Final Maps are being reviewed by the City Engineer for substantial compliance with the Tentative Map, and the Final Maps have not yet been approved by City for recordation.

**F.** Improvement plans and specifications (which incorporate portions of the City’s Standard Specifications) have been prepared on behalf of Developer and are under review by the City Engineer. They describe in more detail the improvements that are required for approval of the Final Maps. The Partially Approved Submitted Plans and Specifications, which are under review by the City Engineer, are on file with the City Engineer under Tracking No. ENG22-0006 and incorporated herein by reference. The term “**Partially Approved Submitted Plans and Specifications**” includes the seventeen (17) sheets of improvement plans entitled “Improvement Plans, Corral Hollow Road Widening, Phase 2 Frontage” prepared by Ruggeri-Jensen-Azar.

**G.** In order to meet Developer’s development schedule, Developer intends to commence construction and installation of the required public improvements based on the Partially Approved Submitted Plans and Specifications, but before the City completes its review and approval of the submitted plans and specifications. Developer understands and agrees that it will be proceeding with such improvements at Developer’s sole and exclusive risk, and that if the public improvements completed by Developer do not conform, in the City Engineer’s reasonable determination, to the plans and specifications ultimately approved by the City (the “**Approved Plans and Specifications**”), Developer may be required to remove or correct any non-conformities to the reasonable satisfaction of the City Engineer, at Developer’s sole cost, before the City will approve the temporary or final occupancy of any residence within the first Final Map in Tracy Hills Phase 2.

**H.** In an effort to minimize the risk of such non-conformities, Developer has asked City to periodically inspect Developer’s work in constructing and installing the public improvements described in the Partially Approved Submitted Plans and Specifications, and periodically advise Developer whether the work appears to be proceeding in conformance with the Partially Approved Submitted Plans and Specifications. Developer acknowledges that the City cannot issue a final approval of the work until (a) the City Engineer has fully completed its review and formally approved all of the submitted plans and specifications; and (b) completed an inspection of the Work based on the Approved Plans and Specifications. To facilitate City’s periodic inspections, Developer agrees to pay all City costs incurred in such inspections.

**I.** To facilitate Developer’s efforts to meet its development schedule, Developer has requested that City enter into this Agreement.

**NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:**

**1. Scope of Work; Location.** Developer shall perform, or cause to be performed, the work described in the Partially Approved Submitted Plans and Specifications and the Conditions (collectively, the “**Work**”), to the satisfaction of the City Engineer. The Work shall be performed, and all materials and labor shall be provided, at Developer’s expense, in the manner described in the Approved Plans and Specifications. No change shall be made to the Work unless authorized in writing by the City Engineer. Developer may submit a written request to the City Engineer for a change in the scope of Work, as authorized by Tracy Municipal Code section 12.36.060(f).

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

Developer understands and agrees that because the full set of submitted plans and specifications have not been approved by the City Engineer, if any of the completed improvements do not conform to the Approved Plans and Specifications the Developer may have to remove or correct any non-conformities to the reasonable satisfaction of the City Engineer at Developer's sole cost.

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

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

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

**2.3. Completion of Work.** Developer shall complete all Work by no later than 365 days after Developer's submittal of its notice of commencement of Work pursuant to Section 2.1 above. If the Work is not completed by this date, City Engineer may grant an extension of time if (a) Developer submits a written request for extension at least ten (10) days prior to expiring date of completion, (b) the City Engineer determines that Work is progressing satisfactorily and an extension is warranted, and (c) Developer pays all processing fees for such time extension.

**3. Improvement Security.** Concurrently with Developer's execution of this Agreement, and before beginning any Work, Developer shall furnish contract security, in a form authorized by the Subdivision Map Act (including Government Code sections 66499 et seq.) and Tracy Municipal Code section 12.36.080, in the following amounts:

**3.1. Faithful Performance** security in the amount of **\$3,898,412.00** to secure faithful performance of this Agreement (until the date on which the City Council accepts the Work as complete) under Government Code sections 66499.1, 66499.4, and 66499.9.

**3.2. Labor and Material** security in the amount of **\$3,898,412.00** to secure payment by Developer to laborers and materialmen under Government Code sections 66499.2, 66499.3, and 66499.4.

**3.3. Warranty** security in the amount of **\$389,841.00** to guarantee improvements against any defective work or labor done or defective materials used in

performance of Work for one year from the date on which the City Council accepts the Work as complete, under Government Code sections 66499.1, 66499.4, and 66499.9.

**3.4. Monumentation** security in the amount of **\$6,750.00** to secure faithful performance of setting monuments pursuant to Government Code section 66496.

**4. Indemnification.** Developer shall indemnify, defend, and hold harmless City (including its elected officials, officers, agents and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) resulting from the performance of the Work by Developer or Developer's agents, representatives, contractors, subcontractors, or employees, except when caused by the active negligence or willful misconduct of City, until such time as all of the following have occurred: (1) the City Council accepts all of the improvements comprising the Work, (2) the City becomes responsible for the maintenance, operation and repair of all of the improvements comprising the Work, and (3) the one year warranty period set forth in Section 13, below, has expired, at which time the indemnification obligations under this Section 4 shall automatically terminate, with regard to any cause of action arising after such date. For avoidance of doubt, Developer's obligations under this Section 4 are in addition to all other Developer's obligations set forth in this Agreement, and shall not affect Developer's warranty obligations set forth in Section 13, below.

**5. Insurance.** Concurrently with the execution of this Agreement by Developer, and before beginning any Work, Developer shall furnish evidence to the City that the following insurance requirements have been satisfied. The insurance requirements contained in this Section 5 are material terms of this Agreement. These insurance coverage requirements below may be satisfied by umbrella or excess liability policies upon City approval.

**5.1. General.** Developer shall, throughout the duration of this Agreement, maintain insurance to cover Developer, its agents, representatives, contractors, subcontractors, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.

**5.2. Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01) coverage shall be maintained in an amount not less than \$4,000,000 per occurrence and \$8,000,000 general aggregate for general liability, bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability and coverage for explosion, collapse, and underground property hazards.

**5.3. Professional Contracts.** Developer shall cause its design professionals to maintain professional liability insurance that insures against professional errors and omissions that may be made in performing services related to the Work to be rendered in connection with this Agreement, in the minimum amount of one million dollars (\$1,000,000) per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this

Agreement, and Developer agrees to cause its design professionals to maintain continuous coverage through a period no less than three years after completion of the services required pursuant to this Agreement.

- 5.4. Automobile Liability** (with coverage at least as broad as ISO form 00 01 07 97 for “any auto” including “hired autos” and “non-owned autos”) coverage shall be maintained in an amount not less than \$2,000,000 per accident for bodily injury and property damage.
- 5.4.1.** If Developer has no employees, or does not own automobiles, then “hired autos” and “non-owned autos” coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
- 5.5. Workers’ Compensation** coverage shall be maintained as required by the State of California.
- 5.6. Endorsements**. Developer shall obtain endorsements to the commercial general liability and automobile policies with the following provisions:
- 5.6.1.** The City (including its elected and appointed officials, officers, employees, agents, and volunteers) shall be named as an Additional Insured on Developer’s Commercial General Liability policy utilizing endorsement form CG 20 10 (or its equivalent) for ongoing operations and CG 20 37 (or its equivalent) for products/completed operations.
- 5.6.2.** For any claims related to this Agreement, Developer’s coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of Developer’s insurance and shall not contribute with it.
- 5.6.3.** Developer shall require its contractors and subcontractors providing services required by this Agreement (e.g. general contractors, design professionals) to name it and the City as Additional Insureds.
- 5.7. Notice of Cancellation**. Developer shall notify the City of any cancellation of either the commercial general liability policy or automobile insurance policy before the expiration date. For the purpose of this notice requirement, any material change in the policy before the expiration shall be considered a cancellation. Developer shall immediately obtain a replacement policy.
- 5.8. Authorized Insurers**. All insurance companies providing coverage to Developer shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California, with an AM Best rating of at least A-:VII.
- 5.9. Insurance Certificate**. Developer shall provide evidence of compliance with the commercial general liability insurance and automobile insurance requirements listed above by providing a certificate of insurance and endorsements, in a form satisfactory to the City Attorney before the City executes this Agreement.
- 5.10. Substitute Certificates**. No later than thirty (30) days before the policy expiration date of any insurance policy required by this Agreement, Developer shall provide a substitute certificate of insurance.
- 5.11. Developer’s Obligation**. Maintenance of insurance by Developer as specified in this Agreement shall in no way be interpreted as relieving Developer of any responsibility whatsoever (including indemnity obligations under this

Agreement), and Developer may carry, at its own expense, such additional insurance as it deems necessary.

**6. Independent Contractor Status.** Developer is an independent contractor and is solely responsible for the acts of its employees, agents, and subcontractors, including any negligent acts or omissions. Developer is not City's employee and Developer shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization to Developer.

**7. Default.**

**7.1. Notice.** If Developer is in default of this Agreement, as defined in Section 10.2, the City Engineer shall provide written notice to Developer and Developer's surety (if any) describing the default.

**7.2. Events of default.** Developer shall be in default of this Agreement if the City Engineer determines that any one of the following conditions exist:

**7.2.1.** Developer is insolvent, bankrupt, or makes a general assignment for the benefit of its creditors.

**7.2.2.** Developer abandons the Project site.

**7.2.3.** Developer fails to perform one or more requirements of this Agreement.

**7.2.4.** Developer fails to replace or repair any damage caused by Developer or its agents, representatives, contractors, subcontractors, or employees in connection with performance of the Work.

**7.2.5.** Developer violates any legal requirement related to the Work.

**7.3. Cure.** If Developer fails to cure the default within five days, or provide adequate written assurance to the satisfaction of the City Engineer that the cure will be promptly started and diligently prosecuted to its completion, the City may, in the discretion of the City Engineer, take any or all of the following actions:

**7.3.1.** Cure the default and charge Developer for the costs, including administrative costs and interest in an amount equal to 7% per annum from the date of default.

**7.3.2.** Demand Developer complete performance of the Work.

**7.3.3.** Demand Developer's surety (if any) complete performance of the Work.

**8. Ownership of Work.** All original documents prepared by Developer for this Agreement are the property of the City, and Developer shall provide them to the City at the completion of Developer's Work, or upon demand from the City.

**9. Repair of any Damage.** In the event and to the extent Developer or its agents, representatives, contractors, subcontractors, or employees, in connection with performance of the Work, cause any damage to property owned by City or other property owners, then Developer shall promptly take all reasonable steps to repair or replace (as necessary) such property to remedy the damage caused thereto.



**10. Inspection by the City; Fees.** In order to permit the City to inspect the Work, Developer shall, at all times, provide to the City proper and safe access to the Project site, and all portions of the Work, and to all shops where portions of the Work are in preparation. Concurrently with Developer's execution of this Agreement and before the beginning of any Work, Developer shall pay the City Inspection Fees in the amount of 3.5% of the estimated Project costs (as approved by the City Engineer). If the City requires an independent inspection, Developer shall pay all such costs and provide a report directly to the City.

**11. Developer's Authorized Representative.** At all times during the progress of the Work, Developer shall have a competent foreperson or superintendent (Superintendent) on site with authority to act on behalf of Developer. Developer shall, at all times, keep the City Engineer informed in writing of the names and telephone numbers of: (a) the Superintendent; and (b) all contractors and subcontractors performing the Work. Exhibit "C" attached hereto includes the initial contact information referenced in this Section 11.

**12. No Filing of Final Map Until Subdivision Improvement Agreement.**

Developer understands and agrees that no final map may be approved or recorded for the Project until after the Developer and the City enter into a Subdivision Improvement Agreement which addresses all requirements of the Conditions. Neither the execution of this Agreement, nor the completion of the Work, shall cause Developer to acquire any vested rights to file, have approved, or to record a final map. It is expressly agreed that Developer shall be subject to all laws and regulations now in force or hereinafter enacted affecting the Project. By executing this Agreement, the Developer fully understands and agrees to comply with these conditions.

**13. Warranty Period.** Developer shall warrant the quality of the Work, in accordance with the terms of the Plans and Specifications, for a period of one year after acceptance of the Work by the City Council. If during the one year warranty period any portion of the Work is determined by the City Engineer to be defective as a result of an obligation of Developer under this Agreement, Developer shall be in default of this Agreement and shall without delay and without any cost to City repair, replace, or reconstruct any defective improvements.

**14. Notices.**

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

To City

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

With a copy to:

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

To Developer:

Lennar Homes of California, LLC  
2603 Camino Ramon, Suite 525  
San Ramon, CA 94583  
Attn: Bridgit Koller  
bridgit.koller@lennar.com

With a copy to:

AG Essential Housing CA 1, LP  
c/o AGWIP Asset Management LLC  
8585 E. Hartford Drive, Suite 118  
Scottsdale, AZ 85255  
Attn: Steven S. Benson, Manager  
steve.benson@agwipam.com

**14.2.** Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the email address designated above, or (2) two working days following the deposit in the United States Mail of registered or certified mail, sent to the address designated above.

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

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

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

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

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

**20. Permits, Licenses, and Compliance with Law.** Developer shall, at Developer's expense, obtain and maintain all necessary permits and licenses for the performance of the Work. Before City signs the Agreement, Developer shall obtain a City of Tracy Business License. Developer shall comply with all local, state, and federal laws, whether or not those laws are expressly stated in this Agreement.

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

- A. Location of Project (Recital A)
- B. Conditions of Approval (Recital C)
- C. Developer's Authorized Representative Information (Section 11)

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

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

*[signatures on following page]*

*City of Tracy – Inspection Improvement Agreement*

*Corral Hollow Road Widening Improvements at Tracy Hills Phase 2 Frontage*

The parties hereby agree to the full performance of the terms set forth herein.

**City of Tracy**

**Developer**

\_\_\_\_\_  
Nancy D. Young, Mayor

LENNAR HOMES OF CALIFORNIA, LLC  
a California limited liability company

Date: \_\_\_\_\_

*Bridget Koller*  
\_\_\_\_\_

Approved by City Council on \_\_\_\_\_  
by Resolution No. \_\_\_\_\_.

By: Bridget Koller  
Title: Vice President

Date: 1/30/2023

Attest:

Federal Employer Tax ID No. 93-1223261

\_\_\_\_\_  
By: Adrienne Richardson, City Clerk

Approved As To Form:

\_\_\_\_\_  
By: Bijal M. Patel, City Attorney

### EXHIBIT "A" LOCATION OF PROJECT

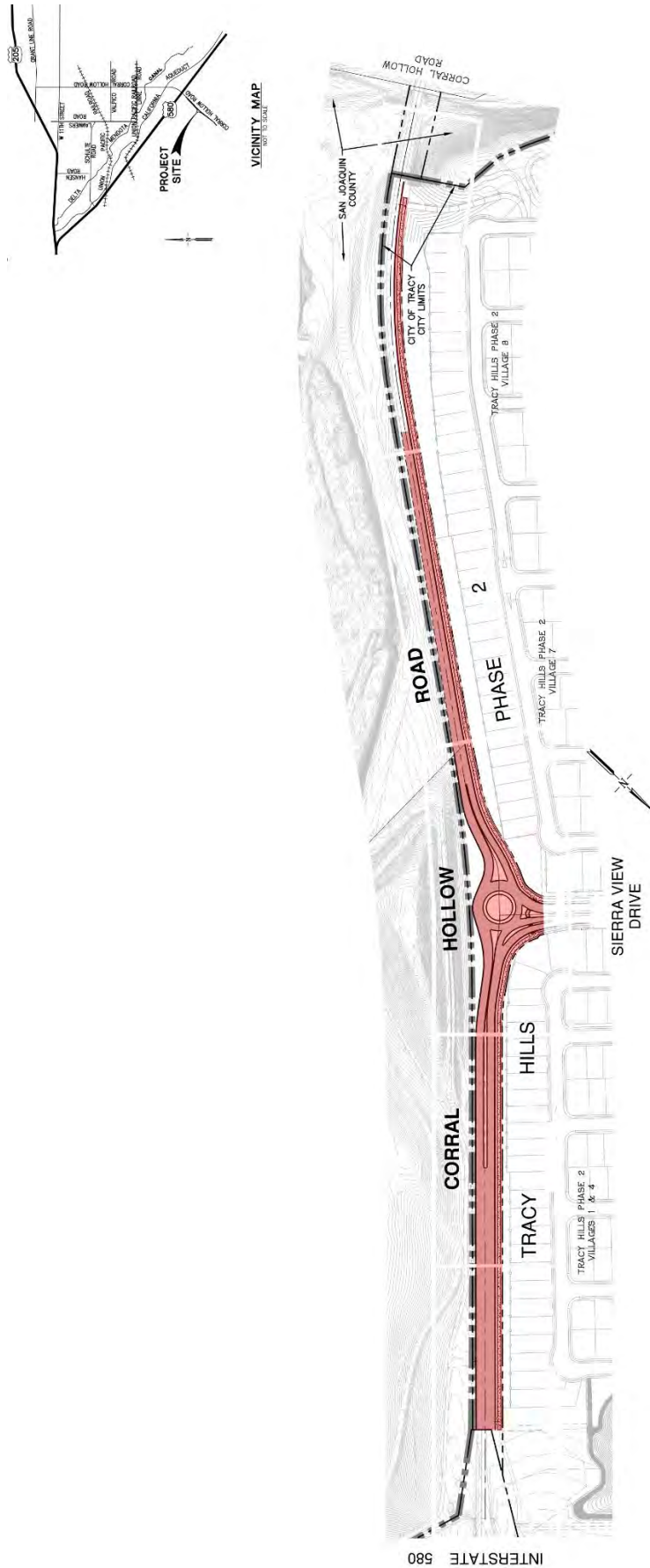


EXHIBIT "B"  
Conditions of Approval

**Conditions of Approval for Tracy Hills Phase 2  
Vesting Tentative Subdivision Map  
Application Number TSM20-0003  
October 19, 2021**

**Project:** These Conditions of Approval shall apply to the Vesting Tentative Subdivision Map for Tracy Hills Phase 2, Application Number TSM20-0003, including approximately 1,470 single-family residential lots and various other parcels.

**Property:** The property consists of approximately 1,143 acres located in the Tracy Hills Specific Plan Area, south of I-580, west of Corral Hollow Road, Application Number TSM20-0003.

**Community Facilities Districts:** Certain conditions of approval herein involve the establishment of one or more Community Facilities Districts (CFDs) to implement the Project. The imposition of conditions requiring or involving the establishment of CFDs on the Property shall not limit the City from establishing additional CFDs over the Property, subject to an affirmative vote of the Property owner(s).

**A. Definitions; Abbreviations.**

The definitions in the City's zoning regulations (Tracy Municipal Code, Title 10, Chapter 10.08) and subdivision ordinance (Tracy Municipal Code, Title 12, Chapter 12.08) apply, and in addition:

1. "Applicant" means any person, or other legal entity, defined as a "Subdivider" by Section 12.08.010 of the City of Tracy Municipal Code.
2. "Development Services Director" means the Development Services Director of the City of Tracy, or any other person designated by the City Manager or the Development Services Director, to perform the duties set forth here. (The Development Services Director is also referred to in the Tracy Municipal Code as the Development and Engineering Services Director.)
3. "City Regulations" means all written laws, rules, and policies established by the City, including those set forth in the City of Tracy General Plan, the Tracy Hills Specific Plan, the Tracy Municipal Code, ordinances, resolutions, written policies, written procedures, and the City's Design Documents (including the Standard Plans, Standard Specifications, Design Standards, and relevant Public Facility Master Plans).
4. "Conditions of Approval" or "Conditions" means these conditions of approval.

Conditions of Approval  
 Tracy Hills Phase 2 – Vesting Tentative Subdivision Map  
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 October 19, 2021

5. “Property” means the approximately 1,143 acres located in the Tracy Hills Specific Plan Area that is the subject of the Vesting Tentative Subdivision Map for Tracy Hills Phase 2, Application Number TSM20-0003.

The following abbreviations may be used in these Conditions:

EIR	Environmental Impact Report	PI&RA	Park Improvement and Reimbursement Agreement
DIA	Deferred Improvement Agreement	PUE	Public Utility Easement
OIA	Offsite Improvement Agreement	TMC	Tracy Municipal Code

**B. Planning Division Conditions of Approval**

1. Compliance with laws. The Subdivider shall comply with all laws (federal, state, and local) related to the development of real property within the Project boundaries, including, but not limited to: the Planning and Zoning Law (Government Code sections 65000, et seq.), the Subdivision Map Act (Government Code sections 66410, et seq.), the California Environmental Quality Act (Public Resources Code sections 21000, et seq., “CEQA”), and the Guidelines for the California Environmental Quality Act (California Administrative Code, title 14, sections 15000, et seq., “CEQA Guidelines”).
2. City Regulations. Unless specifically modified by these Conditions of Approval, the Subdivider shall comply with all City Regulations.
3. Mitigation Measures. The Subdivider shall comply with all applicable mitigation measures in the Final Subsequent Environmental Impact Report (EIR) for the Tracy Hills Specific Plan Project (State Clearinghouse No. 2013102053), which was certified by the City Council on April 5, 2016, as it may be amended or modified pursuant to CEQA and the CEQA Guidelines.
4. Notice of protest period. Pursuant to Government Code Section 66020, including Section 66020 (d)(1), the City HEREBY NOTIFIES the Subdivider that the 90-day approval period (in which the Subdivider may protest the imposition of any fees, dedications, reservations, or other exactions that are within the purview of the Mitigation Fee Act [Government Code section 66000 et seq.] (“Exactions”) and imposed on this Project by these Conditions of Approval) shall begin on the date of the conditional approval of this Project. If the Subdivider fails to file a protest of the Exactions complying with all of the requirements of Government Code Section 66020 within this 90-day period, the Subdivider will be legally barred from later challenging any of the Exactions. The terms of this paragraph shall not affect any other deadlines or statutes of limitations set forth in the Mitigation Fee Act or other applicable law, or constitute a waiver of any affirmative defenses available to the City.

Conditions of Approval  
Tracy Hills Phase 2 – Vesting Tentative Subdivision Map  
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5. Final Maps for Financing Purposes. For the purpose of these Conditions of Approval, if any Final Map or Parcel Map is filed within the boundaries of the Project solely for financing purposes only, and no permits will be requested pursuant to such map, then the requirements listed in these Conditions of Approval shall not apply to the final map or parcel map for financing purposes only.
6. Conformance with Vesting Tentative Subdivision Map. All Final Maps shall be in substantial conformance with the approved Vesting Tentative Subdivision Map (Application Number TSM20-0003), which was received by the Development Services Department on October 12, 2021, unless modified by these Conditions.
7. Streets, Streetlights and Sidewalks

Before approval of the first Final Map or issuance of any building permit for the Property (except for up to fifteen (15) model homes), Subdivider shall provide for perpetual funding of the on-going costs of operation, maintenance and replacement for the traffic signals, streetlights, and street sweeping on the Property (including all costs required by PG&E), by doing one or more of the following, subject to the approval of the City's Finance Director:

- a. Community Facilities District. Subdivider shall enter into an agreement with the City, to be signed by the Finance Director, which shall be recorded against the Property, which requires that prior to the issuance of a certificate of occupancy for a residential dwelling unit, Subdivider shall complete the annexation of the Property to City of Tracy Community Facilities District in compliance with the requirements of the Mello – Roos Community Facilities Act of 1982 (Gov. Code § 53311 et seq.) including, without limitation, affirmative votes, and the recordation of a Notice of Special Tax Lien. Subdivider shall be responsible for all costs associated with the CFD proceedings.

Or

- b. HOA and dormant CFD. If the HOA is the chosen funding mechanism, the Subdivider must do the following:
  - (1) Form a Homeowner's Association (HOA) or other maintenance association, with CC&Rs reasonably acceptable to the City, to assume the obligation for the on-going costs of operation, maintenance and replacement for the traffic signals, streetlights, and street sweeping on the Property (including all costs required by PG&E);
  - (2) Cause the HOA to enter into an agreement with the City, in a form to be approved by the City and to be recorded against the Property prior to the final inspection or occupancy of the first dwelling (except for up to fifteen model homes), setting forth, among other things, the



required maintenance obligations, the standards of maintenance, and all other associated obligation(s) to ensure the long-term operation, maintenance and replacement by the HOA for the traffic signals, streetlights, and street sweeping on the Property;

- (3) Before final inspection or occupancy of the first dwelling (except for up to fifteen model homes), annex into a CFD in a "dormant" capacity, to be triggered if the HOA fails (as determined by the City in its sole and exclusive discretion) to perform the required level of operation, maintenance and replacement for the traffic signals, streetlights, and street sweeping on the Property. The dormant tax or assessment shall be disclosed to all homebuyers and non-residential property owners, even during the dormant period.

Or

- c. Direct funding. Subdivider shall enter into an agreement with the City, which shall be recorded against the Property, which requires that prior to issuance of a certificate of occupancy for a residential dwelling unit, Subdivider shall deposit with the City an amount necessary, as reasonably determined by the City, to fund in perpetuity the on-going costs of operation, maintenance and replacement for the streets, streetlights, and sidewalks on the Property (including all costs required by PG&E).

If the provisions for adequate funding of the on-going costs of operation, maintenance and replacement for the traffic signals, streetlights, and street sweeping on the Property (including all costs required PG&E) are met prior to issuance of the first building permit for the Property, subject to the Finance Director's review and approval, the terms of this condition shall be considered to have been met and this condition shall become null and void.

8. Police/Public Safety & Public Works

Before approval of the first Final Map or issuance of any building permit for the Property (except for up to fifteen (15) model homes), Subdivider shall provide for perpetual funding of the on-going costs of providing Police and public safety and Public Works services for the Property, by doing one of the following, subject to the approval of the City's Finance Director:

- a. Community Facilities District. Subdivider shall enter into an agreement with the City, to be signed by the Finance Director, which shall be recorded against the Property, which requires that prior to the issuance of a certificate of occupancy for a residential dwelling unit, Subdivider shall complete the annexation of the Property to City of Tracy Community Facilities District in compliance with the requirements of the Mello – Roos Community Facilities Act of 1982 (Gov. Code § 53311 et seq.) including, without limitation, affirmative votes, and the recordation of a Notice of

Special Tax Lien. Subdivider shall be responsible for all costs associated with the CFD proceedings.

Or

- b. Direct funding. Subdivider shall enter into an agreement with the City, which shall be recorded against the Property, which requires that prior to issuance of a certificate of occupancy for a residential dwelling unit, Subdivider shall deposit with the City an amount necessary, as reasonably determined by the City, to fund in perpetuity the on-going costs of providing Police and public safety and Public Works services for the Property.

If the provisions for adequate funding of the on-going costs of providing Police and public safety and Public Works services for the Property are met prior to issuance of the first building permit for the Property, subject to the Finance Director's review and approval, the terms of this condition shall be considered to have been met and this condition shall become null and void.

9. Landscaping Maintenance

Before approval of the first Final Map or issuance of any building permit for the Property (except for up to fifteen (15) model homes), Subdivider shall provide for perpetual funding of the on-going costs of maintenance and replacement for public landscaping for the Property (but shall exclude the community park), by doing one or more of the following, subject to the approval of the City's Finance Director:

- a. CFD or other funding mechanism. The Subdivider shall enter into an agreement with the City, which shall be recorded against the Property, which stipulates the following: (1) prior to issuance of a building permit, the Subdivider shall form a Community Facilities District (CFD) for funding the on-going maintenance costs related to maintenance, operation, repair and replacement of public landscaping, public walls and any public amenities included in the Project, and ongoing public landscaping maintenance costs associated with major program roadways identified in the Citywide Roadway and Transportation Master Plan; (2) the items to be maintained include but are not limited to the following: ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems; masonry walls or other fencing, entryway monuments, or other ornamental structures, furniture, recreation equipment, hardscape and any associated appurtenances within medians, parkways, dedicated easements, channel-ways, public parks and public open space areas; (3) formation of the CFD shall include, but not be limited to, affirmative votes and the recordation of a Notice of Special Tax Lien; (4) upon successful formation, the parcels will be subject to the maximum special tax rates as outlined in the Rate and Method of Apportionment; (5) prior to issuance of a building permit, the Subdivider shall deposit an amount equal to the first year's taxes; and (6) the Subdivider shall be responsible for all costs

associated with formation of the CFD.

Or

b. HOA and dormant CFD. If the HOA is the chosen funding mechanism, the Subdivider must do the following:

- (1) Form a Homeowner's Association (HOA) or other maintenance association, with CC&Rs reasonably acceptable to the City, to assume the obligation for the on-going maintenance of all public landscaping areas within the entire tentative subdivision map area;
- (2) Cause the HOA to enter into an agreement with the City, in a form to be approved by the City and to be recorded against the Property prior to the final inspection or occupancy of the first dwelling (except for up to fifteen model homes), setting forth, among other things, the required maintenance obligations, the standards of maintenance, and all other associated obligation(s) to ensure the long-term maintenance by the HOA of all public landscape areas within the entire tentative subdivision map area;
- (3) For each Final Map, make and submit to the City, in a form reasonably acceptable to the City, an irrevocable offer of dedication of all public landscape areas within the Final Map area;
- (4) Before final inspection or occupancy of the first dwelling (except for up to fifteen model homes), annex into a CFD in a "dormant" capacity, to be triggered if the HOA fails (as determined by the City in its sole and exclusive discretion) to perform the required level of public landscape maintenance. The dormant tax or assessment shall be disclosed to all homebuyers and non-residential property owners, even during the dormant period.

Or

c. Direct funding. The Subdivider shall enter into an agreement with the City, which shall be recorded against the Property, which stipulates that prior to issuance of a building permit, the Subdivider shall deposit with the City an amount necessary, as reasonably determined by the City, to fund in perpetuity the full on-going maintenance costs related to maintenance, operation, repair and replacement of public landscaping, public walls and any public amenities included in the Project, and ongoing public landscaping maintenance costs associated with major program roadways identified in the Citywide Roadway and Transportation Master Plan. The items to be maintained include but are not limited to the following: ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems, masonry walls or other fencing, entryway monuments or other ornamental structures, furniture, recreation equipment, hardscape and

any associated appurtenances within medians, parkways, dedicated easements, channel-ways, public parks and public open space areas.

10. Neighborhood Parks. Before approval of the first Final Map, the Subdivider shall enter into an agreement with the City, which shall be recorded against the property, which stipulates the following:
  - a. Prior to the issuance of the 125<sup>th</sup> building permit that allows construction of a dwelling, not including plumbing only permits, the developer shall commence construction of the first neighborhood park. If the construction of the first neighborhood park has not commenced by the issuance of 125<sup>th</sup> building permit, no further building permits shall be issued until the first neighborhood park construction is commenced;
  - b. Prior to the issuance of the 500<sup>th</sup> building permit that allows construction of a dwelling, not including plumbing only permits, the developer shall commence construction of the second neighborhood park. If the construction of the second neighborhood park has not commenced by the issuance of 500<sup>th</sup> building permit, no further building permits shall be issued until the second neighborhood park construction is commenced;
  - c. Prior to the issuance of the 976<sup>th</sup> building permit that allows construction of a dwelling, not including plumbing only permits, the developer shall commence construction of the third neighborhood park. If the construction of the third neighborhood park has not commenced by the issuance of 976<sup>th</sup> building permit, no further building permits shall be issued until the third neighborhood park construction is commenced; and
  - d. Prior to the issuance of the 1,226<sup>th</sup> building permit that allows construction of a dwelling, not including plumbing only permits, the developer shall commence construction of the fourth neighborhood park. If the construction of the fourth neighborhood park has not commenced by the issuance of 1,226<sup>th</sup> building permit, no further building permits shall be issued until the fourth neighborhood park construction is commenced.

**C. Engineering Division Conditions of Approval**

1. General Conditions

- C.1.1 Subdivider shall comply with the applicable requirements of the approved documents, technical analyses/reports prepared for the Project listed as follows:
  - a) *Tracy Hills Specific Plan* approved by City Council by Resolution No. 2016-063, dated April 5, 2016, and any amendments thereto.
  - b) *Amendment to the Tracy Hills Specific Plan for Phase 2*, approved by the City Council by Resolution No. 2021-\_\_\_\_\_ on \_\_\_\_\_, 2021, including the *Transportation Consistency Analysis* prepared for the Amendment by Kimley-Horn and Associates, dated

Conditions of Approval  
Tracy Hills Phase 2 – Vesting Tentative Subdivision Map  
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September 23, 2021, and any updates or amendments thereto (“Specific Plan Amendment” or “SPA”).

- c) *Tracy Hills Specific Plan Final Subsequent Environmental Impact Report*, dated January 2016, certified by City Council by Resolution No. 2016-062 on April 5, 2016, and the *Addendum to the Tracy Hills Specific Plan EIR*, prepared by Kimley-Horn and Associates, dated September 2021, including all mitigation measures incorporated therein (hereinafter referred to together as “EIR”).
- d) *Tracy Hills Phase 2 Traffic Study*, prepared by Kimley-Horn and Associates, dated September 30, 2021, and any updates or amendments thereto (“Traffic Study”).
- e) *City of Tracy Citywide Roadway and Transportation Master Plan*, prepared by RBF Consulting, dated November 2012 (“TMP”).
- f) *Tracy Hills Phase 2 VTM Drainage Analysis* prepared by Ruggeri-Jensen-Azar, dated December 17, 2020, and the review of said analysis contained in the *Technical Memorandum* prepared by Wood Rodgers, dated April 26, 2021 (draft), and any updates or amendments to either document (“Storm Drainage Study”).
- g) *Tracy Hills Storm Drainage Master Plan* prepared by Ruggeri-Jensen-Azar, dated November 2013 (“*Storm Drainage Master Plan*”), as reviewed by Storm Water Consulting, Inc and Stantec Consulting Services, Inc.
- h) *Tracy Hills Phase 2 Sanitary Sewer Study Technical Memorandum* prepared by Black Water Consulting Engineers, dated October 1, 2021, and any updates or amendments thereto (“Sanitary Sewer Study”).
- i) *Peer Review and Hydraulic Evaluation for Tracy Hills Phase 2, 3, and 4* prepared by West Yost, dated July 13, 2021, and any updates or amendments thereto (“Water Study”).
- j) *Pipeline Safety Hazard Assessment, Tracy Hills Specific Plan* prepared by Place Works, dated September 2014.
- k) Any *Finance Implementation Plan (“FIP”)*, as described in Section 10.20.060(b)(3)(B) of the Tracy Municipal Code, that is approved by the City Council for the property described in the Tracy Hills Phase 2 Vesting Tentative Subdivision Map, Application No. TSM20-0003.
- l) Development Agreement, executed between the City of Tracy and the developers of the Tracy Hills Project, approved by the City Council on April 5, 2016, by Ordinance No. 1213, and the First Amendment to the Development Agreement, approved by the City

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Council on November 10, 2020, by Ordinance No. 1300  
("Development Agreement").

- m) Settlement Agreement, executed between the City of Tracy and the developers of the Tracy Hills Project, having an effective date of December 17, 2019 ("Settlement Agreement").
- n) *Agreement to Defer Payment of Development Impact Fees on New Residential Development*, executed between the City of Tracy and the developers of the Tracy Hills Project, dated November 15, 2016 ("Fee Deferral Agreement").

C.1.2 Timing of Compliance: The Applicant shall satisfy each of the following conditions prior to filing the first Final Map unless a different time for compliance is specifically stated in these Conditions of Approval. Any condition requiring an improvement that has already been designed and completed under a City-approved improvement agreement may be considered satisfied at the discretion of the City Engineer.

For the purpose of these Conditions of Approval, if any Final Map or Parcel Map is filed within the boundaries of the Project solely for financing purposes only, and no permits will be requested pursuant to such map, then the requirements listed in these Conditions of Approval shall not apply to the final map or parcel map for financing purposes only.

C.1.3 Revisions to the Vesting Tentative Subdivision Map ("VTSM"): The Subdivider shall incorporate revisions to comply with the recommendations and comments in the Traffic Study prior to signature by the City Engineer on the VTSM.

## C.2 Improvement Plans

### C.2.1 General

The Subdivider shall complete the Improvement Plans to comply with all applicable laws, including the City Regulations (defined above) and these Conditions of Approval. Improvement Plans shall contain the design, construction details and specifications of improvements that is/are required to serve the Project. The Improvement Plans shall be drawn on a 24" x 36" size 4-mil thick polyester film (mylar) and shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work.

C.2.1 Signed and stamped Engineer's Estimate that summarizes the cost of constructing all the public improvements shown on the Improvement Plans.

C.2.2 Site Grading

C.2.2.1 Grading and Drainage Plans

Submit a Grading and Drainage Plan prepared by a Registered Civil Engineer and accompanied by the Project's Geotechnical /Soils Engineering report. The report shall provide recommendations regarding adequacy of the site relative to the stability of soils such as soil types and classification, percolation rate, soil bearing capacity, highest observed ground water elevation, and others.

C.2.2.2 When the grade differential between the Project site and the adjacent property(s) exceeds 12 inches, a reinforced or masonry block wall, engineered slope, or engineered retaining wall is required for retaining soil. The Subdivider shall submit Retaining Wall Plans that includes the construction detail(s) and structural calculations of the retaining wall or masonry wall for City's review and approval.

C.2.2.3 If an engineered slope is used to retain soil subject to approval by the City Engineer, a slope easement will be necessary from the adjacent property. The Subdivider shall obtain a slope easement from owner(s) of the adjacent and affected property(s) and show the slope easement on the Final Map.

C.2.2.4 Erosion Control

Improvement Plans shall specify the method of erosion control to be employed and materials to be used.

C.2.2.5 If applicable, show all existing irrigation structure(s), channel(s) and pipe(s) that are to remain or relocated or to be removed, if any, after coordinating with the irrigation district or owner of the irrigation facilities. If there are irrigation facilities including tile drains, that are required to remain to serve existing adjacent agricultural uses, the Subdivider shall design, coordinate and construct required modifications to the facilities to the reasonable satisfaction of the owner of the irrigation facilities and the City.

C.2.3 Grading Permit

The City will not accept a grading permit application for the Project as complete until the Subdivider has provided all relevant documents related to the grading permit required by the City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer.

C.2.4 Storm Drainage

- C.2.4.1 Site grading shall be designed such that the Project's storm drainage overland release point will be directed to a storm drainage easement or to public streets with a functional storm drainage system and that the storm drainage system within the public streets has adequate capacity to drain storm water from the Property.
- C.2.4.2 All permanent underground storm drainage lines, structures and facilities to be maintained by the City shall be located within right-of-way to be dedicated to the City or within an easement. If applicable, interim facilities and storm drain lines and collection basins shall be maintained by the Subdivider.
- C.2.4.3 Storm drainage plans are to be submitted with the required hydrologic and hydraulic calculations for the sizing of storm drainage pipe(s) and shall comply with the Storm Drainage Master Plan, Storm Drainage Study and City Regulations.
- C.2.4.4 Prior to acceptance of maintenance of any public facilities by the City, the Subdivider shall prepare and obtain approval from the Public Works Department of a maintenance plan for all temporary and permanent storm drainage facilities to be maintained by the Subdivider or the HOA. The maintenance plan shall show the phasing of roadway construction, mass grading, drainage facilities, including collection channels, erosion control and protection of the Crimson crude oil pipeline during construction. A SWPPP may be used as the maintenance plan with approval by the City Engineer.
- C.2.4.5 Storm water designs shall show facilities needed for the collection and channeling of surface water runoff and off-site flow-thru surface water runoff to underground storm drainage facilities, such as drainage collection channels, appropriately designed inlet structures and sedimentation/detention ponds. These improvements shall be shown on the Grading Plans and be approved by the City Engineer before the issuance of a Grading Permit.
- C.2.4.6 Since the Project will construct terminal retention basins, it has been determined that the Project will be exempt from the Post Construction Stormwater Quality Standards. However, should new Federal or State regulations come into effect during the buildout of the Project that would require future compliance, then the Project may not be exempted from those new requirements.



SWPPP's shall be implemented during project construction. In addition, the Project may implement stormwater control measures such as disconnected roof leaders, non-contiguous street sidewalks (providing landscape strips/parkways), tree planting in parkways and use of drought tolerant landscape with drip irrigation systems and "intelligent" controllers. Similarly, public education measures regarding the damaging effects of pollutants to water quality may also be implemented.

- C.2.4.7 All storm water structural and construction details that are not part of the City Standard Plans or City Design Standards shall be provided by the Subdivider and submitted to the City for approval as part of the improvement plans.
- C.2.4.8 Storm drainage retention basins shall be contained within a parcel suitable for dedication to the City of Tracy. The basins shall be provided with appropriate fencing with warning signs, access roadways to and from public roadways and access roadways into the basins for maintenance purposes as approved by the City Engineer. All storm drainage inlets into the basins shall have inlet structures with design acceptable to the City Engineer.
- C.2.4.9 Fixed vertical sediment depth markers shall be installed near discharge points into the Retention Basin to assist with measurements of sediment deposition over time and future assessments of the need for maintenance activities.
- C.2.4.10 Prior to or concurrently with the City's approval of the first Final Map within Project, the Subdivider shall dedicate to the City utility maintenance easements necessary for all storm drainage facilities. All requirements relating to the access and maintenance by the Utilities Department and Public Works Department shall be incorporated into the improvement plans.

#### C.2.5 Sanitary Sewer

- C.2.5.1 All sanitary sewer lines and associated improvements shall be designed and installed in accordance with the Sanitary Sewer Study and City Regulations. Before approval of Final Map(s) for the Project, Subdivider shall submit improvement plans and obtain approval of plans for all on-site and off-site sewer improvements required to serve the Project.
- C.2.5.2 As indicated in the Sewer Study, based on the projected sewer demand from approved projects within the Coral Hollow sewer contributory area, the Phase 2 of the Choke Points Improvements for Corral Hollow Road Sewer as

identified in the Wastewater Master Plan (“ Phase 2 Choke Points Improvements”) will be required to serve the Project. The City has commenced the design of Phase 2 Choke Point Improvements. In the event the City does not have adequate funding for Phase 2 Choke Points Improvements the Subdivider will contribute funding as determined by the City Engineer to cover shortfall in funding, so the City can proceed with the construction of the improvement. Building permits will only be issued up to available capacity in the Corral Hollow Sewer system as determined by the City Engineer. Subdivider will be eligible for fee credits and/or reimbursements in accordance with Tracy Municipal Code.

- C.2.5.3 Based on the analysis of the capacity of Wastewater Treatment Plant (WWTP) and the projected growth over the next five years, it is estimated that Phase 2C of the WWTP improvements as identified in the Wastewater Master Plan will be required to be constructed and operational in 2023. City has identified a funding shortfall of approximately \$33.5 Million for the WWTP Phase 2 improvements. In order for the City to undertake design and construction of the WWTP Phase 2C improvements to provide adequate treatment capacity of the Project, City has identified the need to collect upfront fees from developments within the City.

On or prior to December 31, 2022, the Developer shall pay the City half the amount of the wastewater treatment development impact fees (estimated at approximately \$6 Million) for lots within the boundary of Tracy Hills Phase 2 Tentative Map and shall provide a Letter of Credit (or other guarantee) to the satisfaction of the City Engineer for the other half of the wastewater treatment development impact fees. On or prior to December 31, 2023, the Developer shall pay to the City the remaining half the amount of the wastewater treatment development impact fees. After the second payment, the City Engineer may release the Letter of Credit (or other guarantee). For building permits issued prior to December 31, 2022, the Developer shall pay wastewater development impact fees per lot consistent with its agreement with the City and Title 13 of the Tracy Municipal Code. The City Engineer will determine the amount due on December 22, 2022 based on the available wastewater development impact fees collected and the funding shortfall for WWTP Phase 2C improvements. The Developer shall be required to pay wastewater development impact fee up to the amounts as outlined above (for all lots for which building permits have not been issued on December 31, 2022). Building permits will

only be issued up to available capacity in the WWTP, as determined by the City Engineer.

In the event City collects adequate funding from other development projects within the City by December 31, 2022, Developer will not be required to pay the upfront fees as outlined above.

- C.2.5.4 The Subdivider shall extend the sanitary sewer facilities within Lammers Road that are intended to serve future phases of the Tracy Hills Project northerly under I-580 and continuing north of I-580 within the Lammers Road right-of-way to connect to the sanitary sewer main stub to be installed with the Tracy Hills Drive improvements for Tracy Hills Phase 1B. Subdivider shall obtain an encroachment permit from Caltrans for the sewer improvements to be installed within the Caltrans right-of-way.
- C.2.5.5 No final inspection of any residential building will be performed or certificate of occupancy for commercial building will be issued, with the exception of Model Homes, until all improvements required per the Sanitary Sewer Study and City Regulations are completed and functional, as determined by the City Engineer.
- C.2.5.6 Subdivider shall pay impact fees at the time of issuance of building permit or in accordance with the Fee Deferral Agreement.
- C.2.5.7 Prior to the City's approval of the first Final Map within Project, the Subdivider shall dedicate to the City utility maintenance easements necessary for all sanitary sewer lines. All requirements relating to the access and maintenance by the Utilities Department and Public Works Department shall be incorporated into the improvement plans.

#### C.2.6 Water Distribution System

- C.2.6.1 All potable and recycled water lines and associated improvements shall be designed and installed in accordance with the Water Study and City Regulations. Before approval of Final Map(s) for the Project, Subdivider shall submit improvement plans and obtain approval of plans for all potable and recycled water lines and associated improvements.
- C.2.6.2 During the construction phases (vertical construction) of the Project, the Subdivider shall be responsible for providing water infrastructure (temporary or permanent) capable of

delivering adequate fire flows and pressure appropriate to the various stages of construction and as approved by the Fire Marshall.

C.2.6.3 Prior to approval of each Final Map, the Subdivider shall submit calculations and improvement plans as required by the Fire Marshall and the City Engineer, and obtain a letter from the Fire Marshall that the fire flow parameters per Tracy Design Standards Section 6.02 are met for the phased construction of water lines to the satisfaction of the Fire Marshal.

C.2.6.4 The Subdivider shall complete design and construction of one Zone 5/6 at-grade water storage tank with a holding capacity of at least 2.57 MG and water transition mains as necessary to serve the Project and in accordance the Water Study and City Regulations. These improvements are required to be complete and operational before the final inspection of the first residential building within the Project, unless an earlier time of completion is required to comply with Condition C.2.6.2. above.

All costs related to the design and construction of the water tanks and associated improvement are the responsibility of the Subdivider. Before approval of first Final Map within the Project, the Subdivider shall execute a Deferred Improvement Agreement (DIA) to address timing, scope of work and funding responsibilities. Subdivider may request formation of Benefit District for the water tanks and associated improvements per Condition C.10.4.

C.2.6.5 Subdivider shall install 12-inch and 16-inch recycled water mains in Lammers Road as required to serve the Project and as shown on Figures 9-2 and G-D1 in the draft (2020) Water System Master Plan Update. An approximately 1,150-foot segment of 16-inch recycled water main in Lammers Road under I-580 between the portions of Lammers Road north and south of the freeway will not be constructed with the interim two-lane Lammers Road undercrossing. Timing of the future installation of the above approximately 1,150-foot segment 16-inch recycled water main is to be determined by the City Engineer.

Initially, the recycled water main will be connected to a potable water supply (with a stub in place to future recycled water) as approved by the City until the program backbone recycled water facilities are in place. Once the recycled water system network is online the recycled water distribution main in Lammers Road will be disconnected from the potable water

system and connected to the recycled water system.

- C.2.6.6 Domestic and Irrigation Water Services – The HOA will be responsible for the repair and maintenance of all valves, fittings on services related to landscaping on all parcels to be owned by HOA and within HOA easements.
- C.2.6.7 Where pressures at individual water services will be 80 psi or more, the Subdivider shall provide pressure reducing valves at the location approved by the City Engineer. The design operation of the individual pressure reducing valves for services shall be subject to approval by the Building Official.
- C.2.6.8 Fire Service Line – The Subdivider shall design and install fire hydrants at the locations approved by the Fire Marshall. Before the approval of the Improvement Plans, the Subdivider shall obtain written approval from the Fire Marshall for the design, location and construction details of the fire service connections to the Project, and for the location and spacing of fire hydrants that are to be installed to serve the Project.

#### C.2.7 Roadway Improvements

- C.2.7.1 Subdivider is required to design and construct all applicable on-site, frontage and off-site roadway improvements to serve the Project as identified in the Traffic Study, EIR and these Conditions of Approval. All improvements shall comply with City Regulations, and Tracy Hills Design Standards and Specific Plan Amendments. Such improvements shall include, but are not limited to, roadways, water distribution system, sewer system, storm drainage systems, curb and gutter, sidewalks, street lighting system, traffic signals, ITS systems, pavement and crosswalk striping, bicycle lanes and trails, roadway signage and street signs, fire hydrants, median islands, turn lanes, landscaping, and all necessary related improvements as required by the City. Timing of completion of roadway improvements shall comply with these Conditions of Approval and as outlined in the Mitigation Measures listed in the EIR.

In the case of a discrepancy between the information shown on the Vesting Tentative Subdivision Map (“VTSM”) and/or Specific Plan Amendment and the right-of-way and street improvement requirements in the Traffic Study, the Traffic Study shall govern unless determined otherwise by the City Engineer.

- C.2.7.2 Lammers Road and Other In-tract Streets – Right-of-Way

The Subdivider shall dedicate all rights-of-way that are necessary to construct Lammers Road, between Tracy Hills Drive and Corral Hollow Road, and all the in-tract streets, based on their respective cross sections shown on the VTSM and in accordance the Traffic Study, with the Final Map for the respective phase. The width of travel lanes, turn lanes, street median, landscaping strips and sidewalks shall be in accordance with the VTSM and the Traffic Study.

#### C.2.7.3 Lammers Road and Other In-tract Streets – Improvements

Design and construction details for Lammers Road, between Tracy Hills Drive and Corral Hollow Road, and the in-tract streets such as asphalt concrete pavement, curb, gutter, median curb, sidewalks, street lights, fire hydrants, landscaping with automatic irrigation system, storm drains, catch basin and drop inlets, sanitary sewer mains and laterals, water mains, individual water services and meters, pavement marking and striping, traffic signs, driveways, curb ramps and all other street improvements shall comply with VTSM, Traffic Study and City Regulations, and shall be shown on the Improvement Plans. Interim improvements under I-580 include 5' wide sidewalk on east side only.

Improvements along Lammers Road and certain in-tract streets shall also include Class I bikeways or Class II bike lanes in accordance with the VTSM and Traffic Study. Interim improvements under I-580 do not include Class 1 bikeway or Class II bike lanes.

Lammers Road and Street B improvements adjacent to the school site on Lot H shall be constructed in accordance with the VTSM and Traffic Study and are subject to the review and approval of the Jefferson School District.

#### C.2.7.4 Corral Hollow Road - Right of Way

Per the TMP and SPA, Corral Hollow Road will be a 4-lane major arterial roadway with 11' wide raised median, sidewalk/Class I bikeway on west side and landscaping between I-580 and Lammers Road and 2-lane arterial with sidewalk/Class I bikeway on west side and landscaping south of Lammers Road to the Project boundary. The Subdivider shall dedicate all rights-of-way along the Project frontage necessary for the widening of Corral Hollow Road per TMP and including any additional right-of-way required for the construction of roundabout improvements, turn lanes and transitions at the intersection of Corral Hollow Road and

Lammers Road in accordance with the VTSM and Traffic Study.

The width of travel lanes, turn lanes, street median, landscaping strips and sidewalks shall be in accordance with the VTSM and the Traffic Study.

The Subdivider may be eligible for fee Credits and/or reimbursements for right-of-way dedication beyond Project's frontage obligation per the TMP requirements. Temporary or interim improvements are not eligible for fee credits or reimbursements.

C.2.7.5 Corral Hollow Road - Improvements

Design and construction details for Corral Hollow Road such as asphalt concrete pavement, curb, gutter, median curb, sidewalks, street lights, fire hydrants, landscaping with automatic irrigation system, storm drains, catch basin and drop inlets, pavement marking and striping, traffic signs, curb ramps and all other street improvements shall comply with VTSM, SPA, Traffic Study and City Regulations, and shall be shown on the Improvement Plans.

Improvements along Corral Hollow Road shall also include Class I bikeway in accordance with the VTSM and Traffic Study.

- C.2.7.6 Subdivider shall prepare improvement plans for Lammers Road and Corral Hollow Road improvements and obtain approval by the City Engineer. The timing and scope of the improvements to be shown on the improvement plans for Lammers Road and Corral Hollow Road shall be as determined by the City Engineer.

In order to guarantee completion of the Lammers Road and Corral Hollow Road Improvements, the Subdivider shall enter into an improvement agreement (SIA or OIA) and post an improvement security in the amounts and form in accordance with section 12.36.080 of the TMC and as required by these Conditions of Approval. The Subdivider shall submit the signed and notarized SIA or OIA with the necessary improvement security at the time of approval of the Final Map that triggers the need for improvements as determined by the City Engineer.

- C.2.7.7 For any Corral Hollow Road Improvements considered frontage improvements (such as Subdivider's Frontage Obligation per the TMP and landscape improvements behind

the curb) and improvements within Caltrans right-of-way at I-580/Corral Hollow Road interchange that are not constructed or security posted with OIA at the time of approval of the first Final Map, the Subdivider shall enter into a DIA with the City.

The Subdivider shall submit the signed and notarized DIA before approval of the first Final Map within the Project. The Subdivider shall post improvement security in the amounts and form in accordance with TMC section 12.36.080 at the times specified in the DIA.

C.2.7.8 Roadway Improvement Obligations per Traffic Study

The following roadway, intersection and interchange improvements are to be constructed by the Project:

a. I-580 & CORRAL HOLLOW ROAD RAMP TERMINALS.

Subdivider shall construct the I-580/Corral Hollow Road interchange improvements in accordance with the TMP, EIR and Traffic Study. Per the Traffic Study, interchange improvements are required to be completed prior to occupancy of the first residential unit within the Project because the interchange is already operating at a deficient level of service. Subdivider shall, in collaboration with the City Engineer and Caltrans, commence with the engineering design for the interchange improvements and initiate the Caltrans review, approval and permitting process no later than ninety (90) calendar days following approval of the Vesting Tentative Subdivision Map (“VSTM”) for the Project.

If the Subdivider is unable to complete construction of the interchange prior to occupancy of the first residential unit, primarily as a consequence of the Caltrans approval and permitting process, City may issue occupancy permits including and beyond the first residential unit provided that the Subdivider has, to the reasonable satisfaction of the City Engineer, diligently pursued its efforts to obtain the required Caltrans permits and complete construction of the interchange improvements and has collaborated closely with City staff in this effort.

Funding of these improvements are the primary responsibility of the developer per the Tracy Municipal Code, the EIR, and the City’s TMP. However, some funding may be provided in accordance with the Settlement Agreement and Development Agreement.



Funding sources may also include other regional transportation funds and/or grants that may become available, subject to eligibility and approval by the City and other approving agencies. Developer will be eligible for fee credits in accordance with Tracy Municipal Code provisions and Development Agreement.

b. LAMMERS ROAD - BETWEEN TRACY HILLS DRIVE AND CORRAL HOLLOW ROAD.

Subdivider shall construct Lammers Road between Tracy Hills Drive and Corral Hollow Road in accordance with the TMP, Traffic Study and per Conditions C.2.7.2 and C.2.7.3.

c. CORRAL HOLLOW ROAD/LAMMERS ROAD INTERSECTION.

Concurrent with the construction of Lammers Road between Tracy Hills Drive and Corral Hollow Road as described above and in Condition C.2.7.3, the Subdivider shall construct the Corral Hollow Road and Lammers Road intersection improvements, consisting of a two-lane roundabout and all associated improvements.

d. CORRAL HOLLOW ROAD WIDENING - FROM LINNE ROAD INTERSECTION TO THE AQUEDUCT.

Subdivider shall widen Corral Hollow Road to provide two lanes in each direction, including pedestrian and bicycle facilities, from the southern terminus of bridge crossing the California Aqueduct to the Linne Road intersection, including canal crossings, in accordance with the adopted Corral Hollow Road Precise Plan, the TMP, and the Traffic Study.

Construction of the above Corral Hollow Road Widening improvements shall commence upon or prior to the final inspection of the two thousand six hundredth (2,600<sup>th</sup>) dwelling unit within the project boundary (as defined in the Development Agreement).

e. CORRAL HOLLOW ROAD - I-580 TO LAMMERS ROAD.

Subdivider shall widen Corral Hollow Road to provide two lanes in each direction, including pedestrian and bicycle facilities, between I-580 and Lammers Road in accordance with the TMP, SPA, Traffic Study and Conditions C.2.7.4 and C.2.7.5.

C.2.7.9 The Subdivider shall construct an all-whether, emergency vehicle access across Lot CC as shown on the VTSM and in accordance with South San Joaquin County Fire Authority requirements.

C.2.7.10 Bus shelters on Lammers Road

The bus shelters (and turnouts if deemed necessary by the City) shall be constructed as part of the Lammers Road Improvements. Up to three bus shelters shall be placed on each side of Lammers Road between Corral Hollow Road and I-580 at the locations to be determined by the City Engineer. Timing of construction of bus shelters will be determined in the future based on the extension of TRACER's Fixed Route to serve the Project. In order to assure completion of construction of the bus shelters, the Subdivider may either enter into a DIA with security, or pay to the City the estimated cost for up to six bus shelters at the time of approval of the first Final Map within the Project.

C.2.7.11 Traffic Control Plan

Before starting any work within the project, the Subdivider shall submit a Traffic Control Plan for each phase of work, to show the method and type of construction signs to be used for regulating traffic at the work areas and within existing streets accessing the work areas. The Traffic Control Plan shall be prepared by a Civil Engineer or Traffic Engineer licensed to practice in the State of California.

C.2.7.12 Encroachment Permit

Before starting any work to be performed and improvements to be constructed within City's right-of-way, the Subdivider shall obtain an Encroachment Permit from the City. The Subdivider or its authorized representative shall submit all documents that are required to process the Encroachment Permit including but not limited to, approved Improvement Plans, Traffic Control Plan, payment of engineering review fees, copy of the Contractor's license, Contractor's Tracy business license, and certificate of insurance naming the City of Tracy as additional insured or as a certificate holder.

C.2.7.13 Dead-End Streets

A standard barricade and guardrail with appropriate traffic sign will be required at street ends. Alternatively, turnarounds/ hammerheads meeting the requirements of Fire Marshall shall be provided at the dead-end streets.

C.2.7.14 All intersections shall be designed to accommodate fire truck movements as required by the Fire Department.

C.2.7.15 Subdivider must provide and verify sight distances, where applicable, with regard to intersections, reverse lots and fence placements as required by the City Engineer.

C.2.8 EIR Mitigation Measures

The EIR identifies Project impacts that are to be mitigated by the Subdivider. The mitigation measures are summarized in the Mitigation, Monitoring and Reporting Matrix contained in the EIR as referenced under Item C.1.1.c above. Subdivider shall comply with all applicable mitigation measures as outlined in the EIR.

C.2.9 Neighborhood and Community Parks

C.2.9.1 The Subdivider shall offer for dedication Parcels “G”, “M”, “P” and “Q” for neighborhood park purposes and Parcel “N” for community park purposes on the Final Map that corresponds to the timing of completion of respective parks as identified in the Planning Department’s Conditions of Approval.

The Subdivider shall design and construct the park improvements consistent with the Tracy Hills Specific Plan, Specific Plan Amendment, Development Agreement and City Regulations. The Subdivider shall be eligible for park fee credits in accordance with the Title 13 of the TMC and the Park Improvement and Reimbursement Agreement (“PI&RA”) and Development Agreement.

C.2.9.2 The Subdivider shall submit park improvement plans, signed and notarized PI&RA, and Improvement Security in the amount and type specified in the City Regulations at the time of approval of the Final Map that corresponds to the timing of completion of the park improvements specified in Planning Division’s Conditions of Approval or at such time as may be specified in the Deferred Improvement Agreement.

C.2.10 Public Utility Easements

C.2.10.1 Undergrounding of Overhead Utilities. Any existing overhead lines and poles within the Project boundaries shall be removed or undergrounded.

C.2.10.2 All private utility services to serve the Project such as electric, telephone and cable TV to the building must be

installed underground, within right-of-way or a dedicated Public Utility Easement (PUE) and at the location approved by the City and the respective owner(s) of the utilities.

The Subdivider shall submit improvement plans for the installation of electric, gas, telephone and TV cable lines that are to be installed under the sidewalk or within the PUE. Underground utility conduits may be installed under the sidewalks, and underground boxes and structures may be located in the landscaped parkway next to the curb. All above-ground boxes and facilities shall be behind the sidewalk and within the PUE. Pop-outs to provide additional width of PUE where required to accommodate larger above-ground structures will be permitted subject to review and approval by Public Works Director and the City Engineer. Before approval of the first Final Map, the Subdivider shall complete the necessary coordination work with the respective owner(s) of the utilities for approval.

C.2.10.3 Public Utility Easements on side yard lots shall be adjusted in final neighborhood designs based on actual joint trench design requirements.

C.2.11 Crimson (formerly Shell) Crude Oil Pipeline Easement and Facilities

C.2.11.1 A minimum of 72-hours prior to the beginning of grading operations that may impact the existing Crimson underground facilities within the Project, the Subdivider shall notify the appropriate person at Crimson of the impending work. Grading and improvements affecting Crimson facilities shall comply with applicable Crimson pipeline encroachment permit and construction specifications.

C.2.11.2 The Subdivider shall notify in writing the future buyers of lots about the existing Crimson crude oil pipeline and any requirements or restrictions relating to the existence of the pipeline as required by Crimson, State or Federal regulations. The Disclosure Statement(s) shall be made part of the Sale Deeds and recorded in compliance with the applicable law.

C.3 Final Map

The City will not approve any Final Map until the Subdivider demonstrates, to the satisfaction of the City Engineer, that all the requirements set forth in these Conditions of Approval are completed, including, but not limited to the following:

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- C.3.1 Subdivider has submitted one reproducible (mylar) copy of the approved tentative subdivision map for the Project after Subdivider's receipt of a notification of approval of the Tentative Subdivision Map. The signature of the owner of the Property on the Tentative Subdivision Map shall indicate the owner's consent to the preparation of the Tentative Subdivision Map and the proposed subdivision of the Property.
- C.3.2 Each Final Map is prepared in accordance with the applicable requirements of the Tracy Municipal Code, these Conditions of Approval, all other applicable City Regulations, and in substantial conformance with the Tentative Subdivision Map.
- C.3.3 Each Final Map includes and shows offer(s) of dedication of all right(s)-of-way and/or temporary or permanent easement(s) required by the Improvement Plans and Final Map, in accordance with City Regulations and these Conditions. If construction easement(s) is/are shown, it/they shall indicate the termination date of the construction easement(s).
- C.3.4 Horizontal and vertical control for the Project shall be based upon the City of Tracy coordinate system and at least three 2nd order Class 1 control points establishing the "Basis of Bearings" and shown as such on the Final Map. The Final Map shall also identify surveyed ties from two of the horizontal control points to a minimum of two separate points adjacent to or within the Property described by the Final Map.
- C.3.5 Subdivider has submitted a signed and stamped Engineer's Estimate that show construction cost of subdivision improvements that are described in Conditions C.2 above plus 10% for construction contingencies.
- C.3.6 Subdivision Improvement Agreement.

Before the City's approval of any Final Map, the Subdivider shall execute a Subdivision Improvement Agreement (for the public facilities required to serve the real property described by the Final Map) and post all required improvement security in accordance with City Regulations.

- C.3.7 Final Map Phasing Plan

Prior to Subdivider's submittal to the City of the first Final Map for City approval, Subdivider shall submit for the City Engineer's review and reasonable approval a phasing plan for the submittal of all Final Maps to be filed for this Vesting Tentative Subdivision Map. The phasing plan may be subject to subsequent modifications based on market conditions, the rate of development, and Subdivider's disposition of the parcels created by the Final Maps.

- C.3.8 Deferred Improvement Agreement

Prior to the City's approval of the first Final Map within the Project, the Subdivider shall execute a Deferred Improvement Agreement, in substantial conformance with the City's standard form agreement, by which (among other things) the Subdivider agrees to complete construction of all remaining public facilities (to the extent the public facilities are not included in the Subdivision Improvement Agreement) which are required by these Conditions of Approval. The Deferred Improvement Agreement shall identify timing requirements for construction of all remaining public facilities, in conformance with the phasing plan submitted by the Subdivider and approved by the City Engineer. The form and amount of Improvement Security shall be in accordance with the DIA and Section 12.36.080 of the TMC.

C.3.9 Off-Site Improvement Agreement

Prior to the City's approval of the first Final Map within the Project, or as otherwise provided for in a Deferred Improvement Agreement, the Subdivider shall execute an Off-Site Improvement Agreement, in substantial conformance with the City's standard form agreement, to guarantee completion of the identified public improvements that are necessary to serve the Project as required by these Conditions of Approval. The form and amount of Improvement Security shall be in accordance with the OIA and Section 12.36.080 of the TMC.

C.3.10 Improvement Security.

The Subdivider shall provide improvement security for all public facilities as required by Subdivision Improvement Agreement, Offsite Improvement Agreement or Deferred Improvement Agreement. The form of the improvement security may be a surety bond, letter of credit or other form in accordance with City Regulations. The amount of the improvement security shall be as follows:

- C.3.10.1 Faithful Performance (100% of the estimated cost of constructing the public facilities),
- C.3.10.2 Labor & Material (100% of the estimated cost of constructing the public facilities), and
- C.3.10.3 Warranty (10% of the estimated cost of constructing the public facilities)
- C.3.10.4 Monumentation (\$750 multiplied by the total number of street centerline monuments that are shown on the Final Map)

C.3.11 Subdivider has paid engineering review fees including improvement plan checking, final map review, agreement processing, and all other fees required by these Conditions of Approval and City Regulations.

- C.3.12 Subdivider has submitted technical or materials specifications, cost estimate, and technical reports related to the design of improvements that are shown on the Improvement Plans and as required by these Conditions.
- C.3.13 Subdivider has submitted hydrologic and storm drainage calculations for the design and sizing of in-tract storm drainage pipes located within the Project.
- C.3.14 Subdivider has submitted signed and stamped Improvement Plans as required in Condition C.2 above.

C.4 Grading and Encroachment Permits

No applications for grading and encroachment permits will be accepted by the City as complete until the Subdivider has provided all documents required by these Conditions and City Regulations, to the reasonable satisfaction of the City Engineer, including, but not limited to, the following:

- C.4.1 Grading and Drainage Plans prepared on a 24" x 36" size polyester film (mylar). Grading and Drainage Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil Engineer.
- C.4.2 Payment of the applicable Grading Permit fees which include grading plan checking and inspection fees, and other applicable fees as required by these Conditions of Approval.
- C.4.3 Three sets of the Storm Water Pollution Prevention Plan (SWPPP) identical to the reports submitted to the State Water Quality Control Board (SWQCB) and any documentation or written approvals from the SWQCB including a copy of the Notice of Intent (NOI) with the state-issued Wastewater Discharge Identification number (WDID). After the completion of the Project, the Subdivider is responsible for filing the Notice of Termination (NOT) required by SWQCB, and shall provide the City, a copy of the completed Notice of Termination.
- C.4.4 Cost of preparing the SWPPP, NOI and NOT including the annual storm drainage fees and the filing fees of the NOI and NOT shall be paid by the Subdivider. The Subdivider shall comply with all the requirements of the SWPPP and applicable Best Management Practices (BMPs) and the Storm Water Regulations adopted by the City in 2008 and any subsequent amendment(s), and the City Regulations.
- C.4.5 Two sets of the Project's Geotechnical Report signed and stamped by a licensed Geotechnical Engineer licensed to practice in the State of California. The technical report must include relevant information related to soil types and characteristics, soil bearing capacity,

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percolation rate, roadway section construction recommendations and elevation of the highest observed groundwater level.

- C.4.6 A copy of the Approved Fugitive Dust and Emissions Control Plan that meets San Joaquin Valley Air Pollution Control District (SJVAPCD) as required in Mitigation Monitoring and Reporting Program of the Tracy Hills Specific Plan Final Environmental Impact Report (TH-EIR).
- C.4.7 Two sets of Hydrologic and Storm Drainage Calculations for the design of the on-site storm drainage system shall be provided with the submittal of the Improvement Plans. Partial submittal of Hydrologic and Storm Drainage Calculations may be required for Grading Plan review at the discretion of the City Engineer.
- C.4.8 Reasonable written permission from irrigation district or affected owner(s), if applicable. The cost of relocating and/or removing irrigation facilities and/or tile drains is the sole responsibility of the Subdivider.
- C.4.9 Written approval(s) or permit(s) obtained from San Joaquin County regarding the removal and abandonment of any existing well(s), if applicable. All existing on-site wells, if any, shall be abandoned or removed in accordance with the City and San Joaquin County requirements. The Subdivider shall be responsible for all costs associated with the abandonment or removal of the existing well(s) including the cost of permit(s) and inspection.
- C.4.10 Improvement Plans prepared on a 24" x 36" size 4-mil thick polyester film (mylar) that incorporate all the requirements described in these Conditions of Approval. Improvement Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work.
- C.4.11 Two sets of structural calculations for drainage structures and retaining walls within street right-of-way and retention basins signed and stamped by a Structural Engineer licensed in the State of California shall be submitted to the Building Safety Division at the time of building permit application for said structures.
- C.4.12 Check payment for the applicable engineering review fees which include plan checking, permit and agreement processing, testing, construction inspection, and other applicable fees as required by these Conditions of Approval. The engineering review fees will be calculated based on the current fee rate adopted by the City Council.
- C.4.13 Traffic Control Plan for each phase signed and stamped by a Registered Civil Engineer or Traffic Engineer licensed in the State of California.



- C.4.14 As required per Mitigation Measure 4.8-2a of the EIR, the Subdivider shall submit, prior to issuance of grading permits, a Phase II ESA focused on soil sampling conducted near the location of the underground crude oil pipelines, as determined by a qualified Phase II/Site Characterization specialist.
- C.4.15 As required per Mitigation Measure 4.8-2b of the EIR, prior to issuance of grading permits, the Subdivider shall work with Crimson to implement and observe a site damage prevention plan to the satisfaction of the City of Tracy Engineering Division.
- C.4.16 Grading Permit Security to guarantee completion of the grading improvements that are necessary to serve the Project as required by these Conditions of Approval. The form and amount of Grading Permit Security shall be in accordance with Section 12.36.080 of the Tracy Municipal Code (TMC).

#### C.5 Building Permit

The City will not approve any building permit within the Project boundaries, (except for up to ten model homes and except for a plumbing permit issued for the purpose of perfecting a RGA) until a Final Map is approved by the City Council and it is recorded at the San Joaquin County Recorder's Office, and the Subdivider demonstrates, to the reasonable satisfaction of the City Engineer, compliance with all the required Conditions of Approval and payment of fees in accordance with the Fee Deferral Agreement including but not limited to the following:

- C.5.1 Payment of the applicable current City-Wide Roadway and Traffic, Water, Recycled Water, Wastewater, Storm Drainage, Public Safety, Public Facilities, and Park Development Impact Fees as these relate to the Project and as required by these Conditions of Approval.
- C.5.2 Payment of applicable Regional Transportation Impact Fees (RTIF) as required in the Mitigation, Monitoring and Reporting Program of the EIR, these Conditions of Approval, and the Settlement Agreement.
- C.5.3 Payment of any applicable Agricultural Mitigation Fee as required in Chapter 13.28 of the Tracy Municipal Code and Mitigation Measure AG 4.2.1 of the EIR and these Conditions of Approval.
- C.5.4 Payment of the San Joaquin County Facilities Fees as required in Chapter 13.24 of the TMC.

#### C.6 Final Building Inspection

The City will not perform final building inspection (except for model homes) until after the Subdivider provides documentation which demonstrates, to the reasonable satisfaction of the City Engineer, that:

- C.6.1 The Subdivider has completed construction of all public facilities required to serve the building for which a certificate of occupancy is requested, or a final building inspection has to be performed unless otherwise defined herein. Unless specifically provided in these Conditions, or the City Regulations, the Subdivider shall take all actions necessary to construct all public facilities required to serve the Project, and the Subdivider shall bear all costs related to construction of the public facilities (including all costs of design, construction, construction management, plan check, inspection, land acquisition, program implementation, and contingency).

C.7 Temporary or Final Building Certificate of Occupancy

No Final Building Inspection shall be performed or a Temporary or Final Building Certificate of Occupancy will be issued by the City (except for model homes) until after the Subdivider provides reasonable documentation which demonstrates, to the satisfaction of the City Engineer, that:

- C.7.1. The Subdivider has satisfied all the requirements set forth in these Conditions of Approval.
- C.7.2 The Subdivider has completed construction of all required public facilities for the building for which a certificate of occupancy is requested, unless otherwise defined herein. Unless specifically provided in these Conditions of Approval, or some other applicable City Regulations, the Subdivider shall use diligent and good faith efforts in taking all actions necessary to construct all public facilities required to serve the Project, and the Subdivider shall bear all costs related to construction of the public facilities (including all costs of design, construction, construction management, plan check, inspection, land acquisition, program implementation, and contingency).

C.8 Acceptance of Public Improvements

Public improvements will not be considered for City Council's acceptance until after the Subdivider demonstrates to the reasonable satisfaction of the City Engineer, completion of the following:

- C.8.1 All the public improvements shown on the Improvement Plans are completed and all the deficiencies listed in the deficiency report prepared by the assigned Engineering Inspector are all corrected.
- C.8.2 Subdivider has completed the 90-day public landscaping maintenance period.
- C.8.3 Subdivider has submitted Certified "As-Built" Improvement Plans (or Record Drawings). Upon completion of the construction by the Subdivider, the City shall temporarily release the originals of the Improvement Plans to the Subdivider so that the Subdivider will be able

to document revisions to show the "As Built" configuration of all improvements.

- C.8.4 Where applicable, signed and notarized Grant Deed(s) with legal description(s) and plat maps for the offer of dedication of right-of-way, and Grant of Easements as required per these Conditions of Approval and City Regulations, or dedications shown on the Final Map.

C.9 Release of Improvement Security

City will release Improvement Security(s) to the Subdivider after City Council's acceptance of public improvements, both on-site and off-site, in accordance with TMC section 12.36.080, upon written request and submittal of the recorded Notice of Completion.

C.10 Special Conditions

- C.10.1 All streets and utilities improvements within City's right-of-way shall be designed and constructed in accordance with City Regulations, except as otherwise specifically approved in the Tracy Hills Specific Plan.

C.10.2 When street cuts are made for installation of utilities, the Subdivider is required to install 2 inches thick asphalt concrete overlay with reinforcing fabric at least 25-feet from all sides and for the entire length of the utility trench. A 2-inch deep grind on the existing asphalt concrete pavement will be required where the asphalt concrete overlay will be applied and shall be uniform thickness in order to maintain current pavement grades, cross and longitudinal slopes. If the utility trench extends beyond the median island, the limit of asphalt concrete overlay shall be up to the lip of existing gutter located along that side of the street.

C.10.3 All improvement plans shall contain a note stating that the Subdivider (or Contractor) will be responsible to preserve and protect all existing survey monuments and other survey markers. Any damaged, displaced, obliterated or lost monuments or survey markers shall be re-established or replaced by a licensed Land Surveyor at the Subdivider's (or Contractor's) sole expense. A corner record must be filed in accordance with the State law for any reset monuments (California Business and Professions Code Section 8871).

C.10.4 Benefit District

The Subdivider may make a written request to the City for the formation of a Benefit District before the approval of the final map and improvement plans for the public facility(s) considered to be oversized that benefits other property(s) or development(s). Reimbursement request(s) will be processed in accordance with TMC Chapter 12.60.

Conditions of Approval  
Tracy Hills Phase 2 – Vesting Tentative Subdivision Map  
Application Number TSM20-0003  
October 19, 2021

- C.10.5 The CFD or HOA shall include future costs of maintenance including PG&E charges for all new streetlights to be installed by the Project.
  
- C.10.6 Nothing contained in these Conditions shall be construed to permit any violation of City Regulations. Subject, however, to City Regulations, this Condition does not preclude the City from requiring pertinent revisions and additional requirements to the final map, improvement agreements, and improvement plans, before the City Engineer's signature on the final map and improvement plans, if the City Engineer finds it necessary due to public health and safety reasons. (Government Code section 66498.6.) The Subdivider shall bear all the cost for the inclusion, design, and implementations of such additions and requirements, without reimbursement or any payment from the City.

**EXHIBIT “C”  
Authorized Representative Contact Information**

Initial Contact Information for Developer’s Authorized Representative:

Bridget Koller  
Lennar Homes of California, LLC  
2603 Camino Ramon, Suite 525  
San Ramon, CA 94583  
(925) 242-0811  
bridgit.koller@lennar.com

\_\_\_\_\_  
CITY ATTORNEY'S OFFICE

**TRACY CITY COUNCIL**

**RESOLUTION 2023-\_\_\_\_\_**

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**APPROVING THE INSPECTION IMPROVEMENT AGREEMENT BETWEEN CITY AND LENNAR HOMES OF CALIFORNIA, LLC FOR CORRAL HOLLOW ROAD WIDENING IMPROVEMENTS AT TRACY HILLS PHASE 2 FRONTAGE**

**WHEREAS**, on October 19, 2021, the City Council adopted the Tracy Hills Specific Plan Amendment for Tracy Hills Phase 2 and approved various related land use entitlements, including that certain Vesting Tentative Subdivision Map for Tract 4057, Tracy Hills Phase 2, processed under Application No. TSM20-0003 and approved by Resolution No. 2021-154; and

**WHEREAS**, the Corral Hollow Road Widening Improvements are part of the public improvements that are required to be designed and constructed by the Developer, Lennar Homes of California, LLC, under the Conditions of Approval for the Vesting Tentative Subdivision Map for Tracy Hills Phase 2; and

**WHEREAS**, the Developer has submitted improvement plans for said improvements, filed under Tracking No. ENG22-0006, which are currently under review by the City Engineer but are not yet approved, and include the plans entitled "Improvement Plans, Corral Hollow Road Widening, Phase 2 Frontage;" and

**WHEREAS**, in order to meet its development schedule, developer intends to commence construction of the required public improvements based on the partially approved submitted plans before the City completes its review and approval of the plans, in accordance with the terms and conditions of the Inspection Improvement Agreement; and

**WHEREAS**, Developer acknowledges and agrees that it will be proceeding with the work at its sole and exclusive risk, and that if any of the work completed by developer under the Inspection Improvement Agreement does not conform, in the City Engineer's determination, to the improvement plans ultimately approved by the City, developer will be required to remove and/or correct any non-conformities to the reasonable satisfaction of the City Engineer; and

**WHEREAS**, the Inspection Improvement Agreement will be superseded by an Offsite Improvement Agreement to be executed by the developer at a later date and the City will continue with the inspection and acceptance of the public improvements in accordance with normal City procedures under the Offsite Improvement Agreement; and

**WHEREAS**, the Developer has executed the Inspection Improvement Agreement and has submitted the required security to guarantee completion of the public improvements; now, therefore, be it

**RESOLVED:** That the City Council of the City of Tracy hereby approves the Inspection Improvement Agreement between City and Lennar Homes of California, LLC for Corral Hollow Road Widening Improvements at Tracy Hills Phase 2 Frontage.

\* \* \* \* \*

The foregoing Resolution 2023-\_\_\_\_\_ was adopted by the Tracy City Council on the 7<sup>th</sup> day of February 2023 by the following vote:

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

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

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

Agenda Item 1.H

RECOMMENDATION

**Staff recommends that the City Council adopt two resolutions: (1) Approving a Professional Services Agreement with CH2M HILL Engineers, Inc. for the design of a recycled water booster pump station for the Recycled Water System Expansion Project (CIP 74168) for a term of five (5) months and a not to exceed amount of \$1,240,000; and (2) Approving a Professional Services Agreement with CH2M HILL Engineers, Inc. for the design of recycled water pipelines for the Recycled Water System Expansion Project (CIP 74168) for a term of five (5) months and a not to exceed amount of \$1,860,000.**

EXECUTIVE SUMMARY

The California Department of Water Resources (DWR) has awarded an Urban and Multibenefit Drought Relief Grant to the City in the amount of \$20 million for a Recycled Water System Expansion Project. Proposed improvements under the project include the construction and extension of the recycled water transmission pipeline within the streets right-of-way and the construction of a new booster pump station. Proposed improvements under the project also include the construction and extension of the recycled water transmission pipeline within the streets right-of-way and the construction of a new booster pump station. The project will also increase surface water availability to the City and farmers in both the Tracy Subbasin and southern San Joaquin Valley via the Central Valley Project (CVP) canal. The design of the project is required to be completed no later than July 1, 2023, per the grant agreement between DWR and the City. This agenda item requests authorization to enter into two separate PSA's with CH2M HILL Engineers, Inc., for the design of a recycled water booster pump station and recycled water pipelines. Consultant was selected through a Request for Proposal (RFP) process, to provide such services for a combined not-to-exceed amount of \$3,100,000.

BACKGROUND AND LEGISLATIVE HISTORY

In 2020, the City completed a Recycled Water Project, funded by the State of California Proposition 84 Grant and City funds. The project involved the construction of a recycled water pipeline and pump station as part of the City's Recycled Water Master Plan. The intent of the project was to replace landscape irrigation within the streets right-of-way, parks, schools and greenbelts from potable water to recycled water. The pump station is situated at the City's existing wastewater treatment plant. The pipeline starts from this pump station and presently terminates at the southwestern side of the City to supply recycled water for irrigation purposes.

In 2022, DWR awarded an Urban and Multibenefit Drought Relief Grant to the City in the amount of \$20 million for a Recycled Water System Expansion Project to extend the existing recycled water system to the far southern portions of the City. The scope of work for this project includes the construction of the recycled water transmission pipeline within the streets right-of-way and the construction of a new booster pump station. This project will further extend this pipeline to replace use of potable water with the tertiary treated recycled for irrigation purposes in the far southern portions of the City. Use of recycled water would thus reduce the City's potable water demand. In addition, the pipeline system



may be used to supply the recycled water to the adjacent Byron Bethany Irrigation District farmers if needed. The City also plans to divert, mix, dilute, deliver, and exchange a portion of the recycled water at the City's Water Treatment Plant through the Central Valley Project (CVP) for treatment and use equivalent amount of water for potable use.

### ANALYSIS

On November 14, 2022, a Request for Proposal was posted on the City website. Only one proposal was received on December 12, 2022, from CH2M HILL Engineers, Inc. for the project. After careful review of their proposal, the City has determined that CH2M HILL Engineers, Inc. demonstrates a high degree of relevant experience and past performance in completing projects of similar type, size, and complexity in a satisfactory manner.

The first PSA pertains to the design of a recycled water booster pump station, aimed at boosting the recycled water to the higher elevations within the City, while the second PSA concerns the design of pipelines for the conveyance of the recycled water.

The design of the project is required to be completed no later than July 1, 2023, per the grant agreement between the Department of Water Resources and the City.

### FISCAL IMPACT

The Recycled Water System Expansion (CIP 74168) is an approved project within the FY2022-23 Capital Improvement Plan. Funding for the project comes from a grant from the Department of Water Resources. Sufficient funding exists to cover the cost of the agreement with CH2M HILL Engineers, Inc.

### PUBLIC OUTREACH/ INTEREST

No public outreach activity was conducted for this agenda item.

### COORDINATION

No departments, agencies, and/or consultants, outside of CH2M HILL Engineers, Inc., were consulted with, for this agenda item.

### CEQA DETERMINATION

This agenda item is exempt from CEQA requirements.

### STRATEGIC PLAN

This agenda item is consistent with the City's Quality of Life Strategy and meets the goals to ensure physical infrastructure and systems necessary for the delivery of safe and clean water.

### ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt two resolutions: (1) Approving a Professional Services Agreement with CH2M HILL Engineers, Inc. for design services at the Lammers Road Pump Station for the Recycled Water System Expansion Project (CIP 74168 ) for a term of five (5) months and a not to exceed amount of \$1,240,000; and (2) Approving a

Professional Services Agreement with CH2M HILL Engineers, Inc. for pipelines design services for the Recycled Water System Expansion Project (CIP 74168 ) for a term of five (5) months and a not to exceed amount of \$1,860,000.

Prepared by: Lemar Saffi, Associate Engineer

Reviewed by: James A. Jackson, Operations & Utilities Director  
Sara Cowell, Finance Director  
Midori Lichtwardt, Assistant City Manager

Approved by: Michael Rogers, City Manager

Attachments: A - PSA CH2M HILL Engineers, Inc. Lammers Road Pump Station Design  
B - PSA CH2M HILL Engineers, Inc. Pipelines Design

**CITY OF TRACY  
PROFESSIONAL SERVICES AGREEMENT WITH CH2M HILL Engineers, Inc.  
for Lammers Road Pump Station Design  
Services for the Recycled Water System Expansion Project (CIP 74168)**

This Professional Services Agreement (**Agreement**) is entered into between the City of Tracy, a municipal corporation (**City**), and CH2M HILL Engineers, Inc., a Delaware Corporation (**Consultant**). City and Consultant are referred to individually as "Party" and collectively as "Parties."

**Recitals**

**A.** City desires to retain Consultant to perform design services; and

**B.** On November 14, 2022, the City issued a Request for Proposals (RFP) for Design Services for the City of Tracy Recycled Water System Expansion Project (**Project**). On December 12, 2022, Consultant submitted its proposal for the Project to the City. City has determined that Consultant possesses the skills, experience and certification required to provide the services.

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

**D.** This Agreement is being executed pursuant to Resolution No. 2023- \_\_\_\_ approved by Tracy City Council on February 7, 2023.

**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: Vijay Kumar, P.E. 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. Consultant shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be started and completed by 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 be shown in Exhibit A. Unless terminated in accordance with Section 6, this Agreement may be extended for an additional 1 year by the City Manager following a written determination that consultant has met the terms of this Agreement.

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

**3.1 Not to Exceed Amount.** Consultant's total compensation under this Agreement shall not exceed \$1,240,000.

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 monthly invoice(s) to the City that describe the services performed, including times, dates, and names of persons performing the services.

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

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

**3.3 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 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:  
Director of Operations and Utilities  
520 N. Tracy Blvd.  
Tracy, CA 95376

To Consultant:  
Vijay Kumar, P.E.  
CH2M HILL Engineers, Inc.  
2485 Natomas Park Drive, Suite 600  
Sacramento, CA 95833

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

**13. Miscellaneous.**

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

**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 will 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**

By: Nancy D. Young  
Title: Mayor  
Date: \_\_\_\_\_


Attest:

\_\_\_\_\_  
Adrienne Richardson, City Clerk


Approved as to form:

\_\_\_\_\_  
Bijal M. Patel, City Attorney

**Consultant** CH2M HILL Engineers, Inc.  
~~CH2M HILL, Inc.~~, a Delaware Corporation

By:   
Title: Business Vice President  
Date: 1/4/2023

Federal Employer Tax ID No. 32-0100027

  
By: Cheryl Rimas  
Title: Assistant Secretary  
Date: 1/26/2023

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

### Task 1. Prepare Preliminary Design Report

Consultant will prepare a Preliminary Design Report (PDR) summarizing the results of the preliminary design effort and conclusions and submit the PDR to the City for review and approval. The purpose of the PDR is to lay the groundwork for the detailed design phase. The PDR will identify general arrangement of the proposed recycled water pump station near the intersection of Lammers Road and Schulte Road and will provide details of major features of pump station such as intake from BBID upper canal, pumping capacities, configuration of pumps, power requirements and electrical and control requirements. This report will also identify how the proposed pump station is to be connected to the City's existing SCADA system. The PDR will define other project components such as connection to existing 24-inch recycled water line along Lammers Road and proposed additional recycled water pipelines, rights of way requirements, cost estimation methodology, and will also identify permit requirements. Any additional environmental assessments or studies required to construct the project is excluded from this scope of work.

The PDR will include development of design criteria necessary to proceed with the final design of the pump station and it will be based on the following activities conducted by the Consultant:

- Site reconnaissance, including assembling a photographic record of the pump station site.
- Review of existing information (if any)
- Project site visit to review existing site condition, utility layout, power supply provisions, and access to BBID canal.
- Review of existing drawings/plans and geotechnical reports for existing utilities and surrounding conditions, and existing improvement/facilities for adjacent properties and roadways within the Project area.
- Review of utility and civil plans of the pump station to locate planned utilities, connection points and other facilities.
- Identification and resolution of the known point(s) of conflict related to the new improvements.
- Define requirements for radio study and a line-of-sight study to determine the design requirements for a new radio connection between the Lammers Road Recycled Water Pump Station (RWPS) and the WWTP.
- Coordination with permitting agencies and utility companies including PG&E and City's Building Department.
- Identification of construction permits required to construct the Project.

#### Subtask 1.1: Surge Analysis

Since the pump station is pumping to higher elevations, there is risk of damage to the pipeline if there is a power failure when pumps are running. The Consultant will prepare a surge analysis based on the information provided by the pipeline consultant. Based on the results of the surge analysis, Consultant may suggest surge tank or combination air release/vacuum (CARV) at the recommended location.

#### Subtask 1.2: BBID Intake Pre-Design

City of Tracy would like to use the Lammers Road Recycled Water Pump Station to withdraw water from the BBID upper canal and send the irrigation water from the BBID upper canal to the Delta Mendota Canal through the recycled water pipeline. Since the Lammers Road recycled water pump

station is a booster pump station, there is a need to design and construct a gravity intake structure to withdraw irrigation water from the BBID upper canal.

Consultant will coordinate with BBID to design a gravity intake on the north side of the Lammers Road pump station. It is assumed no screening is required since BBID water is already pumped from the Delta and a gravity pipe with control gates or valves will be installed between the BBID canal and a new wet well inside the fenced area of Lammers Road pump station.

### Subtask 1.3: BBID Water Pump Station Pre-Design

As previously described, the Lammers Road pump station is a booster pump station that uses the existing force main along Lammers Road and increases the pressure to pump recycled water to DMC. The pumps at the proposed Lammers Road pump station is split case horizontal centrifugal pumps to boost pressure. Since the City of Tracy is planning to withdraw water from the BBID canal using a gravity pipe, there is a need to design and construct a separate wet well and pump station to pressurize water. These pumps are vertical turbine pumps with soft starters to minimize the electrical load during startup of pumps.

Consultant will design a wet well to receive BBID irrigation water by a gravity pipe and design two vertical turbine pumps located on top of the wet well using a concrete platform. It will be outdoor pump station with no cover. All electrical and instrumentation associated with the vertical turbine pumps will be housed within the pump station building. A flow meter will be installed on the force main to measure BBID irrigation water quantity.

The PDR will describe special construction issues such as associated permit requirements, results of geotechnical reconnaissance, probable easements (if any from BBID) that will need to be obtained, the preliminary design criteria and conclusions, preliminary schedule. The PDR will contain technical memoranda prepared during the preliminary design task, as well as the following:

- Preliminary pump station layout plans and schematic details.
- General design criteria, such as pump selection, pump and pipe materials, control requirements, thrust restraint, air/vacuum valve locations, electrical switchgear selection, pipe trenching requirements, and cathodic protection systems (if required) and assessment of power supply.
- Recommended staging area requirements and locations.
- Evaluation of native material for trench backfill.
- List of permits required and approximate schedule to obtain them.
- High level Project schedule.

The Draft PDR will summarize decisions made during the preliminary design task. Upon resolution of the City's review comments, the preferred design details will be selected, and the Final PDR will be prepared.

Once the power supply requirements for the pump station have been finalized, Consultant will prepare an application for submission to PG&E by the City of Tracy requesting PG&E to start their design to provide power supply for the purpose of Lammers Road RWPS.

The Consultant will prepare supporting documentation required for Building permit application. The Utilities Department of the City of Tracy will submit the Building permit application to the City's Building Department seeking approval for construction of the Lammers Road RWPS. City will pay all permit and processing fees directly to the approving agencies (such as PG&E, BBID, Tracy Building Division) including any additional charges by the approving agency for their staff time.

Deliverables:

- Draft and Final PDR
- Permitting package

Assumptions:

- The data from the pipeline routing study and hydraulic design (completed by pipeline project) will be used for pump selection and pumping system design, which are fundamental to the PDR.
- All survey data and geotechnical data will be made available by the City and no further surveys and geotechnical investigation are required for pump station site.
- Easement and associated right of way acquisition outside the existing pump station site boundary is excluded.

**Task 2. Prepare Final Design Drawings and Specifications**

Following the City's approval of the Final PDR, the Consultant will commence final design of the Project. The final design package includes design calculations, technical specifications, plans, and construction cost estimates. Final designs will be developed in 30, 60, 90 percent design stages. Design drawings will be developed using CAD format with City title blocks and will conform to City CAD standards.

This task will comprise of following subtasks:

Subtask 2.1: Prepare 30, 60, and 90 percent design drawings and specifications

- General drawings
- Civil plans including site, utility, grading, drainage, survey controls, erosion control plans and hardscape plans
- Architectural plans including floor plans, roof details and exterior elevations
- Structural plans for required special structures consisting of plan views, sections, and details
- Mechanical plans showing pump station plan and sections, with required details and equipment and valve schedule
- Electrical plans including one-line diagrams, wiring diagrams and details and cable schedule
- Instrumentation and control (I&C) drawings, control philosophy for Lammers Road pump station
- Communication network and telemetry details, SCADA system integration and security system drawings
- Standard details

Design drawings will be submitted to the City for review and comments at each of the 30, 60, and 90 percent design completion stages. Comments received will be incorporated into the next planned deliverable. Comments not incorporated will be noted with an explanation as to why they are proposed to be modified or disregarded. Design drawings associated with permitting will be submitted to the applicable regulatory agencies and to other permitting agencies as required for review.

A virtual design review workshop will be arranged at each review stage for City's review of the updated designs and drawings. The Consultant will adjudicate the City's comments received during the workshop and will incorporate them into the next stage of design submission.

#### Subtask 2.2: Prepare 30, 60, and 90 percent Specifications

The Consultant will prepare technical specifications for review at the 30, 60, and 90 percent design stages. Technical specifications will be prepared in Microsoft Word file format, Arial 11-point font. Review copies of technical specifications will be provided in pdf format. Technical specifications will be compiled using the City's Contract Document template suitable for incorporation into the Lammers Road Pump Station project bidding documents to be prepared by the City. City will prepare all front-end Contract documents and Consultant will provide only technical specifications.

#### Subtask 2.3: Prepare and Update Opinion of Probable Cost

After completion of 60 and 90 percent designs, Consultant will prepare Opinion of probable construction cost for City's review along with design drawings and technical specifications.

#### Subtask 2.4: Final Construction/Bid Documents

Upon completion of City's review of 90 percent submittal of design drawings and specifications, final comments received from the City will be adjudicated and incorporated into the Final for Construction documents. The project drawings and technical specifications will then be finalized as Final design and submitted as one set of Final for Construction documents consisting of technical specifications, drawings, and standard details ready for bidding. The Consultant will prepare and submit a high-level schedule for construction of the Lammers Road RWPS project. The Consultant will review and update 90% level opinion of probable construction costs per AACE guidelines.

#### Deliverables:

- Design packages at 30, 60, 90, and Final design milestones

#### Assumptions:

- Design drawings will be submitted in electronic format.
- All permitting fees will be paid by the City to respective permitting agencies.
- Previously, City staff showed the NEI booster pump station as an example for the proposed Lammers Road recycled water pump station design. Therefore, it is assumed that fire sprinklers are not needed, and it match NEI booster pump station design.

### **Task 3. Project Management**

The Consultant will provide project management services for this scope of work described as the following subtasks.

#### Subtask 3.1: Progress Meetings

The Consultant will update the City's project manager monthly throughout the duration of the project. This report will include review of project progress, schedules, budgets, and deliverables. Monthly progress reports will be used to provide the City with an update to the status of the project and to provide the City and Consultant team an opportunity to disseminate information and develop project direction and consensus. The progress meetings or conference calls will also be used to resolve minor design issues that require City input and direction. An action item list and a decision log will also be maintained to help document design-related action items as well as design decisions reached during each of these conference calls.

### Subtask 3.2: Manage Project Team and Activities

The Consultant will provide the following throughout the duration of the project:

- Records Management: This will comprise of maintaining of Project records, managing, and processing Project communications, coordinating Project administrative matters, and subcontractor information.
- Coordination: This will comprise of Conducting monthly internal coordination meetings to complete authorized work on schedule and within budget.
- Staff Management: This will comprise of Supervising and controlling activities of staff assigned to the Project. This will also include coordinating and scheduling appropriate staffing to meet Project requirements.
- Meeting Preparation: This will comprise of deciding for and coordinating periodic site visits and meetings with the City staff and Management.

Deliverables:

- Monthly design progress report
- Decision log
- Action item log
- Monthly invoices

Assumptions:

City will coordinate internal review and provide one set of comments in electronic format for review decisions made during the meetings.

### **Task 4. Bid Phase Services**

The Consultant will attend and conduct, in conjunction with the City, one (1) pre-bid conference meeting at the Project site. The Consultant will respond to bidders' questions and will assist the city to issue up to four addenda during the bid process. After opening of the bids, Consultant will participate in evaluation of bids and will tabulate bid results in a spreadsheet to facilitate City's selection and awarding of the construction contract. The Consultant will prepare one conformed set of bid documents. Questions and requests for information from the prospective bidders will be provided to the City and City will publish the addenda on its website.

Deliverables

- Conformed set of plans and technical specifications
- Responses to bid questions
- Bid tabulation document

Assumptions

- City will bid the project and supervise distribution of contract documents via City's website.
- The Consultant will prepare responses to up to bidder's questions and up to four (4) design clarifications. City will issue addenda to bid documents
- One engineering staff of Consultant will attend the pre bid conference.

### **Task 5. Services During Construction**

The Consultant will provide the following services during construction described as subtasks.

### Subtask 5.1: Attend Construction Meeting

The Consultant will participate one pre-construction meeting. Participation at the construction progress meetings will be as needed. This proposal assumes attendance at two meeting per month.

#### Deliverables

- The Construction Management team will prepare meeting minutes and distribute (no deliverables from the Consultant).

#### Assumptions

- MS Teams meetings will be used for majority of construction meetings and on-site presence is not required for every meeting.

### Subtask 5.2: Design Support

This includes answering construction questions, reviewing submittals, and making interpretations and comments. The Consultant will perform technical reviews of initial technical submittals and start-up plans. Consultant's review of submittals will include comments, submittal review status (e.g., "No Exceptions Noted", "Make Corrections Noted", "Make Corrections Notes (Resubmit)", "Not Acceptable (Resubmit)"), and recommendations regarding deviations from the contract documents. The Consultant will complete review of submittal, provide comments, and return review comment sheet within 30 calendar days for normal submittals, after Consultant's receipt of a submittal. If the review cannot be completed within this period, Consultant will notify Construction Manager and provide reason for delay prior to the end of the specified period. The Consultant will submit review comments into the File / Document management system using project-specific template set up by City's Construction Manager (CM).

#### Deliverables

- Initial Submittal review comments

#### Assumptions

- Up to 85 initial technical submittals will be reviewed. An average effort of 5 hours of review time has been allowed per submittal for all disciplines.
- Contractor will deliver all submittals to the project CM in electronic format, and the CM will then email submittals to Consultant or place the submittal on an accessible File / Document management system. The Contractor assumes all costs and risk with providing submissions, in a timely manner, so as not to affect the submission review timeline. The CM has the responsibility of working with the Contractor for compliance with this requirement. Additional submittals or associated effort beyond what the proposal is based on will serve as basis for additional compensation.
- The CM will be responsible for quality control of submittals.
- Equipment O&M manuals are to be prepared and submitted by the Contractor and will be reviewed by CM and City for completeness. Review of O&M Manuals is not included in this proposal.
- Development of Standard Operating Practices (SOPs) for the system is not included in this proposal.
- Up to 40 technical resubmittals will require resubmittal reviews for the project. An estimated average effort of 4 hours of review time has been allowed per resubmittal for all disciplines.

- Repeated submission of contract submittals due to incompleteness by the Contractor or piecemeal submittals will serve as basis for additional compensation.
- Contractor will deliver resubmittals to the project CM initially, and the CM will then email submittals to Consultant or place the resubmittal on an accessible file management system. The Contractor assumes all costs and risk with providing re-submissions, in a timely manner, so as not to affect the submission review timeline. The CM has the responsibility to ensure that the Contractor complies with this requirement. Additional resubmittals or associated effort beyond what has been assumed herein will serve as grounds for additional compensation.

#### Subtask 5.3: Review RFI's and Change Orders

The Consultant will provide consultation and advice to clarify or interpret the intent of the contract documents for City and for the contractor. The Consultant will respond to RFI prepared by the Contractor during construction. RFI responses will include supplementary drawings and specifications that may be required to assist City in communications with the Contractor. The Consultant will provide RFI responses directly into the file management system using a template created by the Project CM. Up to 50 RFIs will be reviewed and answered. An average of 4 hours has been allowed for each RFI for the lead discipline assigned to the RFI. Additional RFIs or associated effort beyond what has been assumed herein will serve as basis for additional compensation.

#### Deliverables

- RFI responses

#### Assumptions

- Up to 10 days are allowed to answer each RFI.

#### Subtask 5.4: Issue Design Clarifications and Change Orders

Design Clarifications will be issued in the case of the following:

- To provide additional clarification on the Contract Documents, when necessary, after responding to RFI raised by the Contractor.
- Modifications to the Contract Documents when requested by City.
- To assist the Construction Manager with the preparation of contract change order requests.

Any significant changes to or additions to the plans, specifications and cost estimates resulting from a change in scope or differing site conditions will be prepared at the direction of City. Such changes will be construed as a change to this Task Order proposal and additional compensation will be negotiated accordingly.

#### Deliverables

- Clarifications consisting of written responses to clarification requests by Contractor.
- Prepare change order plans, specifications, amendments, and cost estimates, as requested.

#### Assumptions

- Up to four Design Clarifications Memos (DCM) will be issued during the project.
- Additional effort beyond what has been assumed herein for changes initiated and directed by City or changes necessitated due to unforeseen conditions as verified by the Contractor during site excavation or site verification will serve as basis for additional compensation.



### Subtask: 5.5 Site visits

The Consultant will conduct multiple site visits throughout the duration of the project. These are summarized as follows:

- Two site visits by the one staff from Consultant. One to occur during pump installation and the other to occur prior to completion and termination of the construction contract and before final payment, to participate in a pre-final inspection and assist City in preparing a construction deficiency (punch) list. Consultant proposes to have the Project Manager attend this meeting as well.
- One site visit by the Lead Electrical Engineer, Lead Civil Engineer, Lead Structural Engineer, and Lead Mechanical Engineer at key construction milestones as identified by City.
- Six site visits by Consultant's local Project Manager, to occur at key construction milestones as identified by the City over the entire duration of the construction phase.

#### Deliverables

- Field summary notes for each trip
- One set of consolidated punch-list items

#### Assumptions

- This proposal is based on a total of six (6) site visits required over the entire duration of the construction phase for discipline leads, each lasting eight (8) hours on site, plus additional time for travel.
- For Local Project Manager, each site visit is assumed to last four (4) hours on site, plus additional time for local travel.

### Subtask 5.6: Prepare Record Drawings

Consultant will prepare record drawings based on redlines submitted by the Contractor and will submit as-built drawings to the City.

#### Deliverables

- Record drawings in pdf format

#### Assumptions

- Contractor will provide redline drawings in either Bluebeam or Adobe acrobat format.

### Subtask 5.7: Project Management During SDC

Consultant will provide project management services for this scope of work as follows:

#### Progress Meetings

Consultant will update the City's project manager monthly throughout the duration of the project. Consultant will provide the following throughout the duration of the project:

- Records Management: This will comprise of maintaining of Project records, managing, and processing Project communications, coordinating Project administrative matters, and subcontractor information.
- Coordination: This will comprise of Conducting monthly internal coordination meetings to complete authorized work on schedule and within budget.
- Staff Management: This will comprise of Supervising and controlling activities of staff assigned to the Project. This will also include coordinating and scheduling appropriate staffing to meet Project requirements.

- Meeting Preparation: This will comprise of deciding for and coordinating periodic site visits and meetings with the City staff and Management.

Deliverables

- Monthly design progress report
- Monthly invoices

Assumptions

- City will coordinate internal review and provide one set of comments in electronic format for review decisions made during the meetings.

**Task 6. Optional Tasks**

During the previous projects, the City has asked the Consultants to assist with the following services, which we include for your consideration:

- a. Factory Demonstration testing for Pumps and I & C systems
- b. Preparation of Electronic O & M Manual for the operation of pump station

We have not provided costs for these optional tasks. Consultant will provide if requested.

**SCHEDULE:**

Notice to Proceed by City: mid-February 2022

Survey, Potholing, and Geotechnical Data by City: Early March 2022

Pre-design – 12 weeks from NTP

Final Design, Plans, Specifications and Standard details– 24 weeks after approval of PDR by City.  
(front end bid documents and bidding by City)

EXHIBIT B – Compensation

Billing Rates for Years 2023 to 2025 (from Jan 1 to Dec 31<sup>st</sup> of each Year)

Classification	2023	2024	2025
Entry level or Intern	\$75	\$78	\$81
Global Design Center staff	\$90	\$93	\$96
Engineering/Environmental Tech 1	\$94	\$98	\$101
Engineering/Environmental Tech 2	\$107	\$111	\$115
Office/Clerical/Accounting	\$110	\$114	\$118
Staff Engineer 1*	\$143	\$148	\$153
Engineering/Environmental Tech 3	\$143	\$148	\$153
Staff Engineer 2*	\$165	\$171	\$177
Engineering/Environmental Tech 4	\$165	\$171	\$177
Associate Engineer*	\$186	\$192	\$198
Engineering/Environmental Tech 5	\$193	\$200	\$206
Project Engineer*/Associate Project Manager	\$228	\$236	\$244
Engineer Specialist*/Project Manager	\$258	\$266	\$274
Sr. Technologist*/Sr. Project Manager	\$282	\$291	\$300
Principal Technologist*/Principal Project Manager	\$315	\$325	\$335

Notes: This fee estimate assumes all work is completed by December 2025. Any work completed after the above date shall be subject to the new billing rates not exceeding 5%. The above billing rates apply for consultant staff located in any office. Costs for individual tasks may be than the total for each task. However, the total fee shall not exceed the fee authorized by the City without City's written directive.

**EXHIBIT B (TWO Pages)**

**Fee Estimate for Design Services for City Tracy Recycled Water Project Lammers Road Pump Station Design**

		Principal Technologist/ Principal Project Manager	Principal Technologist/ Principal Project Manager	Sr. Technologist/Sr. Project Manager	Engineer Specialist*/Project Manager	Project Engineer*/Associate Project Manager	Associate Engineer	Staff Engineer 2*	Engineering/Env. Tech 5	Engineering/Env. Tech 4	Engineering/Env. Tech 4	GID Engineering Support	Office/Clerical/ Accounting	Total Hours			
	<b>2023 Billing Rates</b>	\$315	\$282	\$282	\$258	\$186	\$186	\$165	\$193	\$165	\$143	\$90	\$110				
<b>Task</b>	<b>Description</b>														<b>Labor (\$)</b>	<b>Expense (\$)</b>	<b>Total Fee (\$)</b>
<b>1</b>	<b>Prepare Preliminary Design Report</b>																
	Draft Preliminary Design Report	7	8	48	12	16	40	16	40	16	9	48	16	276	\$ 51,880	\$ 2,600	\$ 54,480
	Surge Analysis		16			200	40							256	\$ 49,160	\$ 2,460	\$ 51,620
	BBID Intake Pre-Design	16	8	40	12	16	40	16	40	16	9	40	16	269	\$ 51,740	\$ 2,590	\$ 54,330
	BBID Water Pump Station Pre-Design	16	8	48	12	16	60	16	40	16	9	80	16	337	\$ 61,320	\$ 3,070	\$ 64,390
	Final Preliminary Design Report	7	8	32	12	16	32	16	32	16	9	24	16	220	\$ 42,180	\$ 2,110	\$ 44,290
<b>2</b>	<b>PREPARE FINAL DESIGN DRAWINGS AND SPECIFICATIONS</b>																
	Engineering Design and Drawings (30% Completion)	8	40	40	48	48	48	48	40	40	40	80	24	504	\$ 93,120	\$ 4,660	\$ 97,780
	Quality Control and Senior Review 30% Design	24	16	8	8									56	\$ 16,400	\$ 820	\$ 17,220
	Engineering Design and Drawings (60% Completion)	8	24	24	32	32	32	32	24	40	40	80	24	392	\$ 68,290	\$ 3,420	\$ 71,710
	Project Specifications and Standard Details (60% Completion)	8	16	24	24	24	24	24	24	32	24	40	12	276	\$ 51,150	\$ 2,560	\$ 53,710
	Quality Control and Senior Review 60% Design	24	16	8	8									56	\$ 16,400	\$ 820	\$ 17,220
	Engineering Design and Drawings (90% Completion)	8	24	40	40	40	60	60	40	60	24	80	10	486	\$ 88,740	\$ 4,440	\$ 93,180
	Project Specifications and Standard Details (90% Completion)	8	16	24	20	32	32	32	24	40	24	26	12	290	\$ 54,470	\$ 2,730	\$ 57,200
	Quality Control and Senior Review 90% Design	16	16	16	16									64	\$ 18,200	\$ 910	\$ 19,110
	Engineering Design and Drawings (Final Completion)	8	16	16	16	30	24	24	24	24	24	80	12	298	\$ 50,220	\$ 2,520	\$ 52,740
	Project Specifications and Standard Details (Final Completion)	8	16	16	16	16	16	16	16	24	24	24	12	204	\$ 38,230	\$ 1,920	\$ 40,150
	Building Permit package and processing	8	10	24	16	16	24	12				20	8	138	\$ 28,340	\$ 1,420	\$ 29,760
	PG&E Power Connection Application	8	10	12					40			2	8	80	\$ 17,510	\$ 880	\$ 18,390
<b>3</b>	<b>Project Management during Design</b>	40	60										16	116	\$ 31,280	\$ 1,570	\$ 32,850
<b>4</b>	<b>Bid Services</b>													0			
	Pre-Bid Conference	12											4	16	\$ 4,220	\$ 220	\$ 4,440
	Prepare Addenda	8	12	12	12	12						18	4	78	\$ 16,680	\$ 840	\$ 17,520
	Bid Opening and Evaluation	8											2	10	\$ 2,740	\$ 170	\$ 2,910
	<b>Subtotal</b>	<b>250</b>	<b>340</b>	<b>432</b>	<b>304</b>	<b>514</b>	<b>472</b>	<b>312</b>	<b>384</b>	<b>324</b>	<b>236</b>	<b>642</b>	<b>212</b>	<b>4422</b>	<b>\$ 852,270</b>	<b>\$ 42,730</b>	<b>\$ 895,000</b>

**Fee Estimate for SDC Services for City Tracy Recycled Water Project Lammers Road Pump Station Design**

		Principal Technologist/ Principal Project Manager	Principal Technologist/ Principal Project Manager	Sr. Technologist/Sr. Project Manager	Engineer Specialist*/Project Manager	Engineer*/Associate Project Manager	Associate Engineer	Staff Engineer 2*	Engineering/Env. Tech 5	Engineering/Env. Tech 4	GID Engineering Support	Office/Clerical/ Accounting	Total Hours			
	<b>2024 Billing Rates</b>	\$325	\$291	\$291	\$266	\$192	\$192	\$171	\$200	\$171	\$93	\$114				
	<b>2025 Billing Rates</b>	\$335	\$300	\$300	\$274	\$198	\$198	\$177	\$206	\$177	\$96	\$118				
<b>Task 5</b>	<b>Description</b>													Labor (\$)	Expense s (\$)	Total Fee (\$)
<b>5.1</b>	Pre-construction Meeting (Year 2024)	8		8								2	18	\$ 5,160	\$ 260	\$ 5,420
<b>5.2</b>	Review & Respond to Submittals (Year 2024)	8	16	32	40	48	48	48			16	4	260	\$ 55,800	\$ 2,790	\$ 58,590
	Review & Respond to Submittals (Year 2025)	8	10	40	40	48	48	48			16	4	262	\$ 58,160	\$ 2,910	\$ 61,070
<b>5.2</b>	Review & Respond to RFI's (Year 2024)	8	12	16	16	24	32	16	8	8	16	8	164	\$ 33,860	\$ 1,700	\$ 35,560
	Review & Respond to RFI's (Year 2025)	4	16	16	12	12	32				16	8	116	\$ 25,420	\$ 1,280	\$ 26,700
<b>5.4</b>	Issue Design Clarifications and Change Orders (Year 2024)	8	8	40	16	20	32	16	32	16	24	8	220	\$ 45,830	\$ 2,300	\$ 48,130
	Issue Design Clarifications and Change Orders (Year 2025)	8	8	20	16	20	20	16	24	8	12	4	156	\$ 34,200	\$ 1,710	\$ 35,910
<b>5.5</b>	Field Site Visits (Year 2024)	8	8	8	8	8	8	8				2	58	\$ 14,060	\$ 710	\$ 14,770
	Field Site Visits (Year 2025)	4	4	4	4	4	4	4				2	30	\$ 7,370	\$ 370	\$ 7,740
<b>5.6</b>	Record Drawings (2025)	4	8	8	8			32		40	90	6	196	\$ 30,430	\$ 1,530	\$ 31,960
<b>5.7</b>	Project Management (2024)	16	12									8	36	\$ 9,610	\$ 490	\$ 10,100
	Project Management (2025)	12	12									8	32	\$ 8,570	\$ 480	\$ 9,050
	<b>Subtotal</b>	<b>96</b>	<b>114</b>	<b>192</b>	<b>160</b>	<b>184</b>	<b>224</b>	<b>188</b>	<b>64</b>	<b>72</b>	<b>190</b>	<b>64</b>	<b>1548</b>	<b>\$ 328,470</b>	<b>\$ 16,530</b>	<b>\$ 345,000</b>

**CITY OF TRACY  
PROFESSIONAL SERVICES AGREEMENT WITH  
CH2M HILL Engineers, Inc. for Pipelines Design  
Services for the Recycled Water System Expansion Project (CIP 74168)**

This Professional Services Agreement (**Agreement**) is entered into between the City of Tracy, a municipal corporation (**City**), and CH2M HILL Engineers, Inc., a Delaware Corporation (**Consultant**). City and Consultant are referred to individually as "Party" and collectively as "Parties."

**Recitals**

- A. City desires to retain Consultant to perform design services; and
- B. On November 14, 2022, the City issued a Request for Proposals (RFP) for Design Services for the City of Tracy Recycled Water System Expansion Project (**Project**). On December 12, 2022, Consultant submitted its proposal for the Project to the City. City has determined that Consultant possesses the skills, experience and certification required to provide the services.
- C. After negotiations between the City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.
- D. This Agreement is being executed pursuant to Resolution No. 2023- \_\_\_\_ approved by Tracy City Council on February 7, 2023.

**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: Vijay Kumar, P.E., 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. Consultant shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be started and completed by 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 be shown in Exhibit A. Unless terminated in accordance with Section 6, this Agreement may be extended for an additional 1 year by the City Manager following a written determination that consultant has met the terms of this Agreement.

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

**3.1 Not to Exceed Amount.** Consultant's total compensation under this Agreement shall not exceed \$1,860,000.

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 monthly invoice(s) to the City that describe the services performed, including times, dates, and names of persons performing the services.

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

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

**3.3 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 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:

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

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

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.

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.

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

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:  
Director of Operations and Utilities  
520 N. Tracy Blvd.  
Tracy, CA 95376

To Consultant:  
Vijay Kumar, P.E.  
CH2M HILL Engineers, Inc.  
2485 Natomas Park Drive, Suite 600  
Sacramento, CA 95833

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

**13. Miscellaneous.**

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

**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 will 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.

o **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.

▪ **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**

\_\_\_\_\_  
By: Nancy D. Young  
Title: Mayor  
Date: \_\_\_\_\_


Attest:

\_\_\_\_\_  
Adrienne Richardson, City Clerk


Approved as to form:

\_\_\_\_\_  
Bijal M. Patel, City Attorney

**Consultant** CH2M HILL Engineers, Inc.  
CH2M HILL, Inc., a Delaware Corporation

  
\_\_\_\_\_  
By: Vijay Kumar, P.E.  
Title: Business Vice President  
Date: 1/4/2023

Federal Employer Tax ID No. 32-0100027

  
\_\_\_\_\_  
By: Cheryl Rimas  
Title: Assistant Secretary  
Date: 1/26/2023

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

The Project addresses the pipeline from the proposed Lammers Pump Station. The proposed pipeline project includes one (1) 24 inch recycled water pipeline from the City of Tracy existing pipeline within Lammers Road to the Lammers Road Pump Station approximately 150 linear feet, two (2) 30 inch recycled water pipelines along Lammers Road from the recycled water pump station near the intersection of Lammers Road and Schulte Road to the Delta Mendota Canal (DMC) approximately 7,300 linear feet, concrete discharge structure at the DMC, two future turnouts (Ellis and Tracy Lakes) with blind flanges, and will details of major features of the pipeline such as railroad crossings, major utility crossings and design requirements such as trench width and depth.

The overall design package will include drawings, standard details, and specifications for construction by the City's contractor.

The work will include the following:

1. Conduct project management and coordination activities
2. Review pipeline alignment along Lammers Road and then prepare preliminary design on the selected alignment
3. Use survey, potholing and geotechnical data provided by the City
4. Conduct pipeline hydraulic model to define system curve and review surge analysis for Lammers Road Pump Station
5. Assist City to obtain Encroachment permits or license for utility crossings from Larch Road Pump Station to DMC. At this time, it is unknown how long is the approval for a discharge structure at DMC since City has not done any environmental review associated with the discharge of either recycled water or irrigation water to DMC. Therefore, Consultant will provide pre-design of DMC discharge structure so that City can obtain approval from USBR and San Louis Delta Mendota Canal Authority for future construction of the discharge structure.
6. Prepare design drawings, specifications, basis of design report and construction cost estimates for two (2) 30-inch pipelines within Lammers Road.
7. Provide bidding services
8. Provide engineering services during construction

The Project is under an accelerated schedule due to DWR grant requirements. The following sections provide a breakdown of the scope of work.

### **Task 1. Preliminary Design**

The preliminary design will start from the end of the existing 24-inch pipeline that was terminated during Phase 1 of the Recycled Water Project. This location is about 200 feet north of the intersection of Lammers Road and Schulte Road.

#### **Subtask 1.1: Pipeline Alignment Verification**

The Consultant will verify the alignment of the proposed two (2) 30-inch recycled water pipelines within the existing right of way of Lammers Road. Consultant will develop evaluation criteria based on cost and non-cost items and review this criterion with the City. Considerations will be made for number and cost of trenchless crossings, expected number of crossing, and traffic impacts from construction. Information will be gathered on the alignment based on field work and discussions with the City. Consultant will also review previous studies and prepare background information for the proposed alignment. Background information will consist of conceptual alignment, conceptual plans and sections for visualization of the alignment, and a list of advantages and disadvantages. The alignment will be reviewed in a workshop with the City. The proposed alignment and associated details will be

documented in a technical memorandum (TM) and will become an appendix in the Preliminary Design Report (PDR).

Deliverables:

- Workshop agenda and notes
- Draft and final TM on alternatives evaluation and recommendations

### **Subtask 1.2: Field Visits and Visual Observations**

Consultant will coordinate with utility companies during the pre-design phase of the Project. Consultant will request as-built drawings indicating the approximate location of existing utilities in the vicinity of the proposed pipeline alignment selected in Subtask 1.1. Consultant will show existing utility lines and structures on the plans and profile sheets based on sites visits and information received from the utility owners and available as-built drawings. Visible utility features such as manholes, drain inlets, valves and meter boxes will be identified on the plans. Verification of depth of critical facilities by ground penetrating radar (GPR) or potholing will be conducted by the City and provided to the Consultant within 4 weeks after Notice to Proceed of the design contract.

Consultant will attempt to design the pipeline to have minimal disruption to existing utilities; however, some conflicts may be inevitable. Consultant will submit one set of 60 percent drawings to each known utility owning facilities along the selected pipeline alignment. It is assumed that each utility will provide review comments within two weeks of receiving the drawings. It is assumed that relocation and design of the utilities in conflict with the Project (i.e., water, sewer, storm drain, telephone, electrical, cable, fiber optic, or gas lines) will be completed by the owners of the utility. Consultant will develop and maintain a utility log documenting the delivery and receipt of information from the utility companies. The utilities that may be contacted include: gas, electric, water, sewer, telephone, and fiber optics.

Assumptions:

- Potholing, Survey and GPR efforts completed by the City due to prevailing wage issues.

Deliverables:

- Summary of Utility data log and any relocation of utilities (if required)

### **Subtask 1.3: Draft Preliminary Design Report (PDR)**

Consultant will validate design criteria and document the design parameters for the Project. Consultant will document the design parameters, City Standards, and construction methods.

Assumptions:

Deliverables:

- Draft Preliminary Design Report in pdf format

### **Subtask 1.4: Final Preliminary Design Report**

Consultant will prepare the Final Preliminary Design drawings, compile a draft table of contents of technical specifications and prepare the final PDR for the pipeline alignment. The PDR will be updated from the Draft PDR using applicable work efforts to document the major design criteria used for the various pipeline project components. At this stage of design, the PDR is expected to be a working document that will be a guiding document as design progresses to Final Design. A construction cost estimate will be prepared and included with the final PDR. The PDR will also include the various other TMs in the project as appendices.

Following review of the submittal, Consultant will meet with the City to discuss review comments.

Assumptions:

Deliverables:

- Half-size preliminary design drawings (11-inch by 17-inch), in pdf format
- Technical specifications table of contents
- Construction cost estimate (conceptual estimate)
- Final PDR

### **Subtask 1.5: Hydraulic Modeling**

Consultant will provide system hydraulic model for the pipeline. The model will assist the design team on hydraulic conditions that will need to be incorporated into the pipeline design.

Assumptions:

- The information from the hydraulic and surge modeling will be incorporated into the 60% design level.

Deliverables:

- No specific deliverables are included for this subtask.

### **Subtask 1.6: Traffic Control and Traffic Signal Modification Plans**

The pipeline alignment includes areas that will require traffic control plans as part of the permit process. Consultant will prepare four traffic control drawings, five traffic signal modification drawings, and a traffic control specification to meet San Joaquin County requirements. This information will be prepared for the permit application and included in the Final Design packages as described in Task 2.

Assumptions:

Deliverables:

- Agency encroachment permit package.

### **Subtask 1.7: Prepare Construction Permits Packages**

Consultant will coordinate with the permitting agencies and assist the City in preparing the required construction permit applications. After notice to proceed, Consultant will contact the associated jurisdictional agencies and verify the permit requirements. Once a pipeline alignment has been chosen, Consultant will coordinate with agencies, distribute copies of the working drawings, and prepare exhibits to accompany the permit applications. Comments received from the permitting agencies will be incorporated into the construction documents. Consultant will develop and maintain a construction permit log documenting the delivery and receipt of information from the jurisdictions requiring a construction permit. Comments that change the character of the work (i.e., require a change in construction technique such as trenchless construction where open cut was previously assumed) or that require major design changes to the construction documents will be considered as additional services. The City will be responsible for paying all fees required as a part of the permit applications and for signing the applications as the applicant.

Assumptions:

- Up to 120 hours has been allowed for this subtask for the following permits:

- Union Pacific Railroad Crossing
- Chevron Crossing
- PG&E Crossing
- County Encroachment Permit

Deliverables:

- Construction permit log

### **Subtask 1.8: Geotechnical Review**

Consultant will review the existing geotechnical report. Based on this review, Consultant will prepare a Geotechnical Interpretive Report (GIR) to provide recommendations and design criteria for use by the design team and to support the design and permitting of the trenchless pipeline crossings.

Assumptions:

- Up to 60 hours has been allowed for this subtask.

Deliverables:

- Geotechnical Interpretive Report in PDF format

### **Task 2: Final Design Engineering**

Consultant will follow a process for delivery of the final design and bid documents for the construction of the Project that includes producing design deliverables at various stages of the design (30 percent, 60 percent, 90 percent, and final bid documents). At each design stage, Consultant will provide information for review and provide for resolution of key issues before proceeding to the next stage. The information collected, and the concepts defined in each consecutive stage will form the basis for subsequent work.

Each phase of design will include specific deliverables which are identified in the following subtasks. Submittal review workshops (Microsoft Teams or conference calls) with the City will be conducted at critical design milestones as identified in the following subtasks. The City will provide one set of electronic comments to Consultant within two weeks of receiving the documents. Consultant will review City's comments and prepare a Comment Log documenting comment, comment resolution, and resolution status.

Similar to previous Phase 1, Consultant will provide technical specifications, drawings and standard details in pdf format. It is assumed that the City will use their standard contract documents such as bidding information and forms, general provisions, special provisions, and City's construction forms to prepare the final bidding documents and will advertise for bids on its website.

The technical specification sections will be based on Consultant master specifications using Construction Specifications Institute (CSI) standards format and customized for the specifics of this project. Specifications will be produced using Consultant standard Microsoft Word software and 8½-inch by 11-inch format. Drawings and technical specifications will be stamped in accordance with California law and signed by licensed engineers of the appropriate disciplines.

The drawings will show the level of detail deemed necessary by Consultant to obtain reasonable bidder response and to limit change orders. Drawings will be produced using Consultant standard Micro Station software and 22-inch by 34-inch (C size) drawing format – provided in 11-inch by 17-inch format (D size) for review.

Consultant will prepare construction cost estimates at the 60 percent and 90 percent submittal stages. Estimates will be prepared to the level of accuracy based on the information available within normal industry standards. Estimates will be formatted in accordance with the Project design CSI specification



format and listed by facility. Where sufficient detailed information is lacking to obtain reasonably accurate prices of materials a contingency allowance may be applied. Escalation allowances will be used to provide an opinion of the estimated construction costs at the midpoint of construction.

**Assumptions:**

- Bid documents will be prepared for one construction/bid package.
- The preparation of bidding documents for the pre-purchase of equipment and materials is not included in this scope of services but may be included in future task orders or amendments.
- Design services for landscaping or environmental mitigation are not included in this scope of services but may be included in future task orders or amendments.
- Only a single vendor will be named for each manufactured component or piece of equipment with provisions for an "equal" to be proposed by the contractor and subject to approval by the engineer.
- The City will acquire all necessary lands, temporary and permanent easements, and rights-of-way.
- The City will secure access to private property for all the field assessment required by the project team.
- City will provide surveying, geotechnical borings, soil sampling and potholing of existing utilities since it must comply with the prevailing wage requirements.
- The pipeline alignments and sizes as agreed to in the 30% design will not change substantially.
- A total of approximately 70 drawings is anticipated to show the work as described at the end of this section.
- The plan and profile drawings will be prepared on aerial photo base sheets provided by the City's survey project and include the horizontal and vertical alignment of the pipeline, locations of major structures along the pipeline, existing utilities (plan view, profile view to indicate as-built depth if available), right-of-way lines, property lines, tax lot identification numbers, and easements (permanent and construction).
- Scale of plan and profile drawings will be 1"=40' horizontal and 1"=4' vertical.
- Flow measurement to be conducted at the Lammers Road Pump Station including flows discharged to the DMC since there is no power at DMC.

**Subtask 2.1: 30 Percent Design**

Consultant will prepare 30 percent design drawings and compile a table of contents of technical specifications for the Project. Following review of the submittal, Consultant will meet with the City and agencies to discuss review comments. The review meeting is assumed to be held remotely by Microsoft Teams or conference call.

**Deliverables:**

- Half-size drawings (11-inch by 17-inch), in pdf format
- Updated draft version table of contents for specifications

**Subtask 2.2: QC and Senior Review of 30 Percent Design**

Consultant will engage senior staff to provide quality control and senior review of the 30% design. Consultant quality assurance/quality control (QA/QC) program integrates QA/QC procedures throughout the project life cycle.

Documents and other deliverables prepared by Consultant will be reviewed internally by senior members of Consultant team. Review will include the design and construction methodology, drawings, calculations, project design report, and the overall integrity of the design. Internal reviews will be

documented using quality review forms (QRF) or Bluebeam. Due to the extremely tight schedule, it is assumed that City and QC review will proceed concurrently.

Deliverables: Included in subtask 2.1 deliverable

### **Subtasks 2.3 and 2.4: 60 Percent Design Drawings and Specifications**

Consultant will prepare 60 percent design drawings and compile a draft version of technical specifications for the Project. This design will show sufficient details for preparing and submitting permit application to the four agencies identified earlier.

Following review of the submittal, Consultant will meet with the City and agencies to discuss review comments. The review meeting is assumed to be held remotely by Microsoft Teams or conference call.

Deliverables:

- Half-size drawings (11-inch by 17-inch), in pdf format
- Draft technical specifications
- Construction cost estimate
- Table of contents of standard details

### **Subtask 2.5: QC and Senior Review of 60 Percent Design**

Consultant will engage its senior staff to provide quality control and senior review of 60% design. Due to the tight schedule, it is assumed that City and QC review will proceed concurrently.

Deliverables: Included in subtask 2.3 and 2.4 deliverables

### **Subtasks 2.6 and 2.7: 90 Percent Design Drawings and Specifications**

Consultant will prepare 90 percent design documents for the Project. Review comments from the 60 percent design review will be incorporated. The 90 percent submittal will include technical specifications, standard details, and drawings. The final Engineer's estimate of construction cost will be prepared and delivered within four weeks after submission of the drawings and specifications.

Following review of the submittal, Consultant will meet with the City to discuss review comments. The review meeting is assumed to be held remotely by Microsoft Teams or conference call.

Deliverables:

- Half-size drawings, in pdf format
- Pre-final technical specifications
- Final construction cost estimate
- Final standard details

### **Subtask 2.8: QC and Senior Review of 90 Percent Design**

Consultant will engage senior staff to provide quality control and senior review of 90% design. Due to the extremely tight schedule, it is assumed that City and QC review will proceed concurrently.

Deliverables: Included in subtask 2.6 and 2.7 deliverables

### **Subtasks 2.9 and 2.10: Bid Ready Technical Specs and Drawings (Final)**

This is the final phase of the detailed design. Review comments from the 90 percent design will be reviewed and incorporated for this final phase of the detailed design. Consultant will prepare the final

biddable construction documents including technical specifications, standard details, and drawings. All portions of the biddable contract documents will be final.

Assumptions:

- The City will upload and post the final bidding documents on its website.

Deliverables:

- Stamped and signed full-size (22-inch x 34-inch) drawings, in pdf format
- Technical specifications
- Standard details

### **Task 3: Project Administration and Controls**

The purpose of this task is to provide for the initiation and overall management of Project activities. A detailed Project schedule and work plan will be developed and implemented to complete work activities in an integrated and timely manner. In addition, this task includes those elements necessary to effectively manage, lead, and control the Project.

#### **Subtask 3.1 Project Management**

Consultant will furnish project management services for the Project, as follows:

- Project Management Plan – defines critical elements of the project including organization, scope management, project meeting and workshops, schedule, budget, communications, document control, cost controls, quality control requirements, health and safety requirements, invoicing and reporting procedures.
- Status Reporting — A monthly narrative progress report will be prepared with each invoice with specific accomplishments during the reporting period and issues encountered or anticipated including monthly budget, progress, and schedule. Monitor work efforts and evaluate actual versus planned progress. Supervise the Project team and identify actions needed to efficiently execute the Project in a timely manner. Changes in scope will be communicated to The City.
- Administration—Maintain Project records, manage and process Project communications, and coordinate Project administrative matters.
- Communication – Effectively communicate with staff, subconsultants, and the City for expectations and deliverables.
- Coordination—Coordinate tasks/subtasks with staff and subconsultants, including coordination with the City and permitting agencies to complete authorized work on schedule and within budget.
- Staff and subconsultant Management—Supervise and control activities of staff and subconsultants assigned to the Project. Coordinate and schedule appropriate staffing to meet Project requirements.

Consultant will manage the health, safety, and environmental activities of its staff. Consultant will prepare a project specific Health and Safety Plan. Consultant will address safety in the office and during site visits, including compliance with COVID safety guidelines. Consultant is not responsible for the health and safety of other project participants.

Deliverables:

- Monthly status reports with monthly invoices

## **Subtask 3.2: Project Meetings**

### **Kickoff Meetings**

At project kick-off, Consultant will facilitate a partnering session that provides key project team members, subconsultants, and the City with the opportunity jointly to define shared goals and establish critical milestones for overall project success. The partnering session has four goals for its participants:

9. Understand the work the team is undertaking.
10. Comprehend the team structure, membership, roles, and responsibilities.
11. Know and agree to the basis for determining the team's goals and performance measures.
12. Realize and accept the process for managing the team's organizational relationships and interfaces.

### **Progress Meetings**

Consultant will meet monthly with the City to discuss progress and development of the project. The meetings will be held via teleconference (Microsoft Teams) at a mutually agreeable time. Consultant will prepare and distribute via email an agenda based on project needs and the City's input at least one day prior to the meeting. Consultant will attend the meetings and present a summary of the ongoing work, issues pending, an action item list, and a decision log that will be updated following each meeting. The status of open action items will be updated and distributed with the agenda for the following month's meeting.

### **Workshops**

Consultant will meet with the City after each of the three design deliverables at the preliminary design (30%, 60% and 90% design) to discuss the design and receive review comments. Consultant will prepare a comment log for each design deliverable listing the City comments and how they were addressed and provide this in advance of each workshop for discussion. The Comment Log will be updated following the workshops. Consultant will also provide meeting agendas with action item table for the workshops.

#### **Deliverables:**

- Meeting agendas
- Action items and decision log
- Comment Logs for each design deliverable

## **Task 4: Bid Period Services**

Consultant will assist the City during the bidding process, which begins at the point the final construction documents are approved by the City and continues until the City opens the bids.

Anticipated activities are as follows:

- E.** Consultant will respond to bidders' technical questions and requests for additional information, when requested by the City.
- F.** Consultant will furnish technical interpretation of the Bid Documents and will prepare responses to questions for inclusion in addenda prepared and distributed by the City. Consultant will not answer questions directly received from bidders; Consultant will refer these questions to the City per the Instructions to bidders.
- G.** Consultant will conduct a pre-bid conference and site walk that will be scheduled by the City. Consultant will develop the agenda and content of the pre-bid conference and site walk with input from the City. Consultant will record all questions and requests for additional information, and coordinate with the City for issuing responses and additional information.

- H. Assist the City with review and evaluation of all bids received. The City will make the final decision on the award of the contract for construction and the acceptance or rejection of all bids.
- I. Consultant will provide a conformed set of drawings and specifications based on any changes identified during the bidding process.

Assumptions:

- Assume up to two (2) addenda.

Deliverables:

- Technical responses to questions provided by the City
- Pre-bid conference and site walk agenda and minutes
- Conformed set of drawings and specifications in pdf format

### **Task 5: Engineering Services During Construction**

Consultant will provide engineering services during construction (SDC) in support of City during the construction of the Project. As described below, office SDC will generally include providing the engineering support required to administer the construction contract between City and the Contractor.

#### **Subtask 5.1: Pre-Construction Meetings**

Consultant will participate in a pre-construction conference with City and Contractor to review the Project communication, coordination, and other procedures; discuss the Contractor's work plan and requirements of the Contract Documents. It is assumed that the Construction Manager retained by the City will lead the pre-construction conference and prepare the agenda, materials, and meeting minutes. Consultant's project engineer will periodically participate in bi-weekly construction progress meetings by conference call (assume 1 hour each and 1 hour to prepare), as requested by City, to provide technical input and support related to construction activities.

Assumptions:

- The budgetary amount established for progress meetings assumes Consultant's project engineer will be required to participate in up to 36 construction progress meetings.

Deliverables:

- Meeting minutes

#### **Subtask 5.2: Review and Respond to Submittals**

**Submittal Schedule:** Consultant will review Contractor's construction submittal schedule, which should identify all shop drawings, samples, and submittals required by the Contract Documents, along with anticipated dates for submission. Upon receipt, Consultant will provide timely reviews of submittals to assist with maintaining the approved schedule, when feasible.

**Coordination and Tracking:** Coordination services for construction shop drawings, samples, and submittals, including preparation of a tracking system, which cross-references submittal status to the Contract Document requirements, will be performed by the Contractor. Consultant will establish a separate internal system and set of procedures for managing, tracking status, and storing all submittals transmitted by Contractor.

**Review:** As requested by the City, Consultant will review technical submittals transmitted by the Contractor as part of the Contract Documents requirements. Consultant's review will be for

conformance with the design concept and compliance with the requirements of the Contract Documents. Such review will not relieve the Contractor from its responsibility for performance in accordance with the Contract Documents, nor is such review a guarantee that the Contractor performed work covered by the shop drawings, samples, or submittals is free of errors, inconsistencies, or omissions.

Assumptions:

- The budgetary amount established for submittal review assumes the processing of approximately 60 submittals (total includes re-submittals), each requiring an average of about 6 hours of review and processing time.

Deliverables:

- Submittal responses

### **Subtask 5.3: Review and Respond to Request for Information (RFIs)**

**Construction Contract Request for Information:** Consultant will review and provide responses for Contractor's requests for information (RFIs) or clarification of technical requirements of the Contract Documents. Consultant will log and track RFIs received from the Contractor.

Assumptions:

- The budgetary amount established for RFI review assumes the processing of approximately 40 RFIs by Consultant office staff, each requiring an average of 4 hours of review and processing time.

Deliverables:

- RFI responses

### **Subtask 5.4: Issue Design Clarification Memos and assist City with change Orders**

When necessary, Consultant will provide design clarifications memos (DCM) and/or revised drawings to clarify the design intent. In term of change orders, Consultant will review and evaluate Contractor-requested changes to the contract documents. Consultant will make recommendations to the City regarding the acceptability of the Contractor's request. It is assumed All change orders will be negotiated and managed by the City's Construction Manager.

Assumptions:

- The budgetary amount established for evaluating these requests assumes up to 6 DCM will be issued and assist with up to 8 change order requests.

Deliverables:

- Design clarification memos

### **Subtask 5.5: Field Visits**

When necessary, Consultant staff will visit the project site to assist the City to review contractor's work and answer any questions by the city or contractor. In addition, site visits will be necessary to resolve either utility conflict or unknown conditions.

Assumptions:

- No more than six site visits will be necessary during the duration of the contract.

**Subtask 5.6: Record Drawings**

Consultant will revise the Conformed Drawings to reflect available as-built record drawing information provided by the Contractor. The City will provide Consultant with a single pdf or Bluebeam marked-up set of drawings showing all record information. Such marked-up drawings will be prepared using a color-coded insert/delete/explanation code to facilitate Consultant revisions. Consultant will only make the revisions shown on the markup. Contractor and City will be responsible for reviewing the information for accuracy and completeness prior to delivering to Consultant. Consultant will not be responsible for any errors or omissions in the information provided and incorporated into the record drawings.

Consultant will prepare and submit one electronic PDF of the Record Drawings to the City within 1 month after receipt of markups.

Assumptions:

- The City will provide Consultant with a single pdf or Bluebeam marked-up set of drawings showing all record information.
- Marked-up drawings will be prepared using a color-coded insert/delete/explanation code to facilitate Consultant revisions.

Deliverables:

- One set of Record Drawings in pdf format

**Subtask 5.7 – Project Administration and Controls (Services During Construction)**

Consultant will provide project management services for this scope of work as follows.

**Progress Meetings and Team Management:** Consultant will update the CITY's project manager monthly throughout the duration of the project. Consultant will provide the following throughout the duration of the project:

- Records Management: This will comprise of maintaining of Project records, managing, and processing Project communications, coordinating Project administrative matters, and subcontractor information.
- Coordination: This will comprise Conducting monthly internal coordination meetings to complete authorized work on schedule and within budget.
- Staff Management: This will comprise of Supervising and controlling activities of staff assigned to the Project. This will also include coordinating and scheduling appropriate staffing to meet Project requirements.
- Meeting Preparation: This will comprise of deciding for and coordinating periodic site visits and meetings with the City staff and Management.

Assumptions:

- City will coordinate internal review and provide one set of comments in electronic format for review decisions made during the meetings.

**Deliverables:**

- Monthly SDC progress report
- Monthly invoices

**Task 6: Additional Services Not Included**

The services described below are not included in this Scope of Engineering Services but can be performed if requested and approved by the City and Consultant. Time, scope, and fee have not been budgeted for the tasks listed hereunder. Authorization to proceed will be in the form of an amendment to this Scope of Engineering Services specifying the work to be performed and the additional payment for such services rendered.

- Design services for environmental mitigation
- Design services for landscaping
- Construction permitting support (SWPPP, preconstruction surveys, etc.)
- Environmental mitigation support (including construction monitoring as determined necessary)
- Environmental permitting support
- Support or participation in Value Engineering Studies or analysis for the Project
- Procurement of materials or equipment
- More than one construction contract
- Operations assistance and performance monitoring services
- Survey and mapping
- Printing of deliverables beyond the quantity listed
- Preparation of additive, deductive, or alternate design and construction scope
- Potholing utilities
- Operations and Maintenance Manuals
- Additional workshops not listed above
- Construction management services
- Materials testing or special inspection services
- Litigation or construction claims support
- Additional items noted to be excluded within the Scope of Engineering Services

**SCHEDULE:**

Notice to Proceed by City: mid-February 2022

Survey, Potholing, and Geotechnical Data by City: Early March 2022

Pre-design – 12 weeks from NTP

Final Design, Plans, Specifications and Standard details– 24 weeks after approval of PDR by City.  
(front end bid documents and bidding by City)



EXHIBIT B - Compensation

Billing Rates for Years 2023 to 2025 (from Jan 1 to Dec 31<sup>st</sup> of each Year)

Classification	2023	2024	2025
Entry level or Intern	\$75	\$78	\$81
Global Design Center staff	\$90	\$93	\$96
Engineering/Environmental Tech 1	\$94	\$98	\$101
Engineering/Environmental Tech 2	\$107	\$111	\$115
Office/Clerical/Accounting	\$110	\$114	\$118
Staff Engineer 1*	\$143	\$148	\$153
Engineering/Environmental Tech 3	\$143	\$148	\$153
Staff Engineer 2*	\$165	\$171	\$177
Engineering/Environmental Tech 4	\$165	\$171	\$177
Associate Engineer*	\$186	\$192	\$198
Engineering/Environmental Tech 5	\$193	\$200	\$206
Project Engineer*/Associate Project Manager	\$228	\$236	\$244
Engineer Specialist*/Project Manager	\$258	\$266	\$274
Sr. Technologist*/Sr. Project Manager	\$282	\$291	\$300
Principal Technologist*/Principal Project Manager	\$315	\$325	\$335

Notes: This fee estimate assumes all work is completed by December 2025. Any work completed after the above date shall be subject to the new billing rates not exceeding 5%. The above billing rates apply for consultant staff located in any office. Costs for individual tasks may be than the total for each task. However, the total fee shall not exceed the fee authorized by the City without City's written directive.

EXHIBIT B (TWO Pages)

FEE ESTIMATE FOR DESIGN SERVICES FOR CITY OF TRACY RECYCLED WATER SYSTEM EXPANSION PROJECT--RECYCLED WATER PIPELINES																					
Task Description	Principal In Charge	Sr. Project Manager	Corrosion Specialist	Permitting Specialist	Senior Reviewer - Pipelines	Senior Reviewer - Tunneling	Senior Reviewer - Hydraulics/Surge	Senior Reviewer -Corrosion	Senior Reviewer - Structural	Senior Reviewer - Site Civil/Traffic Control	Geotechnical/Tunneling	Cost Estimator	Pipeline Design - Recycled Water	CAD Technician 3	Global Design Center Staff	Office Support	Total Hours	CH2M HILL Labor	Expenses (includes 10% markup)	Subcontractor (includes 10% Markup)	Total Fee (\$)
(2023) Labor Rates	\$315	\$282	\$258	\$282	\$315	\$282	\$282	\$282	\$228	\$258	\$228	\$193	\$193	\$143	\$90	\$110					
<b>Task 1 Preliminary Design</b>																					
1.1 Pipeline Alignment Verification		8		8							60		96	16		16	204	\$ 40,768	\$ 2,040	\$ -	\$ 42,808
1.2 Field Visits and Visual Observations		24		16					24		24		24				112	\$ 26,856	\$ 1,350	\$ -	\$ 28,206
1.3 Draft Preliminary Design	12	24	16	8	8	6	6	4	6		8	32	160	200		16	506	\$ 94,572	\$ 4,730	\$ -	\$ 99,302
1.4 Final Preliminary Design	24	40	32	4	4	4	4	4	4	8	16	40	120	140		24	468	\$ 93,032	\$ 4,660	\$ -	\$ 97,692
1.5 Hydraulic Modeling		16					8						40				64	\$ 14,488	\$ 730	\$ -	\$ 15,218
1.6 Traffic Signal Loops		24								16			80				120	\$ 26,336	\$ 1,320	\$ 55,000	\$ 82,656
1.7 Prepare Construction Permit Packages	24	40									120		140				324	\$ 73,220	\$ 3,670	\$ -	\$ 76,890
1.8 Geotechnical Review											80						80	\$ 18,240	\$ 920	\$ -	\$ 19,160
Subtotal Task 1	60	176	48	36	12	10	18	8	34	24	308	72	660	356		56	1878	\$ 387,512	\$ 19,420	\$ 55,000	\$ 461,932
<b>Task 2 Final Design</b>																					
2.1 Engineering Design and	40	48	32								40		300	300	199	40	999	\$ 166,622	\$ 8,340	\$ -	\$ 174,962
2.2 Quality Control and Senior					16	16		16	16	16						8	88	\$ 22,720	\$ 1,140	\$ -	\$ 23,860
2.3 Engineering Design and	30	32	24								12	120	200	240	300	40	998	\$ 154,882	\$ 7,750	\$ -	\$ 162,632
2.4 Project Specifications and Standard Details (60% Completion)	24	32	12	80							12		120	80	100	40	500	\$ 92,976	\$ 4,650	\$ -	\$ 97,626
2.5 Quality Control and Senior Review 60% Design					24	24		24	24	24						8	128	\$ 33,640	\$ 1,690	\$ -	\$ 35,330
2.6 Engineering Design and	24	16	8								12	80	160	120	100	60	580	\$ 95,952	\$ 4,800	\$ -	\$ 100,752
2.7 Project Specifications and Standard Details (90% Completion)	16	16	8								8		80	80	120	32	360	\$ 54,640	\$ 2,740	\$ -	\$ 57,380
2.8 Quality Control and Senior Review 90% Design					20	20		20	20	20						8	108	\$ 28,180	\$ 1,410	\$ -	\$ 29,590
2.9 Engineering Design and	16	32	12								8	66	133	120	160	24	571	\$ 91,591	\$ 4,580	\$ -	\$ 96,171
2.10 Project Specifications and Standard Details (Final)	30	40	16								8		80	80	120	40	414	\$ 68,762	\$ 3,440	\$ -	\$ 72,202
Subtotal Task 2	180	216	112	80	60	60	-	60	60	60	100	266	1,073	1,020	1,099	300	4,746	\$ 809,965	\$ 40,540	\$ -	\$ 850,505
<b>Task 3 Project Administration</b>																					
3.1 Project and Staff	32	100														96	228	\$ 48,840	\$ 2,450	\$ -	\$ 51,290
3.2 Review Meetings and Workshops	80	80														18	178	\$ 49,740	\$ 2,490	\$ -	\$ 52,230
Subtotal Task 3	112	180	-	-	-	-	-	-	-	-	-	-	-	-	-	114	406	\$ 98,580	\$ 4,940	\$ -	\$ 103,520
<b>Task 4 Bid Phase Services</b>																					
4.1 Pre-Bid Conference	16	16									8		16			8	64	\$ 15,344	\$ 770	\$ -	\$ 16,114
4.2 Prepare Addenda	8	20											24	18		16	86	\$ 17,126	\$ 860	\$ -	\$ 17,986
4.3 Bid Opening and	8	16											8			8	40	\$ 9,456	\$ 477	\$ -	\$ 9,933
Subtotal Task 4	32	52	-	-	-	-	-	-	-	-	8	-	48	18		32	190	\$ 41,926	\$ 2,117	\$ -	\$ 44,043
<b>TOTAL</b>	<b>384</b>	<b>624</b>	<b>160</b>	<b>116</b>	<b>72</b>	<b>70</b>	<b>18</b>	<b>68</b>	<b>94</b>	<b>84</b>	<b>416</b>	<b>338</b>	<b>1,781</b>	<b>1,394</b>	<b>1,099</b>	<b>502</b>	<b>7,220</b>	<b>\$ 1,337,983</b>	<b>\$ 67,017</b>	<b>\$ 55,000</b>	<b>\$ 1,460,000</b>

<b>FEE ESTIMATE FOR SDC SERVICES FOR CITY OF TRACY RECYCLED WATER SYSTEM EXPANSION PROJECT--RECYCLED WATER PIPELINES</b>															
	<b>Task Description</b>	<b>Principal In Charge</b>	<b>Sr. Project Manager</b>	<b>Corrosion Specialist</b>	<b>Permitting Specialist</b>	<b>Geotechnical/Tunneling</b>	<b>Pipeline Design - Recycled Water</b>	<b>CAD Technician 3</b>	<b>Global Design Center Staff</b>	<b>Office Support</b>	<b>Total Hours</b>	<b>CH2M HILL Labor</b>	<b>Expenses (includes 10% markup)</b>	<b>Subcontractor (includes 10% Markup)</b>	<b>Total Fee (\$)</b>
	2024 Billing Rates	\$325	\$291	\$266	\$236	\$236	\$200	\$148	\$93	\$114					
	2025 Billing Rates	\$335	\$300	\$274	\$244	\$244	\$206	\$153	\$96	\$118					
	<b>Task 5 Services During Construction</b>														
5.1	Pre-construction Meeting (Year 2024)	8	14				12			4	38	\$ 9,530	\$ 480	\$ -	\$ 10,010
5.2	Review & Respond to Submittals (Year 2024)	16	24	24	16	16	80			16	192	\$ 45,312	\$ 2,270	\$ 5,000	\$ 52,582
	Review & Respond to Submittals (Year 2025)	12	24	12	8	8	60			16	140	\$ 32,660	\$ 1,640	\$ 4,000	\$ 38,300
5.2	Review & Respond to RFI's (Year 2024)	16	24	24	16	16	80			16	192	\$ 45,312	\$ 2,270	\$ 3,000	\$ 50,582
	Review & Respond to RFI's (Year 2025)	12	24	12	8	8	60			16	140	\$ 32,660	\$ 1,640	\$ 2,000	\$ 36,300
5.4	Issue Design Clarifications and Change Orders (Year 2024)	8	16	8		12	40	40	32	16	172	\$ 30,936	\$ 1,550	\$ 2,000	\$ 34,486
	Issue Design Clarifications and Change Orders (Year 2025)	8	16	8		12	32	33	32	16	157	\$ 29,201	\$ 1,470	\$ 1,000	\$ 31,671
5.5	Field Site Visits (Year 2024)	16	24				40			8	88	\$ 21,096	\$ 1,060	\$ 2,000	\$ 24,156
	Field Site Visits (Year 2025)	16	24				40			8	88	\$ 21,744	\$ 1,090	\$ 1,000	\$ 23,834
5.6	Record Drawings (2025)	8	16				60	80	120	16	300	\$ 45,488	\$ 2,280	\$ -	\$ 47,768
5.7	Project Management (2024)	24	48							16	88	\$ 23,592	\$ 1,180		\$ 24,772
	Project Management (2025)	24	48							16	88	\$ 24,328	\$ 1,211		\$ 25,539
	Subtotal	168	302	88	48	72	504	153	184	164	1,683	\$ 361,859	\$ 18,141	\$ 20,000	\$ 400,000

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_

**APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH CH2M HILL ENGINEERS, INC. FOR DESIGN SERVICES AT THE LAMMERS ROAD PUMP STATION FOR THE RECYCLED WATER SYSTEM EXPANSION PROJECT (CIP 74168) FOR A TERM OF FIVE (5) MONTHS AND A NOT TO EXCEED AMOUNT OF \$1,240,000**

**WHEREAS**, in 2020, the City of Tracy completed a Recycled Water Project, funded by the State of California Proposition 84 Grant and City funds, which involved the construction of a recycled water pipeline and pump station as part of the City's Recycled Water Master Plan to replace landscape irrigation within the streets right-of-way, parks, schools and greenbelts from potable water to recycled water; and

**WHEREAS**, the California Department of Water Resources (DWR) has awarded an Urban and Multibenefit Drought Relief Grant to the City in the amount of \$20 million for a Recycled Water System Expansion Project; and

**WHEREAS**, proposed improvements under the project include the construction and extension of the recycled water transmission pipeline within the streets right-of-way and the construction of a new booster pump station; and

**WHEREAS**, the project will also increase surface water availability to the City and farmers in both the Tracy Subbasin and southern San Joaquin Valley via the CVP canal; and

**WHEREAS**, the design of the project is required to be completed no later than July 1, 2023, per the grant agreement between DWR and the City; and

**WHEREAS**, on November 14, 2022, a Request for Proposal was posted on the City website; and

**WHEREAS**, one proposal was received on December 12, 2022, from CH2M HILL Engineers, Inc. for the project and after careful review, the City has determined that CH2M HILL Engineers, Inc. demonstrates a high degree of relevant experience and past performance in completing projects of similar type, size, and complexity in a satisfactory manner; and now therefore be it

**RESOLVED:** that the City Council hereby approves a Professional Services Agreement with CH2M HILL Engineers, Inc. for design services at the Lammers Road Pump Station for the Recycled Water System Expansion Project (CIP 74168) for a term of five (5) months and a not to exceed amount of \$1,240,000.

The foregoing Resolution 2023-\_\_\_\_\_ was adopted by the Tracy City Council on February 7, 2023, by the following vote:

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

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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

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_

**APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH CH2M HILL ENGINEERS, INC. FOR PIPELINES DESIGN SERVICES FOR THE RECYCLED WATER SYSTEM EXPANSION PROJECT (CIP 74168) FOR A TERM OF FIVE (5) MONTHS AND A NOT TO EXCEED AMOUNT OF \$1,860,000**

**WHEREAS**, in 2020, the City of Tracy completed a Recycled Water Project, funded by the State of California Proposition 84 Grant and City funds, which involved the construction of a recycled water pipeline and pump station as part of the City's Recycled Water Master Plan to replace landscape irrigation within the streets right-of-way, parks, schools and greenbelts from potable water to recycled water; and

**WHEREAS**, the California Department of Water Resources (DWR) has awarded an Urban and Multibenefit Drought Relief Grant to the City in the amount of \$20 million for a Recycled Water System Expansion Project; and

**WHEREAS**, proposed improvements under the project include the construction and extension of the recycled water transmission pipeline within the streets right-of-way and the construction of a new booster pump station; and

**WHEREAS**, the project will also increase surface water availability to the City and farmers in both the Tracy Subbasin and southern San Joaquin Valley via the CVP canal; and

**WHEREAS**, the design of the project is required to be completed no later than July 1, 2023, per the grant agreement between DWR and the City; and

**WHEREAS**, on November 14, 2022, a Request for Proposal was posted on the City website; and

**WHEREAS**, one proposal was received on December 12, 2022, from CH2M HILL Engineers, Inc. for the project, and after careful review, the City has determined that CH2M HILL Engineers, Inc. demonstrates a high degree of relevant experience and past performance in completing projects of similar type, size, and complexity in a satisfactory manner; and now therefore be it

**RESOLVED:** that the City Council hereby approves a Professional Services Agreement with CH2M HILL Engineers, Inc. for pipelines design services for the Recycled Water System Expansion Project (CIP 74168) for a term of five (5) months and a not to exceed amount of \$1,860,000.

The foregoing Resolution 2023-\_\_\_\_\_ was adopted by the Tracy City Council on February 7, 2023, by the following vote:

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

---

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

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

Agenda Item 3.A

RECOMMENDATION

**Staff recommends that the City Council receive the annual informational report regarding the City of Tracy's Senior Services Program for 2022.**

EXECUTIVE SUMMARY

This report discusses the activities of the Senior Services Program during the previous year, including program highlights and increases in attendance. The report includes an update on the senior needs and concerns based on the finding from the annual senior forum and summarizes the efforts of the Parks and Community Services Commission, which has an active role within the senior community.

BACKGROUND AND LEGISLATIVE HISTORY

The City of Tracy Parks and Recreation Department provides a wide variety of programs, services and activities for seniors including educational programs, health and wellness presentations, recreational programs, special events, senior related seminars, and volunteer and intergenerational opportunities. At the center of these programs is the Lolly Hansen Senior Center. Dedicated in 1986, the facility serves as a resource hub to connect seniors and their families to services and referrals in coordination with various local agencies. Most importantly, it is a place for older adults in the Tracy community to gather and socialize.

**Parks & Community Services Commission**

The Parks and Community Services Commission (The Commission) acts as an advisory body to the Council in the areas of parks and programming for youth, adults and seniors. The Commission has made it a priority to actively engage seniors in the Tracy community. Staff from the Recreation Division provides a monthly recreation report as well as a quarterly update on senior comments and concerns to the Commission. Staff also meets with the various subcommittees that have been established to meet the Commission's goals for FY's 2022/2023.

Informally, the Commission has also attended senior center activities and events, Downtown Block Parties, Farmers Markets, and various other community events that provide the Commissioners the opportunity to interact with the community and engage with seniors. The Community Involvement subcommittee is available upon request to provide presentations to various community groups in Tracy where they provide information regarding the various senior services and the role of the Commission, including how to connect to City services, the Local Senior Resource Guide, the Senior Link-Tracy program, the Recreation Activity Guide, and the Arts Education Catalog.

Lastly, a Commissioner, along with City staff, regularly attend the Tracy Senior Association (TSA) and Tracy Golden Agers monthly meeting, where they listen to



seniors' needs and concerns and provide information to the group. The Commission's Community Involvement subcommittee will continue to increase the Commission's visibility in the senior community by attending community events and senior center events and will continue to outreach to the various neighborhood groups and service clubs.

### ANALYSIS

Currently, 6,725 seniors are registered with the senior center, a 13.2% increase from last year. In 2022, there were approximately 56,930 visits by seniors who utilized the 90 individual program offerings for the year. Over the past year, staff has added the following new activities: three new Health and Wellness classes, four recreational classes, four programs and two social events at the request of participants and community member suggestions. "Exhibit A" to this report outlines the senior center's improved program impact numbers through increased offerings for 2022. The senior center continues to partner with Tracy Golden Agers, a local nonprofit group that was established to create activities to unite seniors to support and encourage each other to stay active and involved. Through this partnership the senior center and Golden Agers will continue to co-host two senior presentations, a new senior event, and Golden Agers will offer two casino trips a year. Based on feedback from the various community forums and senior comment cards, staff in Fiscal Year 2023-2024, will be looking to increase programming and expand operating hours at the senior center through new partnerships, activities, and events.

On November 18, 2014, Council supported staff's recommendation to create "Senior Link-Tracy" to address an alternative way to outreach to seniors regarding their needs and concerns. For the past 8 years, the Senior Link-Tracy program has provided an opportunity for senior citizens in Tracy to voice their concerns, share their needs, and identify resources that will assist them in living full, vibrant, and independent lives. This service is provided by phone, email, or in person at the senior center. Approximately 263 seniors used this service in 2022. Council also supported the Local Senior Resource Guide, which assists seniors and caregivers in connecting with a wide variety of local resources and non-profit agencies, as well as to City Council and Commissions. The guides can be found at the senior center, City facilities, City website and throughout the community. With this service approximately 322 in 2022 inquiries were made to connect people to various resources.

Recreation staff and the Parks and Community Services Commission will continue to outreach to the senior community and provide an opportunity for seniors to address their needs and concerns by:

- Reporting to the Commission on a quarterly basis on current and future needs for seniors in the Tracy community.
- Using the senior center as a resource hub to inform the senior community on how to connect with City services and other senior-related agencies.
- Marketing the Senior Link-Tracy program and Local Senior Services and Resources guide.

- Hosting the annual Community Conversations event in May 2023, and a special meeting in November 2023, at the senior center to gather the needs and concerns from seniors to report back to City Council in February 2024.
- Attending the Tracy Senior Association and Tracy Golden Agers meetings.

#### FISCAL IMPACT

Costs related to supporting senior services are included in the Parks and Recreation budget.

#### PUBLIC OUTREACH/INTEREST

On May 18, 2022, the yearly “Community Conversation” forum was held with two sessions throughout the day at the Lolly Hansen Senior Center. There were approximately 13 seniors and community members in attendance at both sessions. On November 9, 2022, the Commission held a special meeting at the Lolly Hansen Senior Center to provide seniors the opportunity to address the Commission regarding their needs and concerns. The meeting was held in the early afternoon and approximately 32 seniors were in attendance. “Exhibit B” to this report outlines the senior concerns expressed at both gatherings, with staff responses.

Marketing efforts for these outreach meetings and senior center activities and events include advertisement on the City website, social media, at the senior center, outreach to the various senior living facilities and apartments, community service clubs, local churches, local newspaper, in all City facilities, TRACER buses, Channel 26, and local business throughout the City of Tracy.

#### STRATEGIC PLAN

This agenda item supports the Quality-of-Life Strategy, specifically:

**Goal 3:** Provide City programming and events that bolster quality of Life.

#### ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council receive the annual informational report regarding the City of Tracy’s Senior Services Program for 2022.

Agenda Item 3.A  
February 7, 2023  
Page 4

Prepared by: Amanda Jensen, Recreation Coordinator  
Jolene Jauregui, Recreation Services Manager

Reviewed by: Brian MacDonald, Director of Parks & Recreation  
Sara Cowell, Finance Director  
Karin Schnaider, Assistant City Manager

Approved by: Michael Rogers, City Manager

#### ATTACHMENTS

Exhibit A - Summary of the Senior Center program impact numbers and offerings

Exhibit B - Status of senior needs and concerns from two senior forums

Exhibit C - Powerpoint

# LOLLY HANSEN SENIOR CENTER - PROGRAM IMPACT

## LIFE ENRICHMENT & WELLNESS PROGRAMS

**PURPOSE:** To promote health and wellness by providing access to activities, programs, and services.

### **2021 STATISTICS & SIGNIFICANT INFORMATION:**

- Yearly attendance = 20,607
- Average daily attendance = 86
- Average weekly attendance = 429
- Average monthly attendance = 1,717
- 61 Individual educational opportunities, activities, recreational programs, and services were offered.
- New events = 0
- New programs = 2
- New classes = 3
- Information & Assistance appointments = 3,627
- Average number of meals served:
  - 88/day
  - 440/week
  - 1,760/month
  - 21,131/year\*
- Number of meals delivered = 4,800
- AARP Tax Assistance appointments = N/A

### **2022 STATISTICS & SIGNIFICANT INFORMATION:**

- Yearly attendance = 56,930
- Average daily attendance = 237
- Average weekly attendance = 1,186
- Average monthly attendance = 4,744
- 90 Individual educational opportunities, activities, recreational programs, and services were offered.
- New events = 2
- New programs = 4
- New classes = 4
- Information & Assistance appointments = 3,843
- Average number of meals served:
  - 21/day
  - 105/week
  - 420/month
  - 5,045/year
- Number of meals delivered = 4,800
- AARP Tax Assistance appointments = 92

## **VOLUNTEER SUPPORT**

### **2021 Hours of Volunteer Support:**

The number of unduplicated volunteers that reported volunteer hours = 33

Total of reported volunteer hours = 3,340

### **2022 Hours of Volunteer Support:**

The number of unduplicated volunteers that reported volunteer hours = 37

Total of reported volunteer hours = 5,505.75

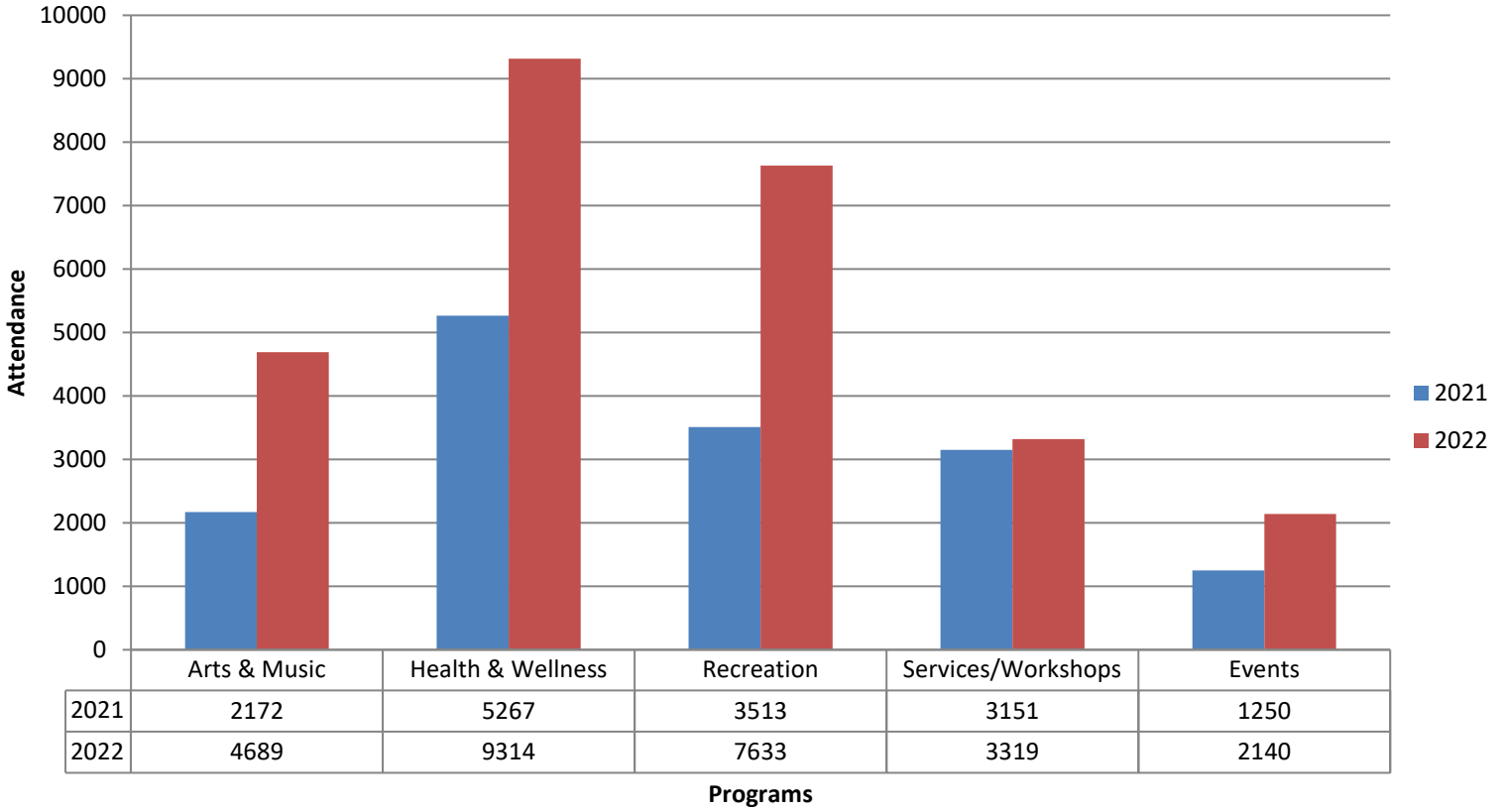
We continue to work at increasing the number of volunteers who record their hours in our database. We appreciate all volunteer service, whether formally recorded or not.

## **SERVICE RELATED OFFERINGS:**

- AARP Driver Safety Classes
- AARP Driver Refresher Course
- AARP Tax Assistance
- Brown Bag
- Daily Nutrition Lunch
- HICAP (Health Insurance Counseling & Advocacy Program)
- Meals on Wheels
- Mobile Farmer’s Market
- Paralegal
- Senior Link – Tracy Program
- University of Pacific Health Fair for Seniors & Medicare Beneficiaries

\* Higher number of meals served in 2021 due to COVID meal delivery program.

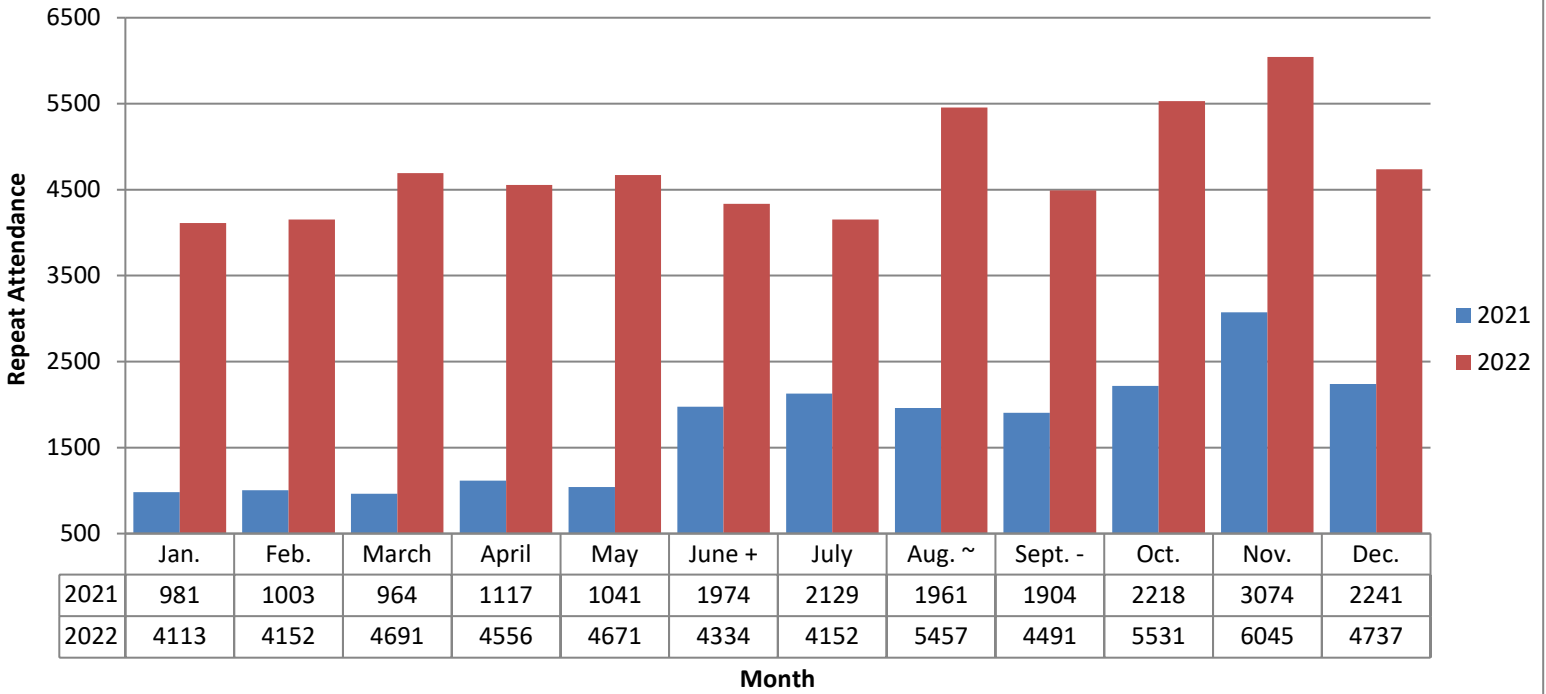
### Lolly Hansen Senior Center Attendance for Programs



### Programs and Activities Offered at the Lolly Hansen Senior Center



## Lolly Hansen Senior Center Monthly Total - Repeat Senior Attendance



+ Fully reopened June 15, 2021 at the Tracy Community Center

~ August 2, 2021 started offering in person hot meals again

- Moved back to Senior Center September 13, 2021

\* Higher number of meals served in 2021 due to COVID meal delivery program.

**Senior Community Conversation Meeting 2022  
Current Senior Citizen Needs and Concerns  
May 18, 2022**

**Attendance: 8 - Morning Session  
5 - Evening Session**

**Organizations Present:**

**Morning Session**

- Tracy Senior Citizens Club, Inc.
- Tracy Senior Association
- SJ County Commission

**Evening Session**

- Tracy Golden Agers

**Staff Present:**

- Brian MacDonald, Director of Parks & Rec.
- Jolene Jauregui, Rec. Services Manager
- Amanda Jensen, Rec. Program Coordinator
- Suzette Lovell, Rec. Leader III
- Jayne Pramod, Transit Coordinator
- Kenneth Lipich, Associate Planner
- Connie Lopes, Management Analyst II
- Code Enforcement Staff

**Department: Parks & Recreation – Senior Division**

<b>Senior Concern</b>	<b>Staff Response/Action Taken</b>	<b>By When</b>
<p>Market flyers to more locations. Improve marketing to those who can't make it to the classes.</p>	<p>Senior Center staff is continually expanding the list of locations to market all programs. The Senior Center's current marketing efforts include: Flyers, City website, Facebook (City, Parks &amp; Recreation and Senior page), Instagram, press releases, Tracy Press Datebook, email distribution blasts, Recreation Activity Guide (3x year), Channel 26, announcements (daily), Farmer's Market and three announcement boards at the Senior Center. The Senior Center target's locations which seniors frequently visit. The current distribution includes locations such as; Pharmacies, restaurants, doctor's offices, churches, City facilities, senior living facilities and apartment complexes. Staff will continue to research more locations.</p>	<ul style="list-style-type: none"> <li>• Ongoing</li> </ul>
<p>New chairs are too low and hard for seniors.</p>	<p>Staff announced that they were in the process of replacing all of the tables and chairs. New tables arrived in November, however the chairs are on back ordered.</p>	<ul style="list-style-type: none"> <li>• Purchased July 2022</li> </ul>

**Department: Transportation Division**

<b>Senior Concern</b>	<b>Staff Response/Action Taken</b>	<b>By When</b>
More transportation options outside of town, work with the County.	Staff from the Transportation Division shared information with the participant and those in attendance on the ACCESS San Joaquin program which was created to provide services for those unable to use traditional transit services. Other county services include; Americans with Disabilities Act (ADA) Assessment, Access Pass, My Ride Program, Travel Training, and Discount Fare Card. Locally resources are available through the Senior Link-Tracy Program and by contacting the Transportation Division or by contacting San Joaquin Regional Transit District.	<ul style="list-style-type: none"><li>• Completed May 2022</li></ul>

**Department: Code Enforcement**

<b>Senior Concern</b>	<b>Staff Response/Action Taken</b>	<b>By When</b>
Dog waste on sidewalks	Staff from the Code Enforcement Division was present and addressed the participants options to address this concern. Staff also shared how to utilize the GO Request app and provided phone numbers to contact report these types of issues.	<ul style="list-style-type: none"><li>• Completed May 18, 2022</li></ul>

**Department: Development Services**

<b>Senior Concern</b>	<b>Staff Response/Action Taken</b>	<b>By When</b>
More affordable housing. Do a better job of defining what affordable is.	Staff from Development Services was present and recorded the suggestions. Staff notes all suggestions and will work with their consultants and San Joaquin County Housing Authority to incorporate senior/affordable housing as part of their yearly strategic plan updates. As of January 2023, two projects for senior/affordable housing are in the works.	<ul style="list-style-type: none"><li>• Completed May 18, 2022</li></ul>
Tracy needs to look at more senior care facilities.	Staff from Development Services was present and recorded the suggestions. Staff notes all suggestions and will work with their consultants and San Joaquin County Housing Authority to incorporate senior/affordable housing as part of their yearly strategic plan updates. As of January 2023, two projects for senior/affordable housing are in the works.	<ul style="list-style-type: none"><li>• Completed May 18, 2022</li></ul>



**General Comment**

<b>Senior Concern</b>	<b>Staff Response/Action Taken</b>	<b>By When</b>
Important for people to volunteer with: <ul style="list-style-type: none"><li>• Tracy Senior Association</li><li>• Tracy Golden Agers</li></ul>	Staff shared volunteer opportunities for the Tracy Senior Association & Golden Agers that are located in the Senior Center Resource Center.	• Completed May 18, 2022

**PARKS & COMMUNITY SERVICES COMMISSION  
SPECIAL MEETING NOVEMBER 9, 2022 @ 2pm  
Attendance: 32**

**Organizations Present:**

- Tracy Community Connections Center
- Tracy Golden Agers
- SJ County Commission on Aging

**What's Working:**

- Senior Center is full of activities
- Awesome compared to other cities
- Beautifully expanded building
- Great fitness program

**Department: Parks & Recreation – Senior Division**

Senior Concern/Comments	Staff Response/Action Taken	By When
<p>New Class/Program Recommendations:</p> <ul style="list-style-type: none"> <li>• Crocheting Class</li> <li>• More one day field trips</li> <li>• More senior swim classes</li> </ul>	<p>In Fiscal Year 2023-2024, staff will be looking to increase programming and expand operating hours at the senior center through new partnerships, activities, and events.</p> <p>The Senior Center currently takes (4x) trips a year. (April, June, August, &amp; November)</p> <p>Staff spoke with the participant requesting a crocheting class and they are working together to offer this class by January 2023.</p> <p>Staff shared the request for additional senior swim classes with the Aquatics Coordinator. Senior Center staff will continue to work with the Aquatics Division to offer new programming for Summer 2023.</p>	<ul style="list-style-type: none"> <li>• Ongoing</li> <li>• Crochet Class Began in December 2022</li> <li>• Completed November 30, 2022</li> </ul>
<p>Pickleball</p> <ul style="list-style-type: none"> <li>• Need actual courts</li> <li>• Current location not appealing (Hoyt Park)</li> <li>• Add Pickleball lines to existing tennis courts</li> </ul>	<p>This comment was also made previously at the November 2021 Parks &amp; Community Services Special Meeting at which time staff had implemented a pilot pickleball program at Hoyt Park.</p> <p>Staff is working with Park Maintenance to have a few tennis courts repainted by adding pickleball lines at Hoyt Park as well as potentially Kenner Park. Additionally, four pickleball courts will be added to the next phase of the Gretchen Tally Park expansion and two additional courts are currently under construction at Western Park in Ellis.</p>	<ul style="list-style-type: none"> <li>• Ongoing</li> </ul>

<p>Parking at the Senior Center</p> <ul style="list-style-type: none"> <li>• Not enough parking for participants</li> <li>• Public Works using Senior Center parking lot</li> <li>• Staff should park in the back</li> <li>• Handicap parking too far from front door</li> <li>• Remove grass area in plaza for additional parking</li> </ul>	<p>The participant was discussing issues with renters of the Tracy Community Center using the Senior Center parking lot and when classes at the Senior Center are busier. Staff will continue to monitor the parking lots for non-participants, in addition to posted signs, and drivers who park incorrectly, causing loss of parking in the stalls next to the vehicle. Staff parks in other parking lots or at the very back of the parking lot, leaving front row parking for participants.</p> <p>Staff also shared the information with Development Services to see if and how any additional parking can be added.</p> <p>The Senior Center parking lot is up to code and has the required amount of handicap spaces. The handicap spaces are located nearest to the ramp for quicker access to the sidewalk, Senior Center, and Tracy Community Center. Staff will work with Public Works to see if an additional handicap spot can be added on the left side of the parking lot.</p> <p>Director of Parks &amp; Recreation, Brian MacDonald, was present and let the participant know that he will work with the Parks Maintenance staff who are maintaining the Civic Center Plaza, to park in another area.</p>	<ul style="list-style-type: none"> <li>• Ongoing</li> <li>• Completed November 30, 2022</li> <li>• Ongoing</li> <li>• Completed November 9, 2022</li> </ul>
<p>City of Tracy scholarship program</p> <ul style="list-style-type: none"> <li>• Not available to non-residents</li> </ul>	<p>Director of Parks &amp; Recreation, Brian MacDonald, was present and let the participant know that staff can work with the Tracy Friends for Parks, Recreation, and Community Services Foundation to offer a scholarship for non-residents.</p>	<ul style="list-style-type: none"> <li>• Ongoing</li> </ul>
<p>Tracy Golden Agers</p> <ul style="list-style-type: none"> <li>• Would like to take more trips but don't have enough money</li> <li>• Potential grant or subsidized transportation opportunities</li> </ul>	<p>The Senior Center currently takes (4x) trips a year in which Tracy Golden Agers members are welcome to attend. Parks and Community Services Commissioner, Linda Jimenez, also mentioned that the Tracy Friends for Parks, Recreation, and Community Services Foundation would be a great option for potential funding for a trip. As of January 2023, Tracy Golden Agers has requested funding from the Tracy Friends for Parks, Recreation, and Community Services Foundation and is currently in review.</p>	<ul style="list-style-type: none"> <li>• Ongoing</li> </ul>

**Department: Parks & Recreation – Parks Maintenance**

<b>Senior Concern/Comments</b>	<b>Staff Response/Action Taken</b>	<b>By When</b>
<p>Lighting at parks</p> <ul style="list-style-type: none"> <li>• Turn the lights on early for morning walkers (Lincoln Park)</li> <li>• Lighting on tennis courts</li> </ul>	<p>Information shared with Parks Maintenance. Lighting at Lincoln Park is comprised of two systems controlled by four entities: Parks Maintenance, Building Maintenance, Utilities, and PG&amp;E. PG&amp;E controls the lights in the park that are connected to the street light circuits. These go on and off with</p>	<ul style="list-style-type: none"> <li>• Ongoing</li> </ul>

	the streetlights. The remaining lights are on different timers in different buildings. Parks & Recreation Department staff will coordinate with the participant to know at what time it would be beneficial to have the lights turned on and continue to work with the other departments as necessary.	
Water <ul style="list-style-type: none"> <li>• Monitor who is watering their grass more than they are supposed to (greener grass, using more water)</li> </ul>	Information shared recommendation with Public Works Maintenance and Operations Division. Participant also mentioned utilizing Code Enforcement to site those using excess water.	<ul style="list-style-type: none"> <li>• Completed November 30, 2022</li> </ul>

**Department: Development Services**

<b>Senior Concern/Comments</b>	<b>Staff Response/Action Taken</b>	<b>By When</b>
Senior Housing <ul style="list-style-type: none"> <li>• Need more low-income options</li> <li>• Waitlist for current senior housing</li> <li>• Supplement landlords to make more affordable for seniors</li> <li>• Regency at Tracy Lakes still too expensive</li> <li>• More homes built with in-law quarters</li> </ul>	Staff from Development Services was present and recorded the suggestions. Staff notes all suggestions and will work with their consultants and San Joaquin County Housing Authority to incorporate senior/affordable housing as part of their yearly strategic plan updates. As of January 2023, two projects for senior/affordable housing are in the works.	<ul style="list-style-type: none"> <li>• Completed November 30, 2022</li> </ul>
SJ County Group Homes for seniors who cannot afford to live on their own <ul style="list-style-type: none"> <li>• Too hard to get started</li> <li>• Not enough available</li> </ul>	Staff from Development Services was present and recorded the suggestions. Staff notes all suggestions and will work with their consultants and San Joaquin County Housing Authority to incorporate senior/affordable housing as part of their yearly strategic plan updates. As of January 2023, two projects for senior/affordable housing are in the works.	<ul style="list-style-type: none"> <li>• Completed November 30, 2022</li> </ul>
Traffic <ul style="list-style-type: none"> <li>• Too many houses without the roads being able to handle the increase in traffic.</li> </ul>	Information shared with Development Service/City Planner. Staff notes all suggestions and works with consultants to incorporate road construction as part of their yearly strategic plan updates.	<ul style="list-style-type: none"> <li>• Completed November 30, 2022</li> </ul>

**Department: City Manager's Office - Homeless Services**

<b>Senior Concern/Comments</b>	<b>Staff Response/Action Taken</b>	<b>By When</b>
Homeless <ul style="list-style-type: none"><li>• Use of the Duel Vocational Institute</li></ul>	Information shared with the Homeless Services Manager.	<ul style="list-style-type: none"><li>• Completed November 30, 2022</li></ul>

**Department: Transportation Division**

<b>Senior Concern/Comments</b>	<b>Staff Response/Action Taken</b>	<b>By When</b>
Accessibility across all transportation options <ul style="list-style-type: none"><li>• Consider working with Disability &amp; Aging Community Living Committee (DACLAC)</li></ul>	Staff shared the recommendation with the Transportation Division. The participant shared the information to ensure that Transit staff were aware of the program, which they are.	<ul style="list-style-type: none"><li>• Completed November 30, 2022</li></ul>

**Agency: San Joaquin County Behavioral Health Department**

<b>Senior Concern/Comments</b>	<b>Staff Response/Action Taken</b>	<b>By When</b>
Adult Daycare <ul style="list-style-type: none"><li>• Program for mentally incapable seniors</li><li>• Santa Clara County has Dementia Daycare</li></ul>	Information shared with the San Joaquin County Behavioral Health Department.	<ul style="list-style-type: none"><li>• Completed November 30, 2022</li></ul>



# Senior Services 2022 Annual Report



# Highlights

- Activities provided by the Senior Services Program
- Current and future needs of seniors in Tracy
- Update on the efforts of the Parks & Community Services Commission



# Lolly Hansen Senior Center

- Activities, Programs & Services
- Resource Hub:
  - San Joaquin County Services
  - AARP, HICAP, Paralegal
  - Local Non-Profits
  - Tracy Golden Agers &
  - Tracy Senior Association
- Gather & Socialize

<p><b>HEALTH SERVICES</b> Behavioral Health Services of Tracy (209) 831-1941 www.sjbfhs.org</p> <p>Tracy Family Resource Center 9999 226-4922 Police Center Hotline (209) 223-1222 Suicide Prevention Hotline (800) 273-8255 Tracy Volunteer Services (209) 835-2772 www.tracyvolunteers.org Disability Insurance (800) 480-3287 Spanish: (816) 626-3846 HICAP (209) 470-7812 Email: hicap@hims.net Coverd California - Med-Cal (800) 200-1506 www.coverdca.com In-Home Supportive Services (IHSS) (209) 465-1104 www.sjfhhs.org/Assistance-in-Home-Care St. Mary's Dining Room (209) 487-0703 www.stmarysdiytracy.com UDF Dental Hygiene Clinic (209) 946-7404 Genesis Chiropractic (209) 444-5900 www.docsteele.com</p> <p><b>LATE LIFE SERVICES</b> Community Hospice (209) 578-6300 Hospice of San Joaquin (209) 557-3888</p>	<p><b>GET CONNECTED</b> City Council 1st &amp; 3rd Tuesday of each month at 7:00pm City Hall, 333 Civic Center Plaza council@cityoftracy.org</p> <p><b>Parks &amp; Community Services Commission</b> 1st Thursday of each month at 7:00pm City Hall, 333 Civic Center Plaza parks@cityoftracy.org</p> <p><b>Planning Commission</b> 2nd &amp; 4th Wednesday of each month at 7:00pm City Hall, 333 Civic Center Plaza planning@cityoftracy.org</p> <p><b>Tracy Arts Commission</b> 2nd Tuesday of each month at 7:00pm Grand Theatre Center for the Arts 715 Central Avenue tracyarts@cityoftracy.org</p> <p><b>Transportation Advisory Commission</b> 2nd Thursday of each month at 7:00pm Tracy Transit Station 50 East 9th Street park@cityoftracy.org</p> <p><b>SJ County Commission on Aging</b> 1st Monday of each month at 1:30pm Human Services Agency 102 S. San Joaquin Street, Stockton *Information Subject to Change* Various Services Subject to Fees ** The City of Tracy only provides information for non-profit organizations.</p>	<p><b>Local Senior Services &amp; Resources</b></p>  <p><b>Lolly Hansen Senior Center</b> Hours of Operation Monday - Friday 8:00am to 4:00pm 375 E. 9th Street (209) 831-6240 tracyseniorcenter@cityoftracy.org</p>  <p>Parks &amp; Recreation Department 333 Civic Center Plaza (209) 831-6202 Monday-Thursday 8:00am to 6:00pm Every other Friday 8:00am to 5:00pm www.cityoftracy.org</p>	<p><b>DISCOUNTED SERVICES</b> AARP - Driver Safety Classes &amp; Tax Aid (209) 831-6240 California Lifeline Program English: (866) 272-5345 Spanish: (866) 272-0359 City of Tracy (Programs/Scholarships) (209) 831-6240 City of Tracy Finance Department Ask for LISA Aguilera (209) 831-6800 customer.service@cityoftracy.org Low Income Home Energy Assistance Program (LIHEAP) (209) 458-2988 Utility Payment Assistance (209) 458-1500</p> <p><b>Senior Link - Tracy</b></p> <p>Need help finding services? • Senior Housing/Transportation Services • Health Services for Home Care • Discount Services • Volunteer Opportunities Appointments available upon request (209) 831-6240 tracyseniorcenter@cityoftracy.org Senior Link - Tracy is assisting Senior Citizens in living a full, vibrant and independent life by providing information of local agencies and services providers.</p>
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Think Inside the Triangle™

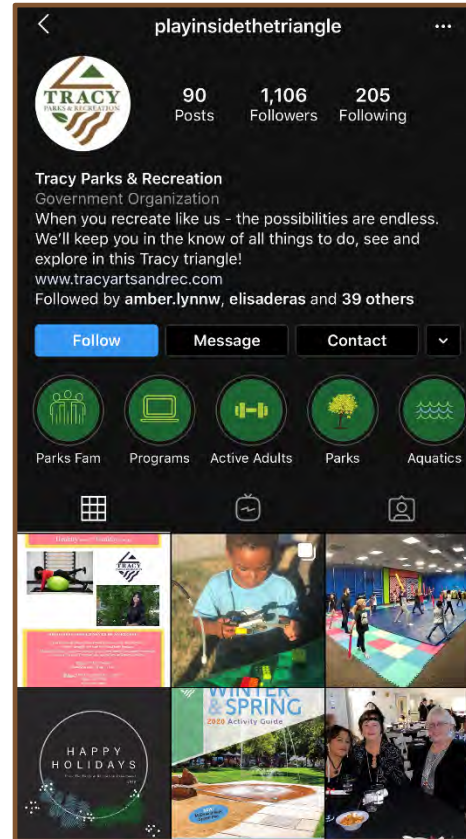
# Program Highlights

- 6,725 Seniors Registered
- 786 New Seniors
- New Programs For 2022
  - Hand & Foot Card Game
  - Tech Talk
  - Mexican Train
  - Watercolor Class
  - Open Workshop
  - Craft Studio
  - Crocheting Class
  - Chair Stretch & Strength
  - Intermediate Tai Chi
  - Zumba Gold on TV
  - Added Saturday Pickleball



# Marketing Efforts

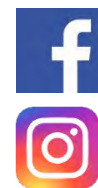
## Social Media Outlets Facebook & Instagram



## Flyers & Posters



## Tracy Press



@tracyseniorcenter

@playinsidethetriangle



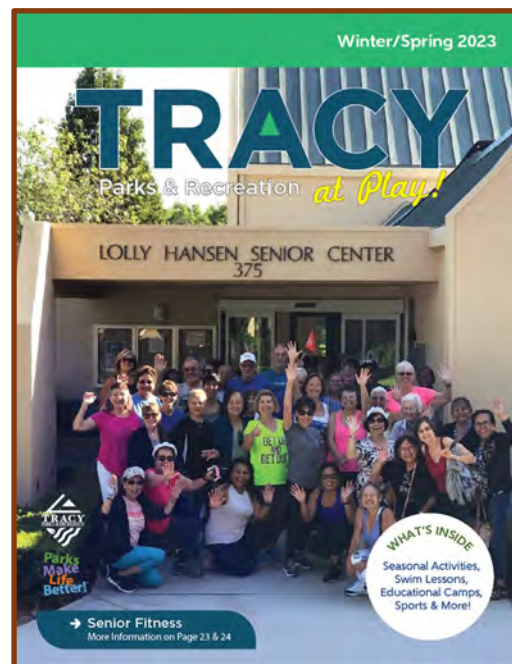
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# Marketing Efforts

- Daily updates @ Senior Center
- City Facilities & Parks
- City Website
- Recreation Activity Guide
- Channel 26
- Email Blasts
- Tracy Press Datebook
- Chamber of Commerce
- Community Events
- Farmer's Market
- Outreach to:
  - Senior Community
  - Churches
  - Local organizations
  - Doctors' offices



# Parks & Community Services Commission



- Priority to actively engage seniors in the Tracy Community
- Monthly Recreation Reports
- Quarterly updates on Senior Comments and Concerns



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# Parks & Community Services Commission

Commission's FY 2022/2023 Goals:

- 1. B. - Ensure representation with the Tracy Senior Association and Golden Agers
- 1. D. - Public outreach to senior community
  - Conduct a special meeting of the Parks Commission at the Lolly Hansen Senior Center



# Next Steps

## Parks Commission:



## Recreation Staff & Parks Commission:





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# Thank you!



Agenda Item 3.B

RECOMMENDATION

**Staff recommends that the City Council discuss and provide direction, by motion, that 1) the City not advance the establishment of a Government Accountability Commission at this time and 2) the City Manager return with an agenda item for the City Council to consider the establishment of an Environmental Sustainability Commission.**

EXECUTIVE SUMMARY

City Council has requested a discussion on role, makeup, and necessity of forming two new City Commissions. On August 18, 2020, Council Member Arriola and Council Member Ransom requested the formation of a Governmental Accountability Commission based on the adoption of the Tracy Equity and Empowerment Initiative and Implementation Work Plan. Additionally, beginning in 2021, the City Council Members have requested a discussion on forming a commission that would cover various environmental issues, such as water conservation, drought, environmental sustainability, climate action plan, urban forest (tree and landscaping), and waste management (recycling and composting). Staff recommends that the City Council discuss and provide direction regarding the role, makeup, and necessity of two new City Commissions, not move forward currently with 1) Government Accountability Commission and 2) Environmental Sustainability Commission.

BACKGROUND AND LEGISLATIVE HISTORY

**Government Accountability Commission:**

On June 16, 2020, Council Member Arriola seconded by Council Member Ransom requested that an equity initiative be brought before the City Council for consideration. The purpose of the initiative was to establish a framework to promote racial and social equity within the City of Tracy. The Tracy Equity and Empowerment Initiative was drafted by Council Members Arriola and Ransom and contains policy proposals to address police policy reform and establish an equity framework for local governance. On August 4, 2020, the City Council held a special meeting during which Darlene Flynn, Director of the City of Oakland's Department of Race and Equity, presented on race, equity, and local government to provide background and context on how other cities have implemented racial equity initiatives. Tracy Police Chief Sekou Millington also presented on the Police Department's use of force policies and two community campaigns regarding police reform in response to two of the public safety police proposals in the Equity Initiative. Following those presentations, the City Council provided staff direction on implementation of the Equity Initiative policy proposals. On August 18, 2020, the City Council adopted Resolution 2020-153 approving the Tracy Equity and Empowerment Initiative and Implementation Work Plan. Included in this work plan is a recommendation to create a Government Accountability Commission.

**Environmental Sustainability Commission:**

Beginning in 2021, Council Members have requested a discussion on forming a commission that would cover various environmental issues, such as water conservation, drought, environmental



sustainability, climate action plan, urban forest (tree and landscaping), and waste management (recycling and composting). At the September 7, 2021, City Council meeting, Mayor Young requested a discussion to consider a citizens commission that would oversee water and drought issues facing the City. This item was seconded by Mayor Pro Tem Davis. Further, at the November 2, 2021, City Council meeting, Mayor Young requested a discussion to consider a citizens commission that would review water and environmental sustainability issues facing the City. This item was seconded by Council Members Arriola and Bedolla. At the February 15, 2022, City Council meeting, Council Member Bedolla proposed amending the request made on November 2, 2021. He requested a discussion on the potential to form two separate commissions: one for water issues and one to develop a climate action plan. This amendment was seconded by Mayor Young and Council Member Arriola. On April 19, 2022, Mayor Pro Tem Vargas requested a discussion on creating an environmental sustainability commission. This item was seconded by Council Member Arriola. On July 12, 2022, Council Member Bedolla requested a commission to develop the work plan for the urban forest (trees and landscaping). This item was seconded by Mayor Young.

Looking at the totality of the requests, staff believes that an Environmental Sustainability Commission would best represent the initiatives requested by the City Council.

### **Role and Makeup of Existing Boards and Commissions**

The City of Tracy currently has the following seven boards and commissions appointed by the City Council: the Measure V Residents' Oversight Committee, the Parks and Community Services Commission, the Planning Commission, the Tracy Arts Commission, the Transportation Advisory Commission, the Youth Advisory Commission, and the Building Board of Appeals.

The boards and commissions in the City of Tracy have been created in various ways. Some, such as the Building Board of Appeals and the Planning Commission, are pursuant to State law and have the powers delegated to them under both the Tracy Municipal Code and State law, including the power to make binding decisions. Other commissions have been created by City resolution or ordinance and serve as advisory bodies to the City Council or staff. They provide information, analysis, and recommendations to inform the City Council and staff on matters pertaining to the commission's specialized area.

Appointees to boards and commissions perform a public service to the community and have both an obligation and an opportunity to provide helpful input that will shape the services and programs the City provides. This requires a thorough understanding of their role as a board member or commissioner, as well as a willingness to engage constructively with the public, elected officials, and City staff.

On April 6, 2021, the City Council discussed the role, makeup and necessity of the various Boards and Commissions existing within the City of Tracy. The staff report and minutes of this meeting are found in Attachment A, for reference.

### **ANALYSIS AND DISCUSSION**

1. Government Accountability Commission.

#### **Role:**

Per the Tracy Equity and Empowerment Initiative and Implementation Work Plan recommendation, the following was the purpose of the new proposed commission:

ESTABLISH A "GOVERNMENT ACCOUNTABILITY COMMISSION" FOR THE CITY OF TRACY

- *This commission would make evidence-based recommendations for local reform and monitor outcomes, with special focus on racial equity and social justice. It would also identify existing government policies that could be changed to address historical and contemporary inequities.*
- *The commission should be composed of individuals with policy-area expertise to study and provide recommendations on how to address the opportunities our City may have to enhance equity in all areas. Areas of interest may include housing fairness and accountability, landlord/tenant laws, environmental justice, and other socially responsible policy practices.*
- *The commission should collect and use data and metrics, so the City of Tracy can develop equity plans while sharing information, tracking progress, and achieving results.*

Makeup/Necessity:

Since the adoption of the initiative, the City Manager formed an internal committee (Diversity, Equity and Inclusion [DEI] staff committee) made up of City staff to consider implementation of the feasibility of the various aspects recommended in the Tracy Equity and Empowerment Initiative and Implementation Work Plan. The DEI staff committee has recommended a request for proposals for professional services to help develop a Diversity, Equity, and Inclusion (DEI) Strategic Plan for the City. As part of the research and discussions with experts, the staff committee recommends that the City wait to form the Government Accountability Commission until the completion of the DEI Strategic Plan to better inform the commission's goals and objectives.

2. Environmental Sustainability Commission.

Role:

Based on the various requests made by the City Council, staff anticipates that the purpose and function of this commission will include the following, but is not limited to, these items:

- *To act as an advocate for protecting, preserving, and enhancing the environment as it relates to issues under consideration by the City Council and Planning Commission.*
- *To serve in an advisory role to the City Council and all Boards and Commissions on environmental and sustainability policy issues. The Commission may recommend new ordinances, amendments to existing ordinances, and other actions it deems appropriate.*
- *To provide a means for promoting discussion and education on issues related to the environment and sustainability.*
- *To prepare an annual report to be presented to the City Council which includes, but is not limited to these items:*
  - *Climate, Air and Energy*

- *Stormwater*
- *Urban Forest and Biodiversity*
- *Consumption and Waste; including Recycling*
- *Water and Conservation*
- *Resource Protection and Preservation*

Makeup:

The makeup of this commission would consist of five (5) City of Tracy residents. The commission would be supported by the Operation and Utilities Department. It is recommended that the commission meet monthly. The commission may choose to form subcommittees on specific topics of interest or priority, such as creating a subcommittee to focus specifically on water and water conservation and/or climate action plan. A five (5) member commission may create subcommittees consisting of two (2) commissioners each.

Necessity:

Found in many agencies around the country, an Environmental Sustainability Commission acts in an advisory capacity on issues pertaining to environmental impacts, sustainability practices, and legislative mandates that impact the environmental health and the well-being of the City and its residents. It is intended that the Environmental Sustainability Commission not take an advocacy role, but an advisory role, in providing input to City Council. Additionally, the Environmental Sustainability Commission is expected to advise City Council on environmental matters brought to them by the community.

FISCAL IMPACT

The fiscal impacts of this staff report would be absorbed by the city departments.

STRATEGIC PLAN

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

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

RECOMMENDATION

Staff recommends that the City Council discuss and provide direction, by motion, that 1) the City not advance the establishment of a Government Accountability Commission at this time, and 2) the City Manager return with an agenda item for the City Council to consider the establishment of an Environmental Sustainability Commission.

Prepared by: Karin Schnaider, Assistant City Manager

Reviewed by: Midori Lichtwardt, Assistant City Manager

Approved by: Michael Rogers, City Manager

ATTACHMENTS

Attachment A – Agenda Item 3.D Staff Report from April 6, 2021 City Council Meeting  
Attachment B – April 6, 2021 Tracy City Council Regular Meeting Minutes

# ATTACHMENT A

April 6, 2021

## AGENDA ITEM 3.D

### REQUEST

#### **DISCUSS ROLE, MAKEUP, AND NECESSITY OF CITY BOARDS AND COMMISSIONS AND PROVIDE DIRECTION TO STAFF**

### EXECUTIVE SUMMARY

The City Council appoints over 50 individuals to its boards and commissions to advise and assist in carrying out the functions of local government. These boards and commissions provide valuable community perspective and input that inform City policy decisions and operations.

On August 4, 2020, then-Mayor Pro Tem Young, seconded by then-Council Member Ransom, requested that staff evaluate the role, make up, validity, and necessity of each of the City's boards and commissions. Subsequently, on October 6, 2020, then-Mayor Pro Tem Young, seconded by Council Member Vargas, requested that staff present a report to the Council on each City board and commission's function, relevance, and presentation of annual reports.

This report summarizes the scope, makeup, and actions performed by our City boards and commissions and provides Council an opportunity to provide direction.

### DISCUSSION

On August 4, 2020, then-Mayor Pro Tem Young, seconded by then-Council Member Ransom, requested that staff evaluate the role, make up, validity and necessity of each of the City's boards and commissions. Subsequently, on October 6, 2020, then-Mayor Pro Tem Young, seconded by Council Member Vargas, requested that staff present a report to the Council on each City board and commission's function, relevance, and presentation of annual reports.

The City of Tracy currently has seven boards and commissions appointed by Council, which include the Measure V Residents' Oversight Committee, the Parks and Community Services Commission, the Planning Commission, the Tracy Arts Commission, the Transportation Advisory Commission, the Youth Advisory Commission, and the Building Board of Appeals.

Most boards and commissions are created by City resolution or ordinance and serve as advisory bodies to the City Council or staff. They provide information, analysis, and recommendations to inform the City Council and staff on matters pertaining to the board or commission's specialized area. Some boards and commissions have specific authority to make binding decisions, such as the Planning Commission. These bodies generally derive their decision making authority from state laws.

Appointees to boards and commissions perform a public service to our community and have both an obligation and an opportunity to provide helpful input that will shape the

services and programs the City provides. This requires a thorough understanding of their role as a board member or commissioner, as well as a willingness to engage constructively with the public, elected officials, and City staff.

### **City Boards, Commissions, and Committees**

Listed below are the various City boards and commissions and their responsibilities:

#### **Planning Commission**

The Planning Commission was established by Chapter 10.04 of Title 10 of the Tracy Municipal Code in 1953 and meets the second and fourth Wednesday of each month. It consists of five (5) members appointed by the City Council. The Commission prepares and recommends adoption, amendment or repeal of the City's General Plan; makes recommendations to the proper City officials regarding maps or plots of land subdivision; hold hearings on planning and zoning matters per State and City laws; and advises and makes recommendations regarding acquisition, use, or disposition of City-owned property. Examples of policy items that go before the Planning Commission include land use proposals, zoning regulations, vesting tentative subdivision maps, and recommendations on environmental impact reports. The Planning Commission evaluates development applications and reports through agenized staff reports. The commission does not direct staff or City operations, rather staff aligns its operations and goals with the City Council's Strategic Priorities.

Planning Commission actions can be appealed to the City Council, who can then decide to uphold the commission's decision, overturn it, modify it, or send it back for further study. The Planning Commission does not prepare an annual report to the Council, as the commission's primary role is to review and approve development applications per state law and the Tracy Municipal Code. The Planning Commission agenda and the Development Services Department project pipeline report is provided to the City Council for their reference. Commissioners receive a \$50 stipend per meeting.

#### **Measure V Residents' Oversight Committee**

The Measure V Residents' Oversight Committee was established in 2017, per City Council Ordinance 1223 (approved by the voters), and consists of five (5) members appointed by the City Council. It meets quarterly on the 3rd Monday of January, April, July and October. The Committee reviews expenditures and revenues through the annual independent financial audits, has oversight of revenues generated by Measure V and expenses related to Measure V, and serves in an advisory role to the City Council. City Council retains final authority in all decisions. The Oversight Committee's role is to advise the City Council of its findings and make recommendations during the term of the Committee. The Committee presents an annual written report documenting its findings to the City Council. The Measure V Residents' Oversight Committee Member position is a volunteer, non-paid position.

#### **Parks & Community Services Commission**

The City Council established the Parks and Community Services Commission in 1997 per Chapter 7.16 of the Tracy Municipal Code. The commission consists of seven (7) members, six of whom are appointed by City Council. The seventh member is appointed by the Tracy Unified School District (TUSD). All seven (7) members serve a four-year term and serve at the pleasure of the City Council, with the exception of the TUSD appointee. The Parks and Community Services Commission is charged with

advising on rules and regulations governing the conduct of recreation programs, protection of property, activities of persons in all parks, and hearing appeals of decisions made by the Parks and Recreation Director including park permits issued or denied. They advise the City Council on recreation and facility master planning and development, park design, and review grant opportunities and details. The Parks and Community Services Commission is an advisory body to the City Council on all quality of life matters that pertain to senior citizens, adults, teens and youth. They receive reports on programming, such as activities at the Senior Center, After School Program, special events, and youth and adult sports. They also receive reports on public recreation facilities development and use. With both programming and facilities, the Commission provides valuable feedback and helps the department set the direction for the prioritization of projects and use of resources, including funding allocation recommendations for the City's Community Development Block Grant (CDBG) program.

With staff facilitation, the Commission organizes and implements goals and objectives on an annual basis. The Commission prepares an annual report and Senior Citizen report to the City Council. The Commission meets the first Thursday of each month at 7:00 p.m., and holds public meetings on recreation programming and facility usage. Commissioners receive a \$50 stipend per meeting.

#### Transportation Advisory Commission

The City Council established the Transportation Advisory Commission in 2007. It consists of nine (9) members, each serving a four-year term. Commission meetings are held on the second Tuesday of each month at 7:00 p.m. The Commission acts in an advisory role to the City Council on matters relating to transportation in the community. The purpose of the Transportation Advisory Commission is to address various public transportation issues including transit (TRACER bus service, San Joaquin Regional Transit District (SJRTD), Altamont Corridor Express (ACE Train), taxis), airport, and bikeways. The Commission gathers information by participating in public outreach at various City-sponsored events and by speaking with various groups and individuals with whom they have contact within the community. Additionally the Commission reviews and provides input on City-wide public transportation and airport planning documents and policies, advises on service levels and routes, recommends rules and procedures including rates, fares, and user fees for the use of transportation service programs and facilities. The Commission identifies transportation infrastructure needs and provides recommendations to improve connectivity for transit users. The Commission also recommends and promotes marketing strategies for community outreach programs to strengthen the use of the transit system with a particular emphasis on seniors/ADA passengers and students.

With staff facilitation, the Commission organizes and implements goals and objectives on an annual basis, and prepares an annual report to the Council. Commissioners receive a \$50 stipend per meeting.

#### Youth Advisory Commission

The Youth Advisory Commission ("YAC") was established in 1998 and consists of eight (8) to 14 members. The purpose of the YAC is to provide youth with an opportunity to make a positive impact in the Tracy community. The YAC meets the second Wednesday of each month at City Hall. The role of the YAC is to foster increased involvement of youth in the affairs of municipal government. Some of the responsibilities include: addressing issues, activities and concerns of youth especially as they relate to

municipal programs and projects within the City of Tracy; holding forums on safety, recreation and school issues; making recommendations to the Parks & Recreation Department regarding the planning and implementation of programs; and participating in Youth Advisory Commission Activities. The YAC annual report is presented to Council in January of each year. YAC Members are non-paid volunteers.

#### Tracy Arts Commission

The City Council established the Tracy Arts Commission (“TAC”), previously known as the Cultural Arts Commission and Community Cultural Arts Commission, by City Council Ordinance 501 in July of 1991. The seven-member body is appointed by the City Council to serve four-year terms. Meetings are held on the second Tuesday of each month. City Council’s charge to the TAC is to preserve and cultivate the expression and appreciation of the arts in Tracy. The TAC represents the diversity of the creative community including arts patrons, architecture, engineering, historical preservation, design arts, arts administration, arts education, visual arts and the performing arts. In addition, the TAC maintains the Civic Art Plan, advises the City Council on the City-wide public art program, and advises staff on activities and programming. The TAC makes design and funding recommendations for Civic Art Program projects that utilize Capital Improvement Project funding, for City Council approval. They also make recommendations for any arts, aesthetic, design, architectural, and beautification projects from any City department or the City Council as requested. The TAC may perform other arts-related duties and functions as the City Council may direct.

The TAC uses Budget, Civic Art and Special Events Subcommittees to carry out their duties, provide programming recommendations, and collaborate with the educational, business, and creative communities. The TAC and staff have a working, collaborative relationship, as all of their projects require staff expertise in the arts policies and practices, resulting in public programming such as the Downtown Tracy Artwalk, Downtown Tracy Mural Project, Tracy Art Week/Month, and the collection and projects of the Civic Art Program. TAC does not prepare an annual report for the Council at this time. However, staff can assist the TAC with preparing an annual report at Council’s discretion. Commissioners receive a \$50 stipend per meeting.

#### Building Board of Appeals

Established by Ordinance 602 on May 1, 1984, and pursuant to Tracy Municipal Code Chapter 9.44, the City Council established a Building Board of Appeals for the purpose of hearing appeals by persons aggrieved by any administrative decisions in the application of the Uniform Housing, Building, Mechanical, Electrical, Plumbing, Abatement of Dangerous Buildings, and Fire Codes, or regulations adopted pursuant thereto. The five-member body is appointed by the City Council to serve four-year terms. The board consists of members who are qualified by experience and training (such as licensed contractors, engineers, and architects) to evaluate matters pertaining to building construction. The Board meets as-needed, and members are non-paid volunteers.

#### San Joaquin County Commission on Aging

The San Joaquin County Commission on Aging was established by the San Joaquin County Board of Supervisors, and takes an active role advocating for the needs of senior citizens in San Joaquin County. One member is appointed by the Tracy City Council for a three-year term. The Commission membership must consist of more than 50% of individuals who are 60 years of age or older. However, any adult who is interested in issues relating to seniors may be considered for appointment. The Commission meets

on the first Monday of each month except for August, when no meeting is held. Members are non-paid volunteers.

#### San Joaquin County Mosquito Abatement District Board

Established by the State of California, Department of Health Services, State Health and Safety Code, Chapters 5 and 6 of Division 3, the San Joaquin County Mosquito Abatement District takes actions for the extermination of mosquitoes and the abatement of their breeding places throughout the District, while conforming to all California Government Codes applicable to public agencies. The Board meets the third Tuesday of each month at 1:00 p.m. The City Council appoints one resident to serve on the San Joaquin County Mosquito Abatement District Board. The term of the appointment is 2-4 years, at the discretion of the City Council. Members are non-paid volunteers.

#### Ad Hoc & Standing Committees

Ad hoc Committees are formed for a specific purpose and dissolve after completing their mission. However, standing boards, commissions, and committees become an integral part of the City's governance structure by having continuing subject matter oversight or a fixed meeting schedule. Standing boards, commissions, and committees are evaluated and approved at the City Council's discretion.

#### **Application, Appointments, and Reappointments**

Residents who are interested in serving on a City of Tracy board, commission, or committee must complete and submit the appropriate application form to the City Clerk. Recommendations for appointment are typically made by a subcommittee of the City Council and are approved by the full Council, per the Council's advisory body selection and appointment policy (Attachment A). Reappointment is not automatic; therefore, board members, commissioners, and committee members are required to submit a new application to the City Clerk prior to each term expiration date to be considered for reappointment.

All Commissioners, excluding members of the Board of Appeals, must be city residents and cannot be employees of the City of Tracy. The master list of members who currently serve on City boards and commissions for 2021, including their appointment and term expiration date, is provided in Attachment B. There is currently one vacancy on the Transportation Advisory Commission, one vacancy on the Tracy Arts Commission, and two vacancies on the Parks and Community Services Commission. Additionally, three of the Transportation Advisory Commissioners terms will expire on April 30, 2021.

#### **Governing Policy**

##### Bylaws

The City's bylaws are standardized for most boards and commissions, with some specific provisions applicable to each body. The standard bylaws include sections on duties, ethics and conflicts of interest, and procedural matters, including scheduling, noticing, and conducting meetings and preparation of agendas (Attachment C). Bylaws are consistent with those set forth by the City Council for the operation of the board or commission and the conduct of its meetings.

##### Public Meetings



City boards and commissions are subject to the Brown Act, meaning their deliberations and decisions must be done in an open public meeting. Each year, City boards and commissions cumulatively hold more than 70 meetings. Generally, regular meetings are held on a reoccurring date and time. Special meetings may be called to discuss a specific topic, but do not occur frequently. Regular meetings must be noticed to the public at least 72 hours in advance; special meeting must be noticed within 24 hours of the meeting. Advance public notice of the meetings are provided by physically posting the notice, listing the meeting on the City website, and by direct email to interested parties who have requested such notices.

Currently, all meetings are conducted in accordance with the City Council's meeting procedures. The Council may consider authorizing certain boards and commissions to follow less stringent public meeting protocols.

#### Public Records Act

Records of the City are subject to disclosure under the California Public Records Act. Agendas, staff reports, and email communications about board or commission business are generally considered to be public records subject to disclosure under the Public Records Act.

#### Role of City Staff

Each board and commission has a staff liaison who provides professional and administrative support. Staff liaisons are the primary conduit for members of boards and commissions to communicate with the City. Staff liaisons perform a variety of roles, including:

- Serving as a channel of communication between the board/commission and other City staff;
- Creating meeting notices, preparing minutes, and creating agendas;
- Scheduling meetings and booking meeting locations;
- Maintaining board/commission records;
- Coordinating the collection and distribution of information requested by the board/commission;
- Prepare board and commission agendas and minutes, publish online, and make print copies available to the public;
- Facilitating the coordinating and implementation of board/commission goals and actions.

The City Clerk's Office also provides a wide range of support and oversight for City boards and commissions, including: facilitating the noticing and recruitment of new appointees, maintaining board and commission roster, and ensuring meetings and records are accurate and meet applicable Brown Act requirements.

#### **Past Council Discussion on New Commission Formation & Consolidations**

On July 2, 2013, staff presented Council with an option to consolidate three existing commissions as part of a broader discussion on the formation of a senior commission. The option included the consolidation of the Parks and Community Services Commission, the Tracy Arts Commission, and the Youth Advisory Commission into one 11 member Community Services Commission; and included the appointment of three senior advisory members to ensure senior citizen representation. The goal of the

consolidation was to improve resident engagement with specific populations in a more inclusive and collaborative manner, create more synergy among the members who sit on these separate commissions in order to accomplish broader community goals, and to facilitate commission recruitments which can be difficult to fill. During the meeting, the Council did not move to create a Community Services Commission or establish a new senior commission.

### **Commission Vacancies**

Currently, there are vacancies that exist on the Parks, Arts, and Transportation Advisory Commissions (see Attachment B). The Council may consider downsizing these commissions to five-member bodies to reflect the makeup of the City Council, which can also be achieved through attrition so that sitting commissioners are not impacted. Reducing the commission size will result in less vacancies to fill, and operationally may be more manageable for staff. The cost savings associated with reducing the size of these commissions is roughly \$3,600 annually.

The recruitments for these vacancies are currently on hold until staff receives further direction from Council. Should the Council decide to reduce the size of the Parks, Arts, and Transportation Advisory Commissions to five-member bodies, staff will return with a report to amend the Commission bylaws.

### **Council Direction**

1. Is the City Council in favor of downsizing the Parks, Arts, and Transportation Advisory Commissions from seven to five members?
2. Would the City Council like to update the commission bylaws to require annual reports from all City commissions?
3. Should the City commissions strictly follow Rosenberg's Rules of Order or have flexibility regarding the rules of procedure they employ?

### **FISCAL IMPACT**

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

### **STRATEGIC PLAN**

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

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

### **RECOMMENDATION**

That the City Council discuss the role, makeup, and necessity of City boards and commissions and provide direction to staff.

Prepared by: Vanessa Carrera, Assistant to the City Manager

Reviewed by: William Wilson, Cultural Arts Supervisor  
Bill Dean, Assistant Director of Development Services  
Ed Lovell, Transportation Manager  
Jolene Jauregui-Correll, Recreation Manager  
Brian MacDonald, Parks & Recreation Director  
Adrienne Richardson, City Clerk

Approved by: Jenny Haruyama, City Manager

#### ATTACHMENTS

A – Council Policy on Appointments to Advisory Bodies

B – City of Tracy, Boards and Commissions Roster and Term Expirations

C – City of Tracy, Boards and Commissions By-laws

RESOLUTION 2020-009

ADOPTING A COUNCIL POLICY ESTABLISHING A SELECTION PROCESS FOR APPOINTMENTS TO CITY ADVISORY BODIES AND REPEALING RESOLUTION NO. 2004-089 AND RESOLUTION NO. 2004-152

WHEREAS, In March 2004, the Tracy City Council adopted Resolution No. 2004-089 establishing a policy for the selection process and defining residency requirements for appointee bodies ("Policy") in accordance with Government Code sections 54970 et seq. that was last amended in May 2004, via Resolution No. 2004-152;

WHEREAS, The current policy states that the Mayor (or designee) and a selected Council member shall serve on a selection subcommittee to review applications to serve on an advisory body, interview applicants, and make a recommendation to the full Council on a candidate for appointment to an advisory body,

WHEREAS, In practice, Council appoints any two Council members to a subcommittee to review applications and interview applicants for an appointment to an advisory body, and

WHEREAS, Council wishes to amend the policy to accurately reflect its current practice.

NOW, THEREFORE, 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. 2004-089, and Resolution No. 2004-152.

\*\*\*\*\*

The foregoing Resolution 2020-009 was passed and adopted by the Tracy City Council on the 21<sup>st</sup> day of January, 2020, by the following vote:

AYES: COUNCIL MEMBERS: ARRIOLA, RANSOM, VARGAS, YOUNG, RICKMAN  
NOES: COUNCIL MEMBERS: NONE  
ABSENT: COUNCIL MEMBERS: NONE  
ABSTAIN: COUNCIL MEMBERS: NONE

  
MAYOR

ATTEST:  
  
CITY CLERK

**COUNCIL POLICY ESTABLISHING A SELECTION PROCESS FOR APPOINTMENTS TO  
CITY ADVISORY BODIES  
(Exhibit "A" to Resolution No. 2020-009)**

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**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 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 can recommend the Council establish an eligibility list that can 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. In the event there are not two or more applicants than vacancies on any board, commission or committee, the filing deadline may be extended by the City Clerk.
- F. 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.

## CITY OF TRACY

## 2021 Master List of Board, Committees and Commissions

<u>Name</u>	<u>Appointment Date</u>	<u>Term Expiration</u>
<b>BOARD OF APPEALS</b>		
Dennis Alegre	February 19, 2019	February 28, 2023
James Caling	February 19, 2019	February 28, 2023
Hossein Ebrahimi	February 19, 2019	February 28, 2022
Scott Schendel	February 19, 2019	February 28, 2023
Jerry Yerian	February 19, 2019	February 28, 2022
<b>MEASURE V RESIDENTS' OVERSIGHT COMMITTEE</b>		
Ameni Alexander	April 8, 2020	February 28, 2023
Karen Parker-Moore	April 8, 2020	February 28, 2023
Allan Borwick	March 5, 2019	February 28, 2022
Abdul Wahid	March 5, 2019	February 28, 2022
Joyce Fenton	October 20, 2020	February 28, 2023
<b>PARKS AND COMMUNITY SERVICES COMMISSION</b>		
Linda Jimenez	February 5, 2008	January 31, 2024
Jacy Krogh	February 4, 2020	January 31, 2024
Todd Lieberg	January 2, 2018	January 2, 2022
Rajdeep Singh	April 16, 2019	January 31, 2024
Vacant		January 2, 2022
Vacant		January 2, 2022
Lori Souza (TSUD Representative)		
<b>PLANNING COMMISSION</b>		
Gurtej Atwal	October 1, 2019	March 31, 2024
Maurice Francis	October 2, 2019	March 31, 2022
Albert (Cliff) Hudson	April 8, 2020	March 31, 2024
Joseph Orcutt	February 19, 2013	March 31, 2022
Chad Wood	March 20, 2018	March 31, 2022



## 2021 Boards and Commissions List

<u>Name</u>	<u>Appointment Date</u>	<u>Term Expiration</u>
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**SAN JOAQUIN COUNTY COMMISSION ON AGING**

Wayne Templeton	July 22, 2020	June 30, 2023
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**SAN JOAQUIN COUNTY MOSQUITO ABATEMENT DISTRICT BOARD**

Prabhjot Singh	July 22, 2020	June 30, 2024
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**TRACY ARTS COMMISSION**

Margarita Anderson	December 17, 2019	December 31, 2023
Jeff Bordes	October 18, 2017	December 31, 2021
Nila Dhugga	January 7, 2014	December 31, 2021
Maxine Lees	December 17, 2019	December 31, 2023
Cynthia Reis	December 17, 2019	December 31, 2023
Taranjit Sandhu	March 19, 2012	December 31, 2021
Vacant		December 31, 2023

**TRANSPORTATION ADVISORY COMMISSION**

Cooper, Gary	April 16, 2019	April 30, 2021
English, Alice	September 5, 2017	April 30, 2021
Khanna, Rajnish	November 7, 2018	April 30, 2021
Silva, Tim	December 3, 2013	April 30, 2022
Vacant		April 30, 2022
Vaughn, Alvin	September 4, 2007	April 30, 2022
Vacant		April 30, 2023

**YOUTH ADVISORY COMMISSION**

Almazon, Alexandra	July 16, 2019	July 31, 2021
Andrews, Kayla	February 2, 2021	July 31, 2023
Crowley, Samantha	July 16, 2019	July 31, 2021
Dash, Seemani	July 16, 2019	July 31, 2021
Delapaz, Adriana	August 1, 2019	July 31, 2021
Dhillon, Harleen	February 2, 2021	July 31, 2023
Kala, Manasvini	February 2, 2021	July 31, 2023
Kala, Sashank	February 2, 2021	July 31, 2023
Karthikeyan, Ethan	August 1, 2020	July 31, 2022
Mahendran, Kaavya	August 1, 2020	July 31, 2022
Mamsa, Mysha	July 16, 2019	July 31, 2021
Moshan, Ingrid	July 16, 2019	July 31, 2021
Razi, Yasmeen	August 1, 2019	July 31, 2022

ATTACHMENT "B"

2021 Boards and Commissions List

Xiao, Beiyuan "Peter"	February 2, 2021	July 31, 2023
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Adult Commissioners:

Scott Arbogast	February 2, 2021	July 31, 2023
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Sarah Ying Bai	February 2, 2021	July 31, 2023
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Wes Huffman	August 1, 2019	July 31, 2021
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BYLAWS OF THE  
PLANNING COMMISSION OF THE  
CITY OF TRACY, CALIFORNIA

WHEREAS, Pursuant to California Government Code sections 6500 et seq. ("Government Code") and Chapter 10.04 of Title 10 of the Tracy Municipal Code ("Municipal Code"), a Planning Commission ("Commission") of the City of Tracy, California, has been established; and

WHEREAS, The membership qualifications, terms of office, organization, required meetings of the Commission are set forth in the Municipal Code; and

WHEREAS, The powers and duties of the Commission are set forth in the Government Code and the Municipal Code; and

WHEREAS, The Commission may adopt, subject to City Council ("Council") approval, bylaws for the transaction of its affairs and conduct of its meetings.

NOW, THEREFORE, these Bylaws govern the conduct of the meetings and the transaction of its affairs.

A. PURPOSE

The purpose of the Commission is to perform all of the functions of a city planning commission as described by California state planning and zoning law, as further described in Chapter 10.04 of Title 10 of the Municipal Code, except as otherwise provided by ordinance or resolution of the Council.

B. ROLE AND RESPONSIBILITIES

The role of the Commission is to perform all of the functions of a city planning commission as described by California state planning and zoning law, as further described in Chapter 10.04 of Title 10 of the Municipal Code, except as otherwise provided by ordinance or resolution of the Council. The responsibilities of the Commission include making recommendations to the Council regarding the general plan and amendments thereto, subdivision map applications in accordance with the California Subdivision Map Act and the Municipal Code, and holding hearings on planning and zoning matters.

C. MEMBERSHIP GUIDELINES

1. **Membership.** The Commission shall consist of five (5) members unless otherwise provided in the Municipal Code.
2. **Term.** Each member shall serve a four- year term. Terms for members appointed to fill unexpired terms shall be in accordance with the Municipal Code.
3. **Attendance.** Attendance requirements are set forth in Chapter 10.04 of the Municipal Code.
4. **Leave of Absence.** A Planning Commission member may submit a written request to the City Council, for a leave of absence of up to six-months, which may be approved in its discretion.
5. **AB 1234 Training and Form 700 Completion.** If a member of the Planning Commission who is required to complete AB 1234 training (State Mandated

Ethics Training) and/or is required to complete form 700 (Statement of Economic Interest), does not do so in a timely manner, the City Clerk's Office will send two written notices at least 10 days apart to the member. If the member does not complete the required training and/or form, and provide proof of compliance to the City Clerk's Office, within 30 days of receiving the second written notice, his or her appointment will automatically terminate.

D. QUORUM

A quorum of the Planning Commission shall consist of a majority of the members (including any vacancies). A quorum must be present in order for the Planning Commission to hold a meeting.

E. OFFICERS AND DUTIES

1. The officers of the Planning Commission shall be:
  - a. The Chairperson and
  - b. The Vice-Chairperson.
2. The Chairperson shall:
  - a. Preside at all regular and special meetings.
  - b. Rule on all points of order and procedure during the meetings.
  - c. Sign all resolutions and minutes.
  - d. Provide recommendations to staff liaison regarding agenda items.
3. The Vice Chairperson shall assume all duties of the Chairperson in his or her absence or disability.
4. In case of the absence of both the Chairperson and Vice Chairperson from any meeting, an Acting Chairperson shall be elected from among the members present.

F. TERMS AND VACANCIES

The officers will be selected by the membership for a one year term. The annual election of officers shall take place at the last regular meeting in June of each year. The terms of officers shall commence as of July 1st following the election and shall continue through June 30th of the following year. In the first year of formation, the election of officers shall take place at the first regular meeting.

G. MEETINGS

1. Regular meetings of the Planning Commission shall be held on the Second and Fourth Wednesday of each month, except in November and December of each year when regular meetings shall be held on the First and Third Wednesday, and shall begin at 7:00 p.m. in the Tracy Council Chambers.
2. If the scheduled date of a regular meeting conflicts with a holiday period, staff shall reschedule that meeting to be conducted within that month.
3. Any regular meeting may be adjourned, or any item on the agenda continued to the next or any subsequent regular meeting of the Planning Commission by a

majority of the quorum. If a meeting is adjourned or an item is continued to a special meeting to be held on a date other than a regular meeting date, the time, place, and date of such special meeting shall be specified in the motion for adjournment or continuance.

- 4. All meetings are subject to the Brown Act as set forth in Government Code sections 54950 and following. Accordingly, all meetings shall be noticed and agendas for all meetings shall be prepared and posted in accordance with the current Council meeting procedures.
- 6. All meetings shall be conducted in accordance with the current Council meeting procedures.
- 7. All agendas shall be prepared and distributed in accordance with Council meeting procedures and the Brown Act.

H. FUNDING

Any funding necessary for operation of the Commission shall be included in the City of Tracy budget, which shall be approved by the Council.

I. ADMINISTRATIVE PROCEDURES AND POLICIES

The Commission shall follow all applicable City fiscal administrative policies and procedures.

J. SUBCOMMITTEES

The Commission may form ad hoc subcommittees in accordance with the Brown Act, and make appointments to that subcommittee, as it deems necessary. A quorum of Commission members may not be appointed to serve on a single subcommittee. Before forming a subcommittee, the Commission shall establish a specific charge and term for the subcommittee.

K. STAFF LIAISON

The Commission shall have a staff liaison designated by the Development and Engineering Services Department. The staff liaison shall:

- 1. Receive and record all exhibits, petitions, documents, or other material presented to the Planning Commission in support of, or in opposition to, any question before the Planning Commission.
- 2. Sign all meetings minutes and resolutions upon approval.
- 3. Prepare and distribute agendas and agenda packets.

L. ADOPTION

This document, as adopted and amended by Council resolution, shall serve as the Bylaws for the Commission.

By Laws of the Planning Commission  
City of Tracy  
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Commission: Recommended approval to Council on December 17, 2003, by motion action.

Council: Approved by Council on January 20, 2004, by Resolution No. 2004-016, and amended by Council on March 2, 2010, by Resolution No. 2010-022.

(09 29 10)

**BYLAWS OF THE MEASURE V RESIDENTS' OVERSIGHT COMMITTEE  
CITY OF TRACY, CALIFORNIA**

WHEREAS, Pursuant to Ordinance 1223, the City Council has established a Measure V Residents' Oversight Committee (the "Oversight Committee") for the purpose of overseeing revenues generated by and expenses related to the one-half cent sales tax measure (Measure V), which was adopted by the voters on November 8, 2016, and

WHEREAS, The Measure V Residents' Oversight Committee By-Laws are consistent with those set forth by the City Council for the operation of the City's Boards, Commissions and Committees, and

NOW, THEREFORE, these By-Laws govern the conduct of the meetings and the transaction of the affairs of the Oversight Committee.

A. PURPOSE

Pursuant to Ordinance 1223 the Oversight Committee shall review the revenue and expenditure from the Measure V transactions and use (sales) tax through the annual independent financial audits performed by an independent auditor. The Oversight Committee shall have oversight of revenues generated by and expenses related to Measure V. The Oversight Committee serves in only an advisory role to the City Council. The City Council retains final authority in all decisions.

B. ROLE AND RESPONSIBILITIES

The role of the Oversight Committee is to review the independent financial audit of the City that includes revenue raised by Measure V and other financial reports necessary to advise the City Council of its findings and make recommendations during the term of the Committee. The Committee will present an annual written report documenting its findings to the City Council in August of each year *or when reasonably possible thereafter based upon availability of data needed for the annual written report.*

The Oversight Committee Member position is a volunteer, non-paid position whose roles and responsibilities **will** include the following:

- To serve in an advisory-only capacity to the City Council;
- To provide oversight of the revenues and expenses pertaining to the portion of the sales tax generated by Measure V;
- To review the annual independent financial audit of the City performed by an independent auditor on sections pertaining to the revenue and expenses related to the portion of the sales tax generated by Measure V;
- To review other City financial reports pertaining to the revenue generated by and expenses related to the portion of the sales tax generated by Measure V revenue and expenses;
- Providing Council with an annual written report;
- Additional reports to Council can be provided to Council at the committee and/or Council's discretion (all reports must be in writing and agendaized pursuant to the Brown Act).

The Oversight Committee roles and responsibilities **will not** include the following:

- Oversight on Enterprise and other funds generated independent of Measure V;
- Decision-making on spending priorities;
- Reviewing Enterprise and, except to the extent necessary for the General Fund, other funds generated independently of Measure V.

The Oversight Committee's findings will be presented annually in a written report to the City Council.

The City Council retains final authority in decisions for all aspects of the sales tax revenue.

C. MEMBERSHIP GUIDELINES

1. Membership. The Oversight Committee shall consist of five members who are residents of the City of Tracy and meet the residency requirement as outlined in Resolution 2004-152, establishing the council selection process, and defining residency requirements, for appointee bodies.
2. Term. The Oversight Committee will commence on March 1, 2017. Of the five members of the Committee first appointed, three shall be appointed for a three year term and two shall be appointed for a two year term. Subsequent appointments to the Oversight Committee shall be until the reporting period for the last one-half cent sales tax collected pursuant to Measure V. No member of the committee shall serve more than two consecutive terms.
3. Attendance. An Oversight Committee member's failure to attend two consecutive meetings in any calendar year shall result in his or her removal from the Committee at the discretion of the City Council. Absences may not be excused; however, an Oversight Committee member may request a leave of absence as outlined in these bylaws. For quorum confirmation, a member who needs to miss a meeting shall inform the staff liaison designated by the City Manager at least 48 hours before the next meeting.
4. Leave of Absence. A member of the Oversight Committee may submit a written request to the City Council, for a leave of absence of up to six-months, which may be approved in its discretion.

D. QUORUM

A quorum of the Oversight Committee shall consist of a minimum of three members. A quorum must be present in order for the Oversight Committee to hold a meeting.

E. OFFICERS AND DUTIES

1. The officers shall be:
  - a. The Chairperson and
  - b. The Vice-Chairperson.
2. The Chairperson shall:



- a. Preside at all regular and special meetings.
  - b. Rule on all points of order and procedure during the meetings.
  - c. Provide recommendations to staff liaison regarding agenda items.
3. The Vice Chairperson shall assume all duties of the Chairperson in his or her absence or disability.
  4. In case of the absence of both the Chairperson and Vice Chairperson from any meeting, an Acting Chairperson shall be elected from among the members present.

F. TERMS AND VACANCIES

The officers will be selected by the membership for a one-year term. The election of officers shall take place each year at an annual meeting to be held within the first quarter of the calendar year. The terms of officers shall commence as of the date of that meeting and shall continue until the annual meeting in the following year.

G. MEETINGS

The Oversight Committee will meet a minimum of four times a year, on a quarterly basis on the 3<sup>rd</sup> Monday in January, 3<sup>rd</sup> Monday in April, 3<sup>rd</sup> Monday in July, and 3<sup>rd</sup> Monday in October at 5:30 p.m. at City Hall Room 109. Additional meetings may be scheduled by the Committee, at its discretion. Oversight Committee members are expected to attend all regular meetings.

1. All meetings are subject to the Brown Act as set forth in Government Code sections 54950 and following. Accordingly, all meetings shall be noticed and agendas for all meetings shall be prepared and posted in accordance with the current City Council meeting procedures. All agendas shall be distributed in accordance with City Council meeting procedures and the Brown Act.

H. FORM 700 FILINGS AND AB 1234 TRAINING

1. The City Clerk's Office will monitor compliance with state and City Form 700 (Statement of Economic Interest) filing requirements, and AB 1234 (Ethics Training) requirements.
2. If a member of the Measure V Resident Oversight Committee fails to file a Form 700, or complete AB 1234 training in a timely manner, the City Clerk's Office will send two written notices at least 10 days apart to the member.
3. If the member does not file a Form 700 or a certificate confirming proof of compliance with AB 1234 training with the City Clerk's Office within 30 days of receiving the second written notice, his or her appointment will automatically terminate.

I. FUNDING

Any funding necessary for operation of the Oversight Committee shall be included in the City of Tracy budget, which shall be approved by the City Council.

J. ADMINISTRATIVE PROCEDURES AND POLICIES

The Oversight Committee shall follow all applicable City fiscal administrative policies and procedures.

K. STAFF LIAISON

The Oversight Committee shall have a staff liaison designated by the City Manager. The staff liaison shall:

1. Receive and record all exhibits, petitions, documents, or other material presented to the Committee in support of, or in opposition to, any question before the Committee.
2. Sign all meeting minutes.
3. Prepare and distribute agendas and agenda packets.

The staff liaison assigned to the Oversight Committee will be responsive to the Committee's request for information. The City staff liaison, or designee, will attend all Oversight Committee meetings.

L. ADOPTION

This document, as adopted by City Council Resolution 2017-026, shall serve as the Bylaws for the Measure V Residents' Oversight Committee.

**BYLAWS OF THE  
PARKS AND COMMUNITY SERVICES COMMISSION  
CITY OF TRACY, CALIFORNIA**  
*(Revised June 2010)*  
*(Council Resolution 2009-191)*

WHEREAS, the City Council has established a Parks and Community Services Commission for the purpose of advising the Council on the planning and development of park and recreation facilities and delivery of recreation and community service programs; and

WHEREAS, the Parks and Community Services Commission is advisory to the City Council.

NOW, THEREFORE, these Bylaws govern the conduct of the meetings and the transaction of its affairs.

A. PURPOSE

The purpose of the Parks and Community Services Commission is to:

1. Establish rules and regulations governing the conduct of recreation programs, protection of property and activities of persons in all parks.
2. Establish rates, charges and deposits for the use of any and all recreation facilities.
3. Hold public hearings on recreation programming and facility usage and conduct investigations and surveys for the purpose of obtaining facts and data concerning recreation programs.
4. Review grants, facility developments and designs and recreation programs.
5. Advise the Council on the subject of recreation and facility master planning and development.
6. Make recommendations to the Council regarding the right to exclude persons; to regulate traffic, including pedestrian, equestrian, and vehicular; and to regulate the operations and use of bicycles; the keeping or use of animals; the conducting of assemblies, contests, games, and sports; and the regulation of activities, such as the merchandising, advertising, gambling, solicitation, and imbibing of alcohol, from or in any and all recreation facilities.
7. Forward appeals of any actions of the Commission to the Council.
8. Hear appeals of decisions made by the Parks and Community Services Department Director under TMC 4.40.150 (Special Event Permits).
9. Hear appeals of park permits issued or denied by the Parks and Community Services Department Director under TMC 4.16.160 (Regulations Pertaining to the Use of Park and Recreation Areas and Facilities).

B. ROLE AND RESPONSIBILITIES

The role of the Parks and Community Services Commission is to provide citizen and community perspective and input on the development of park and recreation facilities and the delivery of recreation and community services programs.

C. MEMBERSHIP GUIDELINES

1. **Membership.** The Parks and Community Services Commission shall consist of seven members of which one member shall be appointed by the Tracy Unified School District.
2. **Term.** Each member shall serve a four-year term.
3. **Attendance.** If a member of the Parks and Community Services Commission fails to attend four regular meetings in any calendar year, his or her position on the Parks and Community Services Commission shall automatically become vacant and the staff liaison shall so inform the City Clerk. Absences may not be excused; however, a commissioner may request a

## Parks and Community Services Commission Bylaws

City of Tracy

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leave of absence as outlined in these Bylaws. For quorum confirmation, a member who is unable to attend a meeting shall inform the staff liaison designated by the relevant City Department at least 48 hours before the next meeting.

4. **Leave of Absence.** A Parks and Community Services Commission member may submit a written request to the City Council for a leave of absence of up to six months, which may be approved in its discretion.
5. **AB 1234 Training and Form 700 Completion.** If a member of the Parks and Community Services Commission who is required to complete AB 1234 training (State Mandated Ethics Training) and/or is required to complete form 700 (Statement of Economic Interest), does not do so in a timely manner, the City Clerk's Office will send two written notices at least 10 days apart to the member. If the member does not complete the required training and/or form, and provide proof of compliance to the City Clerk's Office, within 30 days of receiving the second written notice, his or her appointment will automatically terminate.

D. QUORUM

A quorum of the Parks and Community Services Commission shall consist of a majority of the members (including any vacancies). A quorum must be present in order for the Parks and Community Services Commission to hold a meeting.

E. OFFICERS AND DUTIES

1. The officers of the Parks and Community Services Commission shall be:
  - a. The Chairperson and
  - b. The Vice-Chairperson.
2. The Chairperson shall:
  - a. Preside at all regular and special meetings.
  - b. Rule on all points of order and procedure during the meetings.
  - c. Provide recommendations to staff liaison regarding agenda items.
3. The Vice Chairperson shall assume all duties of the Chairperson in his or her absence or disability. The Vice Chairperson shall chair the Commission's ad hoc subcommittee to review proposed park and recreation facility names prior to review by the Commission.
4. In case of the absence of both the Chairperson and Vice Chairperson from any meeting, an Acting Chairperson shall be elected from among the members present.

F. TERMS AND VACANCIES

The officers will be selected by the membership for a one-year term. The annual election of officers shall take place at the last regular meeting in June of each year. The terms of officers shall commence as of July 1st following the election and shall continue through June 30th of the following year. In the first year of formation, the election of officers shall take place at the first regular meeting.

G. MEETINGS

1. Regular meetings of the Parks and Community Services Commission shall be held on the 1<sup>st</sup> Thursday of each month and shall begin at 7:00 p.m.
2. If the scheduled date of a regular meeting conflicts with a holiday period, staff shall reschedule that meeting to be conducted within that month.
3. Any regular meeting may be adjourned, or any item on the agenda continued to the next or any subsequent regular meeting of the Parks and Community Services Commission, by a

Parks and Community Services Commission Bylaws

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majority of the quorum. If a meeting is adjourned or an item is continued to a special meeting to be held on a date other than a regular meeting date, the time, place, and date of such special meeting shall be specified in the motion for adjournment or continuance.

4. All meetings are subject to the Brown Act as set forth in Government Code Sections 54950 and following. Accordingly, all meetings shall be noticed and agendas for all meetings shall be prepared and distributed in accordance with the current City Council meeting procedures and the Brown Act.
5. All meetings shall be conducted in accordance with the current City Council meeting procedures.

H. FUNDING

Any funding necessary for operation of the Parks and Community Services Commission shall be included in the City of Tracy budget, which shall be approved by the City Council.

All members of the Commission shall receive such compensation as established by Resolution 2001-432 of the City Council.

I. ADMINISTRATIVE PROCEDURES AND POLICIES

City Boards and Commissions shall follow all applicable City fiscal administrative policies and procedures.

J. SUBCOMMITTEES

The Parks and Community Services Commission may form ad hoc subcommittees in accordance with the Brown Act, and make appointments to that subcommittee, as it deems necessary. A quorum of Commission members may not be appointed to serve on a single subcommittee. Before forming a subcommittee, the Parks and Community Services Commission shall establish a specific charge and term for the subcommittee.

K. STAFF LIAISON

The Parks and Community Services Commission shall have a staff liaison designated by the relevant City Department. The staff liaison shall:

1. Receive and record all exhibits, petitions, documents, or other material presented to the Commission in support of, or in opposition to, any question before the Commission.
2. Sign all meetings minutes and resolutions upon approval.
3. Prepare and distribute agendas and agenda packets.

L. ADOPTION

This document, as adopted by City Council, and amended by City Council Resolutions 2004-034, 2009-191 and 2010-022, shall serve as the Bylaws for the Parks and Community Services Commission.

Parks and Recreation Commission Established by Ordinance 690 on July 7, 1987 (Bylaws included in Ordinance)  
Amended by Ordinance 802 on November 21, 1989  
Amended by Ordinance 932 C.S. on February 6<sup>th</sup>, 1996  
Amended by Ordinance 948 C.S. on January 7<sup>th</sup>, 1997  
Amended by Ordinance 1060 on January 20, 2004  
Amended by Resolution 2004-034 on January 20, 2004  
Amended by Resolution 2009-191 on October 20, 2009  
Amended by Resolution 2010-022 on March 2, 2010

**BYLAWS OF THE  
TRANSPORTATION ADVISORY COMMISSION  
CITY OF TRACY, CALIFORNIA**

WHEREAS, the City Council has established a Transportation Advisory Commission for the purpose of advising the Council on the planning and development of public transportation related improvements and delivery of various public transportation service programs, and

WHEREAS, the Transportation Advisory Commission is advisory to the City Council; and

WHEREAS, The City General Plan promotes connectivity in mass transit, street patterns, bicycle trails, and pedestrian sidewalks and trails, as well as airport travel; and

WHEREAS, Public transportation related modes include automotive, rail, bicycle, bus, airport and pedestrian traffic such as inter-city (TRACER, Paratransit, Airports, Multimodal Station, bikeways, taxis, pedestrian trails) and intra-city (SJRTD, high-speed rail, and ACE).

NOW, THEREFORE, these Bylaws govern the conduct of the meetings and the transaction of its affairs.

**A. PURPOSE**

The purpose of the nine-member Transportation Advisory Commission is to:

1. Address various public transportation issues including inter-city transit (TRACER, Paratransit, airports, Multimodal Station, taxis, limousines, Park-and-Ride lots, bikeways, trails and passes) and intra-city transit (SJRTD, commuter-vanpools and ACE);
2. Review City-wide public transportation and airport planning documents;
3. Advise on service levels and routes;
4. Recommend rules and procedures governing public transportation service programs, equipment and facilities considering regulatory guidelines, service improvements, coordination, efficiencies, protection of property, service improvements and activities of persons utilizing transportation services and facilities;
5. Recommend rates, fares, user fees, charges and deposits for the use of transportation service programs and facilities;
6. Review surveys and facilitate public input on public transportation programming and facility usage;
7. Identify transportation infrastructure needs and recommend allocation of funds for capital expenditures related to transportation improvements;
8. Review grants, budgets, facility developments and designs, and transportation programs;
9. Advise the Council on the subject of comprehensive Citywide public transportation master planning and development;
10. Review, monitor, and make long-range recommendations concerning public transportation and connectivity sections of related environmental impact reports of development projects during the public review period and other similar documents;

11. Recommend and promote marketing strategies for community outreach programs in order to strengthen the transportation image, increase usage, and integrate its role within the community; and
12. Recommend to the City Council, after public input, the adoption, amendment or repeal of ordinances, resolutions, or requirements pertaining to public transportation within the City.

**B. ROLE AND RESPONSIBILITIES**

The role of the Transportation Advisory Commission is to provide citizen and community perspective and input on the development of public transportation planning, facilities and programs. As a Commission established by the City Council, the Transportation Advisory Commission will provide input to Council for their consideration and action. This would ideally be done after receiving public deliberation and achieving consensus through partnering with staff. It is intended that the Transportation Advisory Commission not take an advocacy role, but an advisory role, in providing input to City Council. Additionally, the Transportation Advisory Commission is expected to advise City Council on transportation matters brought to them by the community.

**C. MEMBERSHIP GUIDELINES**

1. **Membership.** The Transportation Advisory Commission shall consist of nine (9) members. Preferably, the composition of a Transportation Advisory Commission will include nine (9) residents with desirable background and expertise in specified areas of public transportation, such as the airport, buses, rail or bikes as outlined below:
  - a. Three (3) members: general aviation, or possess an active pilot's license, or work experience in operations of a public airport;
  - b. Two (2) members: bus transportation services;
  - c. One (1) member: rail transportation services;
  - d. One (1) member: bicycle transportation services;
  - e. One (1) member: user of public transit; and
  - f. One (1) member: community member at large.

Although a diverse Commission composition is preferred, the composition of the Commission may vary based on: (1) the expertise available at any one time in the community; and (2) on the community interest; therefore, flexibility on composition may be necessary.

2. **Term.** Each member shall serve a four- year term; commencing in May. To provide for Commissioner's terms to expire in a staggered manner, for the appointments of the initial Commissioners on the Transportation Advisory Commission only, the City Council at its discretion will appoint three Commissioners for a two-year term and three Commissioners for a three-year term. The remaining three Commissioners will be appointed for the full four-year term. Upon expiration of the two-year and three-year terms, the terms will be four years for all Commissioners.

3. **Attendance**<sup>1</sup>. If a member of the Transportation Advisory Commission fails to attend four (4) regular meetings in any calendar year, his or her position on the Transportation Advisory Commission shall automatically become vacant and the staff liaison shall so inform the City Clerk. Absences may not be excused; however, a commissioner may request a leave of absence as outlined in the bylaws.

For quorum confirmation, a member who is unable to attend a meeting shall inform the staff liaison designated by the relevant City Department at least 48 hours before the meeting.

4. **Leave of Absence**. A Transportation Advisory Commission member may submit a written request to the City Council for a leave of absence of up to six months which may be approved at the City Council's discretion.
5. **AB 1234 Training and Form 700 Completion**<sup>2</sup>. If a member of the Transportation Advisory Commission who is required to complete AB 1234 training (State Mandated Ethics Training) and/or is required to complete form 700 (Statement of Economic Interest), does not do so in a timely manner, the City Clerk's Office will send two written notices at least 10 days apart to the member. If the member does not complete the required training and/or form, and provide proof of compliance to the City Clerk's Office, within 30 days of receiving the second written notice, his or her appointment will automatically terminate.

#### D. QUORUM

A quorum of the Transportation Advisory Commission shall consist of a majority of the members (five members). A quorum must be present in order for the Transportation Advisory Commission to hold a meeting.

#### E. OFFICERS AND DUTIES

1. The officers of the Transportation Advisory Commission shall be:
  - a. The Chairperson and
  - b. The Vice-Chairperson.
2. The Chairperson shall:
  - a. Preside at all regular and special meetings.
  - b. Rule on all points of order and procedure during the meetings.
  - c. Provide recommendations to staff liaison regarding agenda items.
3. The Vice Chairperson shall assume all duties of the Chairperson in his or her absence or disability.
4. In case of the absence of both the Chairperson and Vice Chairperson from any meeting, an Acting Chairperson shall be elected from among the members present.

<sup>1</sup> Per Council Resolution 2009-191

<sup>2</sup> Per Council Resolution 2010-022



F. TERMS AND VACANCIES

The officers will be selected by the membership for a one-year term. The annual election of officers shall take place at the last regular meeting in June of each year. The terms of officers shall commence as of July 1st following the election and shall continue through June 30th of the following year. In the first year of formation, the election of officers shall take place at the first regular meeting.

G. MEETINGS

1. Regular meetings of the Transportation Advisory Commission shall be held on the 2<sup>nd</sup> Thursday of each month and shall begin at 7:00 PM.
2. If the scheduled date of a regular meeting conflicts with a holiday period, staff shall reschedule that meeting to be conducted within that month.
3. Any regular meeting may be adjourned, or any item on the agenda continued to the next or any subsequent regular meeting of the Transportation Advisory Commission by a majority of the quorum. If a meeting is adjourned or an item is continued to a special meeting to be held on a date other than a regular meeting date, the time, place, and date of such special meeting shall be specified in the motion for adjournment or continuance.
4. All meetings are subject to the Brown Act as set forth in Government Code sections 54950 and following. Accordingly, all meetings shall be noticed and agendas for all meetings shall be prepared and posted in accordance with the current City Council meeting procedures.
5. All meetings shall be conducted in accordance with the current City Council meeting procedures.
6. All agendas shall be prepared and distributed in accordance with City Council meeting procedures and the Brown Act.

H. FUNDING

Any funding necessary for operation of the Transportation Advisory Commission shall be included in the City of Tracy budget, which shall be approved by the City Council.

I. ADMINISTRATIVE PROCEDURES AND POLICIES

City Boards and Commissions shall follow all applicable City fiscal administrative policies and procedures.

J. SUBCOMMITTEES

The Transportation Advisory Commission may form ad hoc subcommittees in accordance with the Brown Act, and make appointments to that subcommittee, as it deems necessary. A quorum of Transportation Advisory Commission members may not be appointed to

serve on a single subcommittee. Before forming a subcommittee, the Transportation Advisory Commission shall establish a specific charge and term for the subcommittee.

K. STAFF LIAISON

The Transportation Advisory Commission shall have a staff liaison designated by the relevant City Department. The staff liaison shall:

1. Receive and record all exhibits, petitions, documents, or other material presented to the Transportation Advisory Commission in support of, or in opposition to, any question before the Transportation Advisory Commission.
2. Sign all meetings minutes and resolutions upon approval.
3. Prepare and distribute agendas and agenda packets.

L. ADOPTION

This document, as adopted and amended by City Council on June 5, 2007, by Resolution **2007-120**, and shall serve as the Bylaws for the Transportation Advisory Commission.

RESOLUTION 2017-063

AMENDING THE TRANSPORTATION ADVISORY COMMISSION BYLAWS TO CHANGE THE MAKE-UP OF THE COMMISSION FROM NINE TO SEVEN MEMBERS AND ADDING THE REQUIREMENT TO REPORT TO THE CITY COUNCIL ANNUALLY

WHEREAS, The Transportation Advisory Commission is a nine-seat advisory Commission serving at the pleasure of the City Council, and

WHEREAS, Currently the Commission has nine members and has had difficulty maintaining more than seven members for the past several years, and

WHEREAS, The City Council has also requested that each commission present an annual report to the Council, and

WHEREAS, To reduce the number of commissioners from nine to seven, and add the requirement for an annual report, the City Council would need to amend the Transportation Advisory Commissions Bylaws;

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby approves amending the Transportation Advisory Commission bylaws as follows:

- (1) The following subsection 13 is hereby added to section A, entitled PURPOSE, of the bylaws:

“13. Provide an annual report to the City Council on the Commission’s efforts during the previous year.”

- (2) Subsection 1 of section C, entitled MEMBERSHIP GUIDELINES, of the bylaws is amended to read, in its entirety, as follows:

“1. Membership. The Transportation Advisory Commission shall consist of seven (7) members. Preferably, the composition of a Transportation Advisory Commission will include seven (7) residents with desirable background and expertise in specified areas of public transportation, such as the airport, buses, rail or bikes as outlined below:

- a. Two commissioners with knowledge of or interest in general aviation, or who possess an active pilot’s license or with work experience in operations of a public airport.
- b. Two commissioners with knowledge of or interest in public transportation services, or who are users of public transportation services such as bus and/or rail.
- c. Two commissioners with knowledge of or interest in bikeways, or are active in the bicycling community.
- d. One commissioner who is a community member at large.

- (3) Section D, entitled QUORUM, is hereby amended to read, in its entirety, as follows”

“D. QUORUM

A quorum of the Transportation Advisory Commission shall consist of a majority of the members (four members). A quorum must be present in order for the Transportation Advisory Commission to hold a meeting.”

\*\*\*\*\*


The foregoing Resolution 2017-063 was passed and adopted by the Tracy City Council on the 4<sup>th</sup> day of April, 2017, by the following vote:

AYES: COUNCIL MEMBERS: DEMENT, RANSOM, YOUNG, VARGAS, RICKMAN

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

ABSTAIN: COUNCIL MEMBERS: NONE

  
MAYOR

ATTEST:

  
CITY CLERK

BYLAWS OF THE  
Youth Advisory Commission  
CITY OF TRACY, CALIFORNIA

WHEREAS, the City Council has established a Youth Advisory Commission for the purpose of providing opportunities for youth to lead and plan recreation and community service activities, with emphasis on youth development, to enhance leadership skills and self esteem of people, ages 12 to 18 years; and

WHEREAS, the Youth Advisory Commission is advisory to the City Council, Parks and Community Services Commission, , and staff on matters relating to the welfare of youth in Tracy.

NOW, THEREFORE, these Bylaws govern the conduct of the meetings and the transaction of its affairs.

A. PURPOSE

The purpose of the Youth Advisory Commission is to provide youth with an opportunity to make a positive impact in their communities.

B. ROLE AND RESPONSIBILITIES

The role of the Youth Advisory Commission is to foster increased involvement of youth in the affairs of municipal government. The responsibilities of the Youth Advisory Commission are to:

1. Study problems, issues, activities, and concerns of youth, especially as they relate to municipal programs and projects of the City of Tracy.
2. Hold forums on health, safety, recreation, employment and school issues and concerns of youth.
3. Make recommendations to Parks and Community Services Department regarding the planning and implementation of the programs.
4. Participate in Youth Advisory Commission Activities.

C. MEMBERSHIP GUIDELINES

1. Membership

a. Youth

- i. The Youth Advisory Commission shall consist of a minimum of 8 members and a maximum of 14; to include two representatives from each high school in the Tracy area.
- ii. Youth Commissioners shall be, ages 14 to 18 years and/or attending a school in grades 9-12.
- iii. The youth may reside within the jurisdiction of any school district within the *City's Urban Management Plan Area*.

b. Adult

- i. The Youth Advisory Commission shall include a maximum of three (3) non-voting adult commissioners.

- ii. The adult commissioners shall reside within the jurisdiction of any school district with the *City's Urban Management Plan Area, consisting of:*
    - 1. One (1) Commissioner who is a member of the School District.
    - 2. Two (2) Commissioners who are community members who desire to work with youth.
- 2. Term.
  - a. Each member shall serve a 2- year term.
- 3. Attendance. If a member of the Parks and Community Services Commission fails to attend four regular meetings in any calendar year, his or her position on the Parks and Community Services Commission shall automatically become vacant and the staff liaison shall so inform the City Clerk. Absences may not be excused; however, a commissioner may request a leave of absence as outlined in these Bylaws. For quorum confirmation, a member who is unable to attend a meeting shall inform the staff liaison designated by the relevant City Department at least 48 hours before the next meeting.
- 4. Leave of Absence. A Youth Advisory Commission member may submit a written request to the City Council, for a leave of absence of up to six-months, which may be approved in its discretion.
- 5. Appointment. An interview process will be conducted in May by a panel of (3) members. One (1) member from the Parks and Community Services staff; One (1) Adult Advisor and One (1) Parks and Community Services Commissioner. The panel shall make recommendations for appointment to the City Council to be considered annually in June. Additional interviews may be conducted through out the year to fill vacant positions when they become available.

#### D. QUORUM

A quorum of the Youth Advisory Commission shall consist of a majority of the members appointed. A quorum must be present in order for the Youth Advisory Commission to hold a meeting.

#### E. OFFICERS AND DUTIES

- 1. The officers of the Youth Advisory Commission shall be:
  - a. The Chairperson and
  - b. The Vice-Chairperson.
- 2. The Chairperson shall:
  - a. Preside at all regular and special meetings.
  - b. Rule on all points of order and procedure during the meetings.
  - c. Provide recommendations to staff liaison regarding agenda items.
- 3. The Vice Chairperson shall assume all duties of the Chairperson in his or her absence or disability.

4. In case of the absence of both the Chairperson and Vice Chairperson from any meeting, an Acting Chairperson shall be elected from among the members present.

F. TERMS AND VACANCIES

The officers will be selected by the membership for a one-year term. The annual election of officers shall take place at the last regular meeting in July of each year. The terms of officers shall commence as of August 1st following the election and shall continue through July 30th of the following year. In the first year of formation, the election of officers shall take place at the first regular meeting.

G. MEETINGS

1. Regular meetings of the Youth Advisory Commission shall be held on the 2nd Wednesday of each month and shall begin at 6:00pm.
2. If the scheduled date of a regular meeting conflicts with a holiday period, staff shall reschedule that meeting to be conducted within that month.
3. Any regular meeting may be adjourned, or any item on the agenda continued to the next or any subsequent regular meeting of the Youth Advisory Commission by a majority of the quorum. If a meeting is adjourned or an item is continued to a special meeting to be held on a date other than a regular meeting date, the time, place, and date of such special meeting shall be specified in the motion for adjournment or continuance.
4. All meetings are subject to the Brown Act as set forth in Government Code sections 54950 and following. Accordingly, all meetings shall be noticed and agendas for all meetings shall be prepared and posted in accordance with the current City Council meeting procedures.
5. All meetings shall be conducted in accordance with the current City Council meeting procedures.
6. All agendas shall be prepared and distributed in accordance with City Council meeting procedures and the Brown Act.

H. FUNDING

Any funding necessary for operation of the Youth Advisory Commission shall be included in the City of Tracy budget, which shall be approved by the City Council.

I. ADMINISTRATIVE PROCEDURES AND POLICIES

City Boards and Commissions shall follow all applicable City fiscal administrative policies and procedures.

J. SUBCOMMITTEES

The Youth Advisory Commission may form ad hoc subcommittees in accordance with the Brown Act, and make appointments to that subcommittee, as it deems necessary. If a proposed subcommittee will consist of Commission members, a quorum of Commission members may not be appointed to serve on a subcommittee. Before forming a subcommittee, the Youth Advisory Commission shall establish a specific charge and term

for the subcommittee. Membership in subcommittees may include non-commission members.

K. STAFF LIAISON

The Youth Advisory Commission shall have a staff liaison designated by the relevant City Department. The staff liaison shall:

1. Receive and record all exhibits, petitions, documents, or other material presented to the Commission in support of, or in opposition to, any question before the Commission.
2. Sign all meetings minutes and resolutions upon approval.
3. Prepare and distribute agendas and agenda packets.

L. ADOPTION

This document, as adopted and amended by City Council resolution, shall serve as the Bylaws for the Youth Advisory Commission.



BYLAWS OF THE  
TRACY ARTS COMMISSION  
CITY OF TRACY, CALIFORNIA

A. PURPOSE

The purpose of the seven-member Tracy Arts Commission (TAC) is to preserve and cultivate the expression and appreciation of the Arts in Tracy.

B. ROLE AND RESPONSIBILITIES

The role and responsibilities of the Tracy Arts Commission are to:

1. Maintain the Civic Art Plan, adopted by City Council (Resolution 2003- 002) on January 7, 2003 and as City Council may revise from time to time; pursuant to current and future Council adopted policy to achieve the following;
  - a. Contribute to the quality of life of the residents of Tracy through the high quality civic spaces and access to a broad array of artistic experiences;
  - b. Expand the knowledge and understanding of the community's history and culture;
  - c. Support the economic vitality of the city through increased property values and cultural tourism;
  - d. Reinforce downtown as a cultural destination;
2. Advise the City Council on the subject of citywide public art; including private development and public/private partnerships.
3. Foster public/private partnerships for the creation of civic art;
4. Support individuals and organizations involved in the arts by promoting their events, offering resources, educational tools, and advising on policies to city council that will support those endeavors;
5. Commit to nourishing artistic vision, honoring diversity, supporting creativity and promoting cooperative partnerships through the re-granting program;
6. Appoint one commissioner for a term of two years, to review applications, interview applicants, and select Advisory committee members for the Grand Theatre Center for the Arts advisory committees;
7. Appoint two commissioners, for a term of two years, to the Arts Education Advisory Committee (AEAC) to assist staff in evaluating and ranking proposals for the arts education programming;
8. Appoint two commissioners, for a term of two years, to the Grand Galleries Advisory Committee (GGAC) as advisory to staff to assist in evaluating and ranking proposals for the exhibition season;
9. Appoint two commissioners, for a term of two years, to the Grand Presenting Advisory Committee (GPAC), as advisory to staff in evaluating and ranking performers for the Presenting season.
10. Advise staff on approved Arts Commission activities such as Music in the Park and the Multi Cultural Festival subject to the annual budget;

C. MEMBERSHIP GUIDELINES

1. **Membership.** The Tracy Arts Commission shall consist of seven members who reside within the city limits of Tracy, but not City officials or employees of the City. Preferably, the composition of the Tracy Arts Commission will include seven residents with desirable background and expertise in the arts or related field(s).
  - a. Three members: arts patron, architectural/ engineering, historical preservation, and/or interior/graphic design.
  - b. One Member: Arts Administration/ arts organization
  - c. One Member: Arts Education/ Education administration
  - d. One Member: Visual Arts or Gallery/museum curator
  - e. One Member: Performing Arts/ Producer/presenting/agent

Although a diverse Commission composition is preferred, the composition of the Commission may vary based on: (1) the applicants available at any one time in the community; and (2) the community interest; therefore, flexibility on composition may be necessary.

2. **Term.** Each member shall serve a four-year term; commencing in July.
3. **Attendance.** If a member of the Tracy Arts Commission fails to attend four regular meetings in any calendar year, his or her position on the Tracy Arts Commission shall become vacant and the staff liaison shall so inform the City Clerk. There are no excused absences, however a Commissioner may request a leave of absence as outlined in section 4.

For quorum confirmation, a member who is unable to attend a meeting shall inform the staff liaison designated by the relevant City Department at least 48 hours before the meeting.

Arts Commission Subcommittee meetings shall be set as needed to complete assignments. Members appointed to a Council mandated program(Civic Art, Re-Granting, Grand Advisory Selection, Grand Presenting, Grand Galleries and Grand Arts Education, are required to attend all scheduled meetings. Should a member fail to attend three subcommittee meetings in a term year, they will be removed from the subcommittee and the three absences on the subcommittee will count as one absence on the regular scheduled commission meetings.

4. **Leave of Absence.** A Tracy Arts Commission member may submit a written request to the City Council for a leave of absence of up to six months which may be approved at the City Council's discretion.
5. **AB 1234 Training and Form 700 Completion.** If a member of the Parks and Community Services Commission who is required to complete AB 1234 training (State Mandated Ethics Training) and/or is required to complete form 700 (Statement of Economic Interest), does not do so in a timely manner, the City Clerk's Office will send two written notices at least 10 days apart to the member. If the member does not complete the required training and/or form, and provide proof of compliance to the City Clerk's Office, within 30 days of receiving the second written notice, his or her appointment will automatically terminate

D. QUORUM

A quorum of the Tracy Arts Commission shall consist of a majority of the members (four members). A quorum must be present in order for the Tracy Arts Commission to hold a meeting.

E. OFFICERS AND DUTIES

1. The officers of the Tracy Arts Commission shall be:
  - a. The Chairperson and
  - b. The Vice-Chairperson
2. The Chairperson shall:
  - a. Preside at all regular and special meetings.
  - b. Rule on all points of order and procedure during the meetings.
  - c. Provide recommendations to staff liaison regarding agenda items.
3. The Vice-Chairperson shall assume all duties of the Chairperson in his or her absence or disability.
4. In case of the absence of both the Chairperson and Vice-Chairperson from any meeting, an Acting Chairperson shall be elected from among the members present.

F. TERMS AND VACANCIES

The officers will be selected by the membership for a one-year term. The annual election of officers shall take place at the last regular meeting in June of each term year. The terms of officers shall commence as of July<sup>1<sup>st</sup></sup> following the election and shall continue through June 30<sup>th</sup> of the following year. Officers may be re-elected for no more than one additional successive term of office.

G. MEETINGS

1. Regular meetings of the Tracy Arts Commission shall be held on the second Tuesday of each month and shall begin at 7:00 p.m.
2. If the scheduled date of a regular meeting conflicts with a holiday period or for other reasons, the Tracy Arts Commission shall reschedule that meeting to be conducted within that month.
3. Any regular meeting may be adjourned, or any item on the agenda continued to the next or any subsequent regular meeting of the Tracy Arts Commission by a majority of the quorum. If a meeting is adjourned or an item is continued to a special meeting to be held on a date other than a regular meeting date, the time, place, and date of such special meeting shall be specified in the motion for adjournment or continuance.
4. All meetings are subject to the Brown Act as set forth in Government Code sections 54950 and following. Accordingly, all meetings shall be noticed and agendas for all

meetings shall be prepared and posted in accordance with the current City Council meeting procedures.

5. All meetings shall be conducted in accordance with the current City Council meeting procedures and the Brown Act.
6. All agendas shall be prepared and distributed in accordance with City Council meeting procedures and the Brown Act.

#### H. ADMINISTRATIVE PROCEDURES AND POLICIES

City Boards and Commissions shall follow all applicable City administrative policies and procedures.

#### I. AD HOC SUBCOMMITTEES

The Tracy Arts Commission may form ad hoc subcommittees in accordance with the Brown Act, and make appointments to that subcommittee, as it deems necessary. A quorum of Tracy Arts Commission members may not be appointed to serve on a single ad hoc subcommittee. Before forming an ad hoc subcommittee, the Tracy Arts Commission shall establish a specific charge and term for the subcommittee.

The Council has outlined mandated subcommittees, which include the following:

1. **Committee to Select Advisory Members:** Appointment of one commissioner, for a term of two years, to review applications, interview applicants, and select Advisory committee members for the Grand Theatre Center for the Arts advisory committees;
2. **Arts Education Advisory Committee (AEAC):** Appointment of two commissioners, for a term of two years, to the (AEAC) to assist staff in evaluating and ranking proposals for the arts education programming;
3. **Grand Galleries Advisory Committee (GGAC):** Appointment of two commissioners, for a term of two years, to the (GGAC) as advisory to staff to assist in evaluating and ranking proposals for the exhibition season;
4. **Grand Presenting Advisory Committee (GPAC):** Appointment of two commissioners, for a term of two years, to the (GPAC), as advisory to staff in evaluating and ranking performers for the Presenting season.
5. **Civic Art Subcommittee:** Appointment of three commissioners, for a term of one year, to the Civic Art Subcommittee to serve the TAC and work with staff. The TAC advised City Council on priority projects for civic art, reviews capital improvement projects for artistic enhancement, evaluates artist's concepts and proposals, and serves as ambassadors to the community-at-large regarding the Civic Art Program.
6. **Re-Granting Subcommittee:** Appointment of two commissioners, for a term of one year, to the Re-Granting Subcommittee to serve on the grant selection panel. Evaluating the applicants on the approved criteria and made recommendations on funding awards to the Arts Commission.

Given the large number of standing committees, the Tracy Arts Commission shall limit the number of adhoc subcommittees to only those reasonably necessary to increase the efficiency of conducting Commission business. Under the Brown Act, ad hoc subcommittees may only be formed for matters of limited duration, not likely to reoccur and within the subject matter jurisdiction of the Tracy Arts Commission.

J. STAFF LIAISON

The Tracy Arts Commission shall have a staff liaison designated by the relevant City Department. The staff liaison shall:

1. Receive and record all exhibits, petitions, documents, or other materials presented to the Commission in support of, or in opposition to, any question before the Commission.
2. Sign all meetings minutes and resolutions upon approval.
3. Prepare and distribute agendas and agenda packets.

K. ADOPTION

Community Cultural Arts Commission Established by Ordinance 501 on March 5, 1991 (Bylaws included in Ordinance)

Bylaws Adopted by Resolution 92-005 on January 7, 1992

Ordinance 1031 repealed Ordinance 501 on December 4, 2001

Resolution 2001-431 Established the Community Cultural Arts Commission on December 4, 2001

Bylaws Amended by Resolution 2002-003 on January 15, 2002

Bylaws Amended by Resolution 2006-291 on December 19, 2006

Bylaws Amended by Resolution 2007-114 on June 5, 2007 (Name changed to Tracy Arts Commission)

Bylaws Amended by Resolution 2009-191 on October 20, 2009

Bylaws Amended by Resolution 2009-198 on October 20, 2009

Bylaws Amended by Resolution 2010-022 on March 2, 2010

This document, as adopted and amended by City Council on October 20, 2009, by Resolution 2009-198, shall serve as the Bylaws for the Tracy Arts Commission.

On March 2, 2010, the Council adopted Resolution 2010-022 which amended the bylaws of the City's various boards and commissions to include new regulation related to AB 1234 training and Form 700 filings.

BYLAWS OF THE BUILDING BOARD OF APPEALS  
CITY OF TRACY, CALIFORNIA

WHEREAS, Pursuant to Tracy Municipal Code Chapter 9.44, the City Council has established a Building Board of Appeals for the purpose of hearing appeals by persons aggrieved by any administrative decisions in the application of the Uniform Housing, Building, Mechanical, Electrical, Plumbing, Abatement of Dangerous Buildings, and Fire Codes, or regulations adopted pursuant thereto; and

WHEREAS, the Building Board of Appeals desires to adopt Bylaws consistent with those set forth by the City Council for the operation of the Board and the conduct of its meetings; and

WHEREAS, administrative appeal hearing procedures, adopted by the Building Board of Appeals pursuant to Tracy Municipal Code section 9.44.040, shall prevail over any inconsistency with these Bylaws.

NOW, THEREFORE, unless otherwise provided in the Building Board of Appeals adopted hearing procedures, these Bylaws govern the conduct of the meetings and the transaction of its affairs.

A. PURPOSE

Pursuant to Tracy Municipal Code Chapter 9.44, the City Council has established a Building Board of Appeals for the purpose of hearing appeals by persons aggrieved by any administrative decisions in the application of the Uniform Housing, Building, Mechanical, Electrical, Plumbing, Abatement of Dangerous Buildings, and Fire Codes, or regulations adopted pursuant thereto.

B. ROLE AND RESPONSIBILITIES

The role of the Building Board of Appeals is set forth in Tracy Municipal Code Chapter 9.44.

C. MEMBERSHIP GUIDELINES

1. Membership. The Building Board of Appeals shall consist of five (5) members with qualifications established in the Tracy Municipal Code.

2. Term. Each member shall serve a four-year term.

3. Attendance. If a member of Building Board of Appeals fails to attend four regular meetings in any calendar year, his or her position on the Board shall automatically become vacant and the staff liaison shall so inform the City Clerk. Absences may not be excused; however, a Board member may request a leave of absence as outlined in these bylaws. For quorum confirmation, a member who needs to miss a meeting shall inform the staff liaison designated by the relevant City Department at least 48 hours before the next meeting.

4. Leave of Absence. A member may submit a written request to the City Council, for a leave of absence of up to six-months, which may be approved in its discretion.

Bylaws of the Building Board of Appeals  
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D. QUORUM

A quorum of the Building Board of Appeals shall consist of a majority of the members (including any vacancies). A quorum must be present in order for the Building Board of Appeals to hold a meeting.

E. OFFICERS AND DUTIES

1. The officers shall be:
  - a. The Chairperson and
  - b. The Vice-Chairperson.
2. The Chairperson shall:
  - a. Preside at all regular and special meetings.
  - b. Rule on all points of order and procedure during the meetings.
  - c. Provide recommendations to staff liaison regarding agenda items.
3. The Vice Chairperson shall assume all duties of the Chairperson in his or her absence or disability.
4. In case of the absence of both the Chairperson and Vice Chairperson from any meeting, an Acting Chairperson shall be elected from among the members present.

F. TERMS AND VACANCIES

The officers will be selected by the membership for a one-year term. The election of officers shall take place each year at annual meeting to be held within the first quarter of the calendar year. The terms of officers shall commence as of the date of that meeting and shall continue until the annual meeting in the following year.

G. MEETINGS

1. Other than the annual meeting, meetings of the Building Board of Appeals shall be as needed to hear appeals filed pursuant to Tracy Municipal Code Chapter 9.44.
2. All meetings are subject to the Brown Act as set forth in Government Code sections 54950 and following. Accordingly, all meetings shall be noticed and agendas for all meetings shall be prepared and posted in accordance with the current City Council meeting procedures. All agendas shall be prepared and distributed in accordance with City Council meeting procedures and the Brown Act.
3. Except as otherwise provided in the Building Board of Appeals adopted hearing procedures, all meetings shall be conducted in accordance with the current City Council meeting procedures.

H. STATEMENTS OF ECONOMIC INTEREST (Form 700)

1. The City Clerk's Office will monitor compliance with state and City Form 700 filing requirements.

Bylaws of the Building Board of Appeals

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2. If a member of a City board, commission, or committee, who is required to file a Form 700, does not do so in a timely manner, the City Clerk's Office will send two written notices at least 10 days apart to the member.
3. If the member does not file a Form 700 with the City Clerk's Office within 30 days of receiving the second written notice, his or her appointment will automatically terminate.

I. FUNDING

Any funding necessary for operation of the Building Board of Appeals shall be included in the City of Tracy budget, which shall be approved by the City Council.

J. ADMINISTRATIVE PROCEDURES AND POLICIES

City Boards and Commissions shall follow all applicable City fiscal administrative policies and procedures.

K. STAFF LIAISON

The Building Board of Appeals shall have a staff liaison designated by the relevant City Department. The staff liaison shall:

1. Receive and record all exhibits, petitions, documents, or other material presented to the Board in support of, or in opposition to, any question before the Board.
2. Sign all meetings minutes and resolutions upon approval.
3. Prepare and distribute agendas and agenda packets.

L. ADOPTION

This document, as adopted and amended by City Council resolution, shall serve as the Bylaws for the Building Board of Appeals.

Established by Ordinance 602 on May 1, 1984  
Amended by Ordinance 1111 on August 21, 2007  
Amended by Ordinance 1157 on April 5, 2011



## ATTACHMENT B

TRACY CITY COUNCIL

REGULAR MEETING MINUTES

April 6, 2021, 7:00 p.m.

City Hall, 333 Civic Center Plaza, Tracy

Web Site: [www.ci.tracy.ca.us](http://www.ci.tracy.ca.us)

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

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

Mayor Young led the Pledge of Allegiance.

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

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

Council Member Arriola arrived at 7:08 p.m.

Council Member Bedolla arrived at 7:07 p.m.

Mayor Young announced the following Proclamations: National Animal Care and Control Appreciation Week – April 11 through April 17, 2021, and National Public Safety Telecommunications Week – April 11 through April 17, 2021

1. CONSENT CALENDAR – Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Davis to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered
  - 1.A APPROVAL OF MARCH 9, 2021, MARCH 16, 2021, AND MARCH 23, 2021 SPECIAL MEETING MINUTES, MARCH 16, 2021, REGULAR MEETING MINUTES AND MARCH 23, 2021 CLOSED SESSION MINUTES – **Minutes were adopted**
  - 1.C APPROVE THE FUNDING AGREEMENT WITH LEPRINO FOODS COMPANY TO FUND A NEW CAPITAL IMPROVEMENT PROJECT (CIP 72121) FOR THE IMPROVEMENTS AT THE INTERSECTION OF MACARTHUR DRIVE AND GRANT LINE ROAD – **Resolution 2021-036** approved the Funding Agreement with Leprino Foods Company
  - 1.D ACCEPT AN AWARD FOR THE \$500,000 GRANT FROM SJCOG'S JOBS BALANCING INVESTMENT FUND FOR OFF-SITE IMPROVEMENTS TO THE MIDDLEFIELD PROJECT – **Resolution 2021-037** accepted an award for the off-site improvements grant for Middlefield project.

1.G APPROVE MASTER PROFESSIONAL SERVICES AGREEMENTS WITH BARRY & WYNN ARCHITECTS, INC., AND THE KPA GROUP, INC. TO PROVIDE ON-CALL PROFESSIONAL ENGINEERING SERVICES FOR CAPITAL IMPROVEMENT PROJECTS, AND AUTHORIZE THE DEVELOPMENT SERVICES DIRECTOR TO EXECUTE NOTICES TO PROCEED RELATED TO THE AGREEMENTS, FOR A NOT TO-EXCEED AMOUNT OF \$600,000 FOR EACH CONSULTANT PER CALENDAR YEAR – **Resolution 2021-038** approved the Master Professional Services Agreements with Barry & Wynn Architects, Inc. and KPA Group, Inc. for on-call professional engineering services for capital improvement projects.

1.B APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH BARRY & WYNN ARCHITECTS, INC., OF DANVILLE, CALIFORNIA, FOR ARCHITECTURAL DESIGN SERVICES FOR THE POLICE MULTIPURPOSE REALITY BASED TRAINING FACILITY (CIP 71110) FOR A NOT-TO-EXCEED AMOUNT OF \$290,000

Robert Armijo, City Engineer provided the staff report.

Council Member Davis pulled the item to ask where the facility will be located and thanked staff for work being done.

There was no public comment.

**ACTION:** Motion made by Mayor Pro Tem Vargas and seconded by Council Member Davis to adopt **Resolution 2021-039** approving a Professional Services Agreement with Barry & Wynn Architects, Inc., of Danville, California for architectural design services for the Police Multipurpose Reality Based Training Facility (CIP 71110) for a not-to-exceed amount of \$290,000. Roll call found all in favor; passed and so ordered.

1.E APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH MARK THOMAS & COMPANY, INC., OF SACRAMENTO, CALIFORNIA FOR A NOT-TO-EXCEED AMOUNT OF \$585,901 TO PROVIDE PROFESSIONAL ENGINEERING SERVICES FOR THE PREPARATION OF ENVIRONMENTAL DOCUMENTS, PLANS, SPECIFICATIONS AND COST ESTIMATES FOR THE PROJECT, ROADWAY IMPROVEMENTS AND TRAFFIC SIGNAL INSTALLATION AT CORRAL HOLLOW ROAD AND LINNE ROAD INTERSECTION, AND AUTHORIZE AN APPROPRIATION OF \$295,000 FROM TAMP TRAFFIC FUND (F363) TO CIP 72104

Robert Armijo, City Engineer provided the staff report.

Council Member Davis pulled the item to ask what is the expected time of completion, is the City in conversation with the railroad about the construction, and what is taking the time.

There was no public comment.

City Council comments followed.

**ACTION:** Motion made by Mayor Pro Tem Vargas and seconded by Council Member Arriola to adopt a **Resolution 2021-040** approving a Professional Services Agreement with Mark Thomas & Company, Inc., of Sacramento, California, for a not-to-exceed amount of \$585,901 to provide professional engineering design services that includes the preparation of environmental documents, and construction documents such as plans, specifications and cost estimates for the project, roadway improvements and traffic signal installation at Corral Hollow Road and Linne Road intersection, and authorize an appropriation of \$295,000 from TIMP Traffic Fund (F363) to CIP 72104. Roll call found all in favor; passed and so ordered.

1.F. RECEIVE AND AUTHORIZE STAFF TO SUBMIT THE ANNUAL PROGRESS REPORT FOR 2020 AND ANNUAL ELEMENT PROGRESS REPORT FOR 2020 TO THE OFFICE OF PLANNING AND RESEARCH, AND STATE HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT REGARDING THE IMPLEMENTATION OF THE GENERAL PLAN AND THE HOUSING ELEMENT

Kimberly Matlock, Associate Planner provided the staff report.

Alice English pulled the item to ask about the objectives and actions for the following: Under Community Character CC 3.1 and CC 6.2, Economic Development ED 1.1 and CIR -1.4 2.2.

City Council comments and questions followed.

**ACTION:** Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Arriola to adopt **Resolution 2021-041** authorizing staff to submit the Annual Progress Report and the Annual Element Progress Report for Calendar Year 2020 to the office of Planning and Research, and State Housing and Community Development Department regarding the implementation of the General Plan and Housing Element. Roll call found all in favor; passed and so ordered.

2. ITEMS FROM THE AUDIENCE – Yolanda Knight spoke about Tracy African American Association (TAAA) and the Wayne Nelson scholarship award program provided by TAAA.

Marsha McCray spoke about amenities being supported by all residents, Swim Center community's efforts to inform the public regarding funding for amenities supported by Measure V money, moving the Aquatics Center forward while finishing Legacy Fields, and urged Council to move forward with previously approved budget and concept plan.

Robert Tanner asked when Surland is coming back with the final Aquatics Center design, added there is not land for the Multi-Generational Center so it should be the last amenity to be put through.

Arch Bakerink shared his concerns regarding fiscal priorities of the City, major potential for litigation regarding disrepair on Eaton and Wall Street sidewalk and urged Council to provide basic services instead of litigation, and to reconsider priorities.

Alex Monceaux spoke about cannabis scoring and stated his score in the equity section 5 got hammered and described his equity answers, asked to look at the scoring, open up these licenses and back and forth on some of the non-competitive applications.

Miguel Esquivel shared his concerns regarding the City standard for emergency fire response times in Edgewood and Redbridge neighborhoods, and getting a fire station in the area.

3. REGULAR AGENDA

3.A RECEIVE UPDATE ON THE WESTSIDE SPECIFIC PLAN PROJECT (FORMALLY KNOWN AS TRACY GATEWAY)

Mayor Pro Tem Vargas recused herself from discussion on the item because of individual affiliation with Patterson Petroleum LLC, a business client and an applicant of the commercial portion of the Gateway area. Mayor Pro Tem Vargas left the dais.

Andrew Malik, Assistant City Manager provided a brief introduction of the item.

Bill Wiseman, Kimley-Horn and Associates provided the presentation and responded to Council questions.

City Council questions followed.

Robert Tanner stated the developer should be funding money and not the City, and shared his disappointment about not getting a university.

Wendy Tocchini asked why Council is ignoring Measure V and M, which were knocked down by voters. The plan was to bring employment opportunities for Tracy residents. Do not want more warehousing.

Pete Mitracos spoke about a third dimension view, which is elevations. General plan back in 2006 has community character with an effort to preserve and enhance Tracy, warehouses on I-205 is not what we want, and make sure the community has input.

Alice English spoke about Measure Y failing, industrial not bringing high quality jobs, the City not having \$500,000 to pay back, shared potential traffic issue concerns, and not changing the General Plan because of one landowner.

Mike Souza thanked Mr. Wiseman for presentation and embellished on the history Mr. Wiseman presented, and responded to some concerns from members of the public.

Barbara Beck, Carrie Hurd, and Allan Dabandan submitted emails stating no additional taxpayer dollars should be spent on the Westside Specific Plan until the landowners pay back the City \$500,000 of taxpayer dollars owed, reimbursement agreement should be put in place, the City must pursue the original intent of Tracy Gateway.

Max Allen and Adrian Martinez submitted emails stating no additional taxpayer dollars should be spent on the Westside Specific plan until the landowner's pay back the City the \$500,000 of taxpayer dollars owed.

Sean Topping commented that the City should pursue original intent of Tracy Gateway, and no additional taxpayer dollars should be spent on changing the plans to industrial development.

Connie Rivera and Benjamin Rivera submitted emails regarding the City utilizing public funds to help developer costs, and will the developer be utilizing local community highly skilled workers to build the project.

Tatiana Brif submitted an email in opposition of rezoning a third of the Westside Specific Plan development are as industrial.

Adrienne Richardson, City Clerk stated a letter was received from Miller Starr Regalia, which exceeded the 250-word limit, but was provided to City Council via email and on the dais.

City Council comments and questions followed. Council shared strong support for public outreach for comprehensive input regarding shaping the area.

It was Council consensus to take between two and three months deadline to seek community input/feedback on the future development of Westside, and would like to see other options that the developers are willing to provide, and have touches with the developers along the way to make sure about what they are willing to do.

Mayor Pro Tem Vargas rejoined the meeting.

3.B REQUEST FOR COUNCIL CLARIFICATION REGARDING RENEGOTIATING PARAMETERS OF THE SURLAND DEVELOPMENT AGREEMENT (DA) AND PROVIDE UPDATE REGARDING DEVELOPER'S INTEREST TO BEGIN DA NEGOTIATIONS

Andrew Malik, Assistant City Manager provided the staff report and presentation.

Mayor Young left the meeting at 10:15 p.m. due to a family matter.

Mark Connolly, Attorney on behalf of Mary Mitracos stated that if Council takes action to implement the 2018 DA it would be a violation of the prohibitory injunction and would be acting in contempt, provided comments regarding a letter from Surland, and requested to stop negotiations.

Bob Tanner stated the developer should have paid \$8 million long ago, City should name Aquatics Center, shared concerns regarding free passes for Ellis residents, and hoped the City takes over construction of the Aquatics Center.

Mary Mitracos asked Council to not renegotiate the DA, urged Council to go back to the 2013 DA, stated she is not against the swim center and is representing everyone in city in court, and asked Council to take back the swim center project.

Steve Herum, representing Surland Development stated if Council wants to proceed with negotiations, Surland Company will work in good faith with the negotiations. If the City decides not to, that is ok as well as Surland did not initiate to relook at the 2018 DA. Mr. Herum also submitted an email which was provided to City Council via email and on the dais.

City Council questions and comments followed.

Council Member Bedolla made a motion to direct the City to continue pursuit of renegotiation of the second amendment to the DA with negotiation parameters based on affirmative responses to all the questions in the staff report. Council Member Davis seconded the motion.

Council discussion continued

Mayor Young rejoined the meeting at 10:50 p.m.

Council Member Bedolla made a motion to stop the reconsideration of negotiations with Surland on the second amendment to the DA. Mayor Young seconded the motion.

Council discussion continued.

**ACTION:** Motion was made by Council Member Bedolla and seconded by Council Member Davis to direct the City to continue pursuit of renegotiation of the second amendment to the DA with negotiation parameters based on affirmative responses to all the questions in the staff report. Roll call found Council Members Bedolla and Davis in favor. Council Member Arriola, Mayor Pro Tem Vargas and Mayor Young opposed. Motion failed.

Council Member Bedolla made a motion to cease renegotiation efforts with Surland on the second amendment to the Development Agreement.

Council Member Arriola made a friendly amendment to proceed with Ms. Ramirez in closed session to determine possible legal options to proceed.

City Council discussion continued.

Council Member Bedolla made a motion to cease renegotiation efforts with Surland on the second amendment to the Development Agreement. Mayor Young seconded the motion.

Council Member Arriola asked if the motion is to cease renegotiation efforts with the second Surland DA and about Council being able to enter into closed session into next steps, and asked if the next steps needed to be clarified within the motion or is that sufficient direction to inform Council in closed session what our next steps could be.

Ms. Ramirez responded that is sufficient.

**ACTION:** Motion was made by Council Member Bedolla and seconded by Mayor Young to cease renegotiation efforts with Surland on the second amendment to the Development Agreement. Roll call found all in favor; passed and so ordered.

Mayor Young called a recess at 11:28 p.m.

Mayor Young reconvened the meeting at 11:33 p.m.

3.C DISCUSS RECOMMENDED FUNDING PLAN APPROACH AND ALLOCATION FOR AMERICAN RESCUE PLAN ACT (ARPA) AND PROVIDE DIRECTION TO STAFF

Karin Schnaider, Finance Director, provided the staff report.

Yolanda Knight, President of Tracy African America Association asked if any of the American Rescue Plan Act money be allocated to schools and if the City is going to partner with TUSD. Ms. Knight asked if the citizens will have any input about what the money is for, and liked the \$3 million for non-profits.

Wayne Templeton asked if the \$17.8 million the City is expected to receive is targeted for programs to aid the older adult population, how will the City promote Older Americans month, and will the ARPA funds be designated for this purpose.

Council Member Arriola motioned to approve proposed funding plan approach and allocation and direct the City Manager to work with the Council Fiscal Sustainability Ad Hoc Committee to further refine Council's recommended American Response Plan Act funding approach and allocations and develop a funding plan for Council consideration. Council Member Davis seconded the motion.

Mayor Young asked for clarification on the infrastructure question asked by Council Member Bedolla regarding lighting for parks and sidewalks, if that can be added to the purview of consideration when the Ad Hoc committee meets with the City Manager, if you can add that to your list. Council Member Bedolla supported the request.

City Council questions and comments followed.

Jenny Haruyama, City Manager clarified Council direction to include a senior option and potential for sports lighting. That will be considered if it is allowed or we can make a nexus.

Ms. Haruyama added there is funding for some of the sport court lighting, the issue is the ongoing expense and hypothetically, if there is funding through the stimulus that is eligible it is a limited duration. Staff will come back once we know eligibility requirements, and Council can give additional feedback through the CIP workshop.

**ACTION:** Motion was made by Council Member Arriola and seconded by Council Member Davis to approve proposed funding plan approach and allocation and direct the City Manager to work with the Council Fiscal Sustainability Ad Hoc Committee to

further refine Council's recommended American Response Plan Act funding approach and allocations and develop a funding plan for Council consideration. Roll call found all in favor; passed and so ordered.

3.D DISCUSS ROLE, MAKEUP, AND NECESSITY OF CITY BOARDS AND COMMISSIONS AND PROVIDE DIRECTION TO STAFF.

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

Alice English suggested the Parks and Recreation Commission and Transportation Advisory Commission should stay at seven members.

Alvin Vaughn addressed the prospect of consolidating the Parks, Arts, Transportation and Youth Advisory Commissions stating these four commissions have very distinct areas of focus. Mr. Vaughn highlighted specialize projects the Transportation Advisory Commission is working on.

City Council questions and comments followed.

**ACTION:** Motion was made by Council Member Arriola to: 1) Downsize the Parks, Arts, and Transportation Advisory Commissions from seven to five members, 2) update commission bylaws to require annual reports from all City commissions, and 3) to permit flexibility regarding the rules of procedure they employ. Roll call found Council Members Arriola, Bedolla, Davis, and Mayor Pro Tem Vargas in favor; passed and so ordered. Mayor Young absent.

3.E DISCUSS POTENTIAL AMENDMENTS TO THE CITY COUNCIL MEETING PROTOCOLS AND RULES OF PROCEDURE TO ADDRESS COUNCIL'S REQUESTS AND PROVIDE DIRECTION TO STAFF

Leticia Ramirez, City Attorney, provided the staff report and responded to Council questions.

There was no public comment.

City Council discussed three previous requests to amend the Council Protocols.

Mayor Pro Tem Vargas restated her previous request for updates as Council Members participate as individuals to report back in more detail to the Council. If a Council Member is serving on a commission that represents a JPA, it is to provide a quick summary to the Council of the items that may affect resources or have financial impact to the City. If there are bills that could affect our City, to share what bills we are supporting and voting on and to bring it up to Council for awareness.

City Council discussion followed.

Jenny Haruyama, City Manager clarified the item Mayor Pro Tem Vargas is referring to was a direction given under Council items with respect to developing a policy that is scheduled to come before Council in early summer. Ms.



Haruyama recommended allowing staff to continue working on that and if the policy is adopted Council can direct staff to codify that in the protocols. If a policy is adopted and an issue comes up with potential fiscal implications and is seconded by another Council Member to agendize the item, that would be the appropriate way to make that happen. If it is not a political issue or policy conflict, the City Manager can work with that particular group. If it is a multi-jurisdictional issue, there are ways to agendize using your legislative policy platform, which is the only time any legislation is signed by the Mayor and submitted to the LOCC. If it is not within the legislative policy, it needs to be agendized for approval.

Mayor Pro Tem Vargas agreed to wait for the policy item for Council discussion again.

Council Member Arriola motioned to require a five-minute time limit for all City Council Member discussion instead of having to request it occasionally; it would be the standard that can be extended per motion. Mayor Pro Tem Vargas seconded the motion.

City Council discussion continued.

**ACTION:** Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Vargas to implement a 5-minute maximum discussion/debate for all Council discussion instead of having to request to limit time, which can be extended per motion. Roll call found Council Member Arriola, Mayor Pro Tem Vargas and Mayor Young in favor; passed and so ordered. Council Members Bedolla and Davis opposed.

Mayor Young clarified her request to amend the protocols as Council focuses on the strategic plan and priorities going forward, that if there was anything that Council wanted to start pursuing that came up during Council items, it would require a majority vote to agendize the item.

Ms. Haruyama asked for clarification that any item raised by Council under Council items that is not a part of the strategic priorities would take support from three Council Members to get on the list of things for staff to work on.

Mayor Young responded that is what she was asking as the strategic plan and priorities set staff in motion to accomplish this over the next two years and if we ask staff to agendize something else, it will take away what is in motion.

City Council discussion continued.

Mayor Young stated the main thing is prioritization, and maybe there needs to be a different footprint for prioritization so if a request is seconded during Council Items by another Council Member, it does not automatically mean it is going to come back before other items that have been put in motion. That way Council is clear whether the request is really a priority, or time sensitive or six months down the line. Council can have that check in as to when items can come back.

City Council questions and discussion continued.

Ms. Haruyama reminded Council that if there is a time sensitivity where Council wants an agenda item to come back, understand that it could be to the detriment of another agenda item. Ms. Haruyama stated she will do her best to advise Council of that.

City Council comments continued.

Mayor Young clarified her previous request regarding Council Protocols Section 5.11.1: Needed language cleaned up because it says agendas for regular and special meetings except for workshops as defined by Section 3.3 of the Council shall include a "Council Items and Comments" sections. Mayor Young brought this up because Council items were only on the regular meetings, and wanted to make sure whether Council wants it on all meeting agendas.

Mayor Pro Tem Vargas responded she will continue to support that request. Council needs to have the ability and flexibility to have comments in every opportunity that we meet if it is necessary.

City Council discussion continued.

**ACTION:** Motion made by Council Member Arriola and seconded by Council Member Bedolla to amend 5.11.1 to strike the words *except for workshops* so Council discussion can happen at all meetings. Roll call found all in favor; passed and so ordered.

4. ITEMS FROM THE AUDIENCE – None
5. STAFF ITEMS – Jenny Haruyama, City Manager provided an update on the following actions taken by the City Manager during the COVID emergency.
  - Approve OIA with Duke Realty for Off-Site Infrastructure and Frontage Improvements
  - Accept the construction of the traffic signal modification at Lammers Road and Schulte Road (West) Project, CIP 72068 completed by St. Francis Electric, LLC of San Leandro, California.
  - Approve contract amount to retain Jarvis Fay & Gibson/attorney services for legal services regarding Kessner V. City of Santa Clara
6. COUNCIL ITEMS – Council Member Bedolla requested support to direct the City to prepare construction and phasing documents for the Aquatics Center after conferring with legal Counsel.

Jenny Haruyama, City Manager clarified Council Member Bedolla may be eluding to City staff doing this work and not the contractor doing this work to initiate the project. Council Member Bedolla responded yes.

Mayor Young stated that would override the past Council's discussion and asked Council Member Bedolla if wanted to bring it back to discuss options.

Council Member Bedolla clarified his intent was in the spirit of moving forward with the Aquatic Center, his perception is that most of Council was in support of expediting the Aquatic Center and this provides an avenue for Council to explore that option and is for the City to prepare construction documents and phasing documents and bring back to Council

Council Member Arriola responded he would be open to revisiting that conversation after Council has had our closed session conversation with the City Attorney.

Mayor Young responded she was open to bringing back phasing but to switch gears in the middle, that is a discussion we should have but how that happens and who does what.

Council Member Bedolla asked if he could get a second to have a discussion about the City preparing construction and phasing documents to bring back to Council.

Council Member Davis stated she would like to have that closed session conversation with counsel. Would love to expedite this but needed legal direction in closed session.

Leticia Ramirez, City Attorney suggested agendizing that discussion after closed session.

Council Member Bedolla requested support to direct the City to prepare construction and phasing documents for the Aquatic Center after conferring with legal counsel.

Mayor Young asked for a friendly amendment to bring back the discussion on phasing the Aquatics to move forward and that will come back after the closed session and Council can decide who will do what.

Council Member Bedolla stated if Mayor Young was willing to bring that up as a Council item he would support that, because it is not a formal motion and amendments.

Ms. Haruyama recommended getting the closed session scheduled and believed the discussion will have implications on both of the items that are being recommended under Council items. Ms. Haruyama suggested getting through the closed session, which will further inform what Council may want to bring to their peers for consideration.

Council Member Arriola stated the California League of Cities is currently undergoing an equity evaluation on behalf of the Latino and API caucuses and as the Vice President of the LBGTQ caucus, he is involved in some of those equity evaluations statewide for the LOCC. Secondly, Council all received an email yesterday and given the fact that Council determined today that we are ceasing the negotiations with the Surland Companies related to the DA he asked that the Surland Ellis Specific Plan amendment be granted a hearing in the next possible Council meeting. Mayor Young seconded the request.

Mayor Young reported on her attendance at the following meetings: San Joaquin Partnership, San Joaquin Council of Governments, San Joaquin Regional Rail, Mega Region, Tracy Community Connection Center and City Selection Committee. Mayor Young announced there is a Tracy Poetry contest put on by Tracy Friends of the Library. The deadline is April 10, 2021, email: [tracylibraryfriends@gmail.com](mailto:tracylibraryfriends@gmail.com). Mayor Young

requested reintroducing the Gold Star flag to Council. Originally, when the request was made for veteran flags to be flown every year the Gold Star Family was included in that request. Council unanimously voted to fly that as well. Behind the scenes, there were legal issues with that so it did not happen.

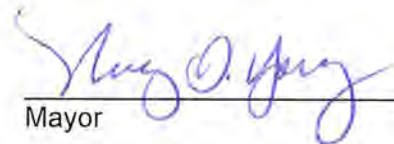
Ms. Ramirez clarified it was not a legal issue. Ms. Haruyama clarified it was a compliance issue following federal regulations.

Mayor Young stated but now it was determined by the Department of Defense instruction 1348.31 section 4.1.b that it does not apply to this particular request. It was an original request made by a previous Mayor and seconded by Mayor Pro Tem Vargas. Mayor Young requested that Council consider bringing back to fly annually, the last Sunday of every September is when they recognize the Gold Star Mothers and family day. The request is to put it up Friday and down on Monday. Mayor Pro Tem Vargas seconded the request again.


7. ADJOURNMENT – Time: 1:14 a.m. Date: Wednesday, April 7, 2021

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

The above agenda was posted at the Tracy City Hall on April 1, 2021. The above are action minutes. A recording is available at the office of the City Clerk.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

Agenda Item 3.C

RECOMMENDATION

**Staff recommends that the City Council 1) approve a resolution to form a standing committee of the Tracy City Council on Fiscal Sustainability (Committee) and 2) appoint, by motion, two members, to the Committee for an annual term, pursuant to the City Council's appointment procedures.**

EXECUTIVE SUMMARY

The City Council is being asked to consider two actions as part of this agenda item. The first is to consider a resolution to form a standing committee of the Tracy City Council on Fiscal Sustainability. The second is to appoint, by motion, two members to the Committee for an annual term, pursuant to the City Council's appointment procedures. If appointed at this meeting, as recommended, the terms of the two appointees would end when the City Council next makes new Council committee appointments, anticipated to occur in January 2024.

BACKGROUND AND LEGISLATIVE HISTORY

On May 19, 2020, the City Council adopted the FY 2020-21 Operating and Capital Budget and formed an ad-hoc subcommittee of the City Council to discuss the fiscal health of the City in light of the pending COVID-19 pandemic (Resolution 2020-067). The City Council approved the initial term of this ad-hoc subcommittee through December 31, 2020 and then approved an extension of this subcommittee through December 31, 2021 (Resolution 2021-024). And a further extension through December 31, 2022 (Resolution 2021-189).

The Brown Act, as further interpreted by the California Attorney General, limits ad hoc subcommittees to be of finite duration (usually less than 12 months) and have jurisdiction over one-time or non-recurring matters. As the City desires to continue having a two-member committee of the Tracy City Council to discuss ongoing fiscal matters, staff recommends the City Council adopt the proposed Resolution to form a standing committee of the City Council on Fiscal Sustainability. In addition, so as to convene such standing committee immediately, staff recommends the City Council, by motion, appoint two members to the Committee for an annual term, pursuant to the City Council's appointment procedures. If appointed at this meeting, as recommended, the terms of the two appointees would end when the City Council next makes new Council committee appointments, anticipated to occur in January 2024.

ANALYSIS AND DISCUSSION

The Tracy Fiscal Sustainability Committee would be a two-person standing committee and meet monthly for approximately one to two hours. The proposed committee would be subject to the Brown Act and meetings would thus be noticed and the public would have an opportunity to provide input. Special meetings would be scheduled as needed and the committee members would provide updates to the full Council on a quarterly basis.

Role:

- The scope of the Council Committee is to provide policy guidance as it relates to the development of a multi-year fiscal sustainability plan to address the City's fiscal health and long-term planning.
- Approaches may include but are not limited to budget strategies and fiscal policies, related revenue enhancement, cost containment, and use of other revenue sources such as Measure V and/or General Fund Reserves, keeping in mind planned recreational amenities.
- Fulfilling its fiduciary responsibilities to oversee the financial activities and financial condition of the City of Tracy and may include the review, discussion, and input on the following areas:
  - Annual audits and compliance reporting
  - Annual and quarterly budget updates, augmentations, and forecast
  - Long-term planning, including but not limited to,
    - City revenues and expenses,
    - deferred maintenance and capital planning,
    - long-term liabilities, debt, and other finance planning
- Budget approaches that would require good faith bargaining with labor groups would not be discussed as part of the fiscal sustainability planning process.
- Quarterly updates to the City Council will be scheduled on the regular agenda to inform Council members and the public of the Committee's discussions and recommendations regarding the multi-year fiscal sustainability plan.
- The multi-year fiscal sustainability plan will be presented to City Council by the Finance Director for their review and approval.

Makeup:

The makeup of this committee would consist of two (2) City of Tracy Council Members; appointed annually per the City Council's appointment procedures. The committee would be supported by the Finance Department. It is recommended that the new Committee meet monthly and hold special meetings, as needed, to fulfill the role of the Committee.

Necessity:

Found in many agencies around the country, a Fiscal Sustainability Committee acts in an advisory capacity on issues pertaining to financial impacts, sustainability practices, and legislative mandates that impact the fiscal health and the well-being of the City and its residents.

FISCAL IMPACT

Staff report for the Fiscal Sustainability Committee is supported through the Finance Department.

### COORDINATION

The Finance Department will be assigned as the Liaison to the new Fiscal Sustainability Committee.

### STRATEGIC PLAN

This agenda item supports the City's Governance Strategic Priority, with Goal 2: Ensure short and long-term fiscal health.

### RECOMMENDATION

Staff recommends that the City Council take the following action:

1. Adopt a resolution to form a standing committee of the Tracy City Council, the City Council Fiscal Sustainability Committee.
2. Appoint, by motion, two members to the Committee for an annual term, pursuant to the City Council's appointment procedures.

Prepared by: Karin Schnaider, Assistant City Manager

Reviewed by: Midori Lichtwardt, Assistant City Manager

Approved by: Michael Rogers, City Manager

**TRACY CITY COUNCIL**  
**RESOLUTION NO. \_\_\_\_\_**

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**A RESOLUTION TO FORM A STANDING COMMITTEE OF THE TRACY CITY COUNCIL ON FISCAL SUSTAINABILITY**

**WHEREAS**, The Tracy Municipal Code allows the City Council to establish advisory, ad hoc and standing committees, to address an explicit purpose or need, and

**WHEREAS**, Committees that are of limited duration (typically no more than a year), have a purview over non-recurring matters, and are comprised of less than three members are known as "ad hoc" committees and are not subject to the Ralph G. Brown Act's requirements, and

**WHEREAS**, On May 19, 2020, the City Council adopted Resolution 2020-067 that established the City Council Fiscal Sustainability Ad-Hoc Committee, effective July 1, 2020, through December 31, 2020, and

**WHEREAS**, On March 9, 2021, the City Council adopted Resolution 2021-024 that essentially extended the City Council Fiscal Sustainability Ad-Hoc Subcommittee, effective January 1, 2021, through December 31, 2021, and further extended the Ad Hoc Subcommittee through December 31, 2022 through Resolution 2021-189, and

**WHEREAS**, The City desires to form a standing committee of the Tracy City Council to continue the work begun by the previous Ad Hoc Subcommittee, to be named the Fiscal Sustainability Committee (Committee); and

**WHEREAS**, The proposed Committee will be subject to the Brown Act and meetings would thus be noticed, and the public would have an opportunity to provide input; and

**WHEREAS**, The scope of the Committee is to provide policy guidance as it relates to the development of a multi-year fiscal sustainability plan to address the City's fiscal health and long-term planning, and

**WHEREAS**, Approaches may include, but are not limited to budget strategies and fiscal policies, related revenue enhancement, cost containment, and use of other revenue sources such as Measure V and/or General Fund Reserves, keeping in mind planned recreational amenities, and

**WHEREAS**, The Committee will aid the City Council in fulfilling its fiduciary responsibilities to oversee the financial activities and financial condition of the City of Tracy and its jurisdiction may include the review, discussion, and input on the following areas:



- o Annual audits and compliance reporting
- o Annual and quarterly budget updates, augmentations, and forecast
- o Long-term planning, including but not limited to,
  - City revenues and expenses, including related fee and tax studies
  - deferred maintenance and capital planning
  - long-term liabilities, debt, and other finance planning

**WHEREAS**, The Committee will not have jurisdiction to discuss any budget approaches that would require good faith bargaining with labor groups; and

**WHEREAS**, Members of the Committee will provide quarterly updates to the full City Council as part of the regular agenda, to inform City Council members and the public; and

**WHEREAS**, The multi-year fiscal sustainability plan will be presented to the City Council by the Finance Director for the body's review and approval; and

**WHEREAS**, The makeup of the Committee would consist of two (2) City of Tracy Council Members that will be appointed annually per the City Council's appointment procedures; and

**WHEREAS**, The Committee would be supported by the Finance Department.

NOW, THEREFORE, BE IT

**RESOLVED**: The City Council of the City of Tracy hereby finds and determines that the foregoing recitals are true and correct and are hereby incorporated herein as findings and determinations of the City; and be it further

**RESOLVED**: That the City Council of the City of Tracy hereby establishes a new standing committee of the City Council to be known as the Fiscal Sustainability Committee, consisting of two Council Members, to be appointed annually, pursuant to the City Council's appointment practices; and be it further

**RESOLVED**: The Committee's roles and responsibilities shall be, generally, to guide the development of a fiscal sustainability plan for the City, and, more specifically, as set forth in this Resolution; and be it further

**RESOLVED**: That the Committee will establish its bylaws; and be it further

**RESOLVED**: The Committee shall have a regular meeting once a month, and may schedule additional special meetings, as needed, with all meetings to be noticed and conducted in compliance with the Brown Act, the City Council's Rules of Conduct, and Meeting Protocols and Rules of Procedure; and be it further

**RESOLVED**: The Committee shall convene soon after appointments are made.

\* \* \* \* \*

The foregoing Resolution 2023-\_\_\_\_\_ was adopted by the Tracy City Council on the 7<sup>th</sup> day of February 2023 by the following vote:

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

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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 a Professional Services Agreement with: (1) Tripepi Smith and Associates, Inc. for the performance of community engagement services related to the creation of City Council Districts for a term of ten (10) months and in a total not to exceed amount of \$90,000; and 2) National Demographics Corporation for the performance of demographic and mapping services related to the creation of City Council Districts, for a term of ten (10) months and in a total not to exceed amount of \$60,000.**

EXECUTIVE SUMMARY

The City of Tracy (City) elects members to the City Council through at-large elections. The California Voting Right Act (CVRA), which was signed into law in 2002, prohibits an at-large method of election that impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election. Cities across the State have adopted a district-based election process to better comply with the CVRA.

To advance the City's implementation, voluntarily, of a district-based election process, staff is recommending that the City Council adopt the proposed Resolution to approve professional services agreements for a joint consultant team that would provide demographic and mapping services as well as community engagement and outreach assistance for the creation of four Council Districts in the City. Specifically, the Professional Services Agreements are with Tripepi Smith and National Demographics Corporation (NDC Research) (see Attachment No. 1 and Attachment No. 2) for a not to exceed amounts, respectively, of \$90,000 and \$60,000. Together, Tripepi Smith and NDC Research will provide consultive services to facilitate and provide a high level of City Council and community engagement that will address such issues as website content, interactive maps, community generated maps, media relations, stakeholder outreach, multilingual outreach material development, public meetings/workshop participation of stakeholders, and tracking of results related to the establishment of election districts in the City of Tracy.

BACKGROUND AND LEGISLATIVE HISTORY

The CVRA, which was signed into law in 2002, prohibits an at-large method of election that impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election. The law's intent is to expand protections against vote dilution over those provided by the Federal Voting Rights Act of 1965 (FVRA). Cities across the State have decided to move towards a "district-based" model to be better compliant with the CVRA requirements.

Cities that do not change their election models have increasingly been facing legal challenges to their "at-large" systems of electing city council members. Almost all cities that have received a legal challenge settled claims out of court by agreeing to voluntarily shift to district-based elections. Those that have defended CVRA challenges in courts have ultimately either voluntarily adopted, or have been forced to adopt, district-based elections. The CVRA grants a prevailing plaintiff the right to recover reasonable attorneys' fees and expert witness fees. This

has resulted in substantial payments of money in attorneys' fees by cities that have chosen to litigate the CVRA challenge.

On September 28, 2016, the Governor signed AB 350 into law. This legislation attempts to provide a "safe harbor" from CVRA litigation for cities that choose to voluntarily transition to a district-based election system. If a city receives a demand letter, the city is given 45 days of protection from litigation to assess its situation. If within 45 days a city adopts a resolution declaring the Council's intent to transition from at-large to district-based elections, outlining specific steps to be undertaken to facilitate the transition, and estimating a time frame for action, then a potential plaintiff is prohibited from filing a CVRA action for an additional 90-day period. The maximum number of days under the safe harbor is 135 days from the time of the letter to the time of the map adoption, which can be limiting to the public input process. Thus, the legislation provides time for the city to assess and implement a transition to a district-based system before a lawsuit may be filed. The legislation sets out a number of steps a city must take in the effort to assess and transition to a district-based election system, which is laid out in further detail below. Under AB 350, a city's liability is capped at \$30,000 if it follows this process after receiving a threat, and the plaintiff must show financial documentation that these costs are justified.

The City of Tracy has a Council-Manager form of government. The City Council consists of the Mayor and four Council Members. Currently the entire City Council is elected at-large. The Mayor is elected to a two-year term with a limit of two terms. The four City Council Members are elected to four-year terms with a limit of two terms. Elections are held on a four-year cycle and Council Members are staggered with the Mayor and two Council Members coming up for vote at a given cycle.

At the December 6, 2022, City Council meeting, Council Member Arriola requested that staff bring back a resolution with the intention of forming election districts. This item was seconded by Mayor ProTem Vargas.

### ANALYSIS AND DISCUSSION

On December 1, 2022, notices for services were advertised on the City's Website through the Request for Proposals (RFP) process. The deadline for responses was December 15, 2022. Through the RFQ, the City sought proposals for the assistance in the design and execution of a districting process that will provide a high level of City Council and community engagement that will address such issues as website content, interactive maps, community generated maps, media relations, stakeholder outreach, multilingual outreach material development, public meetings/workshop participation of stakeholders, and tracking of results. This would include the minimum number of required public hearings as well as townhall style workshops/trainings to solicit public feedback, including the opportunity for the public to create draft maps for consideration.

#### Mapping Criteria:

1. Equal/Balanced Population
2. Complies with Federal and State Voting Rights Act
3. Contiguity
4. Compactness
5. Respect for Communities of Interest

The City anticipates completion of the scope of work laid out in this Request for proposals (RFP) within a 12-month timeframe or less.

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

- Previous experience moderating public meetings;
- Outreach experience;
- Nonpartisan approach;
- Experience with diverse communities and populations;
- Experience districting for varied political or special interest groups; and
- Experience working in communities where districting may have been controversial.

The City received three inquiries to its solicitation notice and qualifications were received by three firms:

Tripepi Smith/ NDC Research;  
Redistricting Inc; and  
Wagman Strategies.

The City has requested an engagement that provides a high level of City Council and community engagement. Tripepi Smith and NDC Research co-bid on the project and staff recommends that they be selected amongst the bidders for this work. Tripepi Smith specializes in the community engagement and NDC Research specializes in the demography and mapping services; combined they provided the most comprehensive proposal for demography, mapping, and community outreach. Tripepi Smith and NDC Research are experienced in facilitating robust processes that include dedicated websites, interactive maps, community-generated maps, media relations, stakeholder outreach, multilingual outreach material development, public meetings/workshops, and tracking of results.

Public Hearings/Meetings:

The district process will be transparent, accessible, and participatory to all residents of Tracy. Tripepi Smith and NDC Research will advise the City on the creation of a districting process schedule, including a minimum of 5 hearings (though the 4th and 5th may be held at the same Council meeting). The first two hearings will typically present information on the overall process and solicit input on communities of interest, the third hearing will typically present draft maps, and the fourth and fifth hearings will typically focus on the selection of a final map. In addition, the scope will include four community townhall meetings to facilitate the public participation.

Their scope of work includes:

- Workshops (In-Person or Virtual);
- Press Release/News Article for Website;
- Creation and Updates to Bilingual Redistricting Webpage/Website;
- Social Media Support, including mailers; and
- Community Group Outreach.

Draft Mapping Services:

Tripepi Smith will publicize draft map due dates and promote community participation to solicit draft maps from the public. A professional demographer has been hired by the City to create proposed district boundaries. A public electronic “tool kit” will be available for the public to draw and submit maps. Residents will be able to provide input on boundaries, suggested criteria for creating boundaries, beyond what is legally required. Both Tripepi Smith and NDC Research will proactively address any community members’ questions about the website, mapping tools, and the district formation process.

FISCAL IMPACT

Funding for these agreements has been submitted for allocation in the second quarter budget augmentations. Tripepi Smith and NDC Research proposals include the required public hearings as well as five in-person community workshops; amount not to exceed \$90,000 and \$60,000 respectively.

**Tripepi Smith Compensation**

Expansive Engagement Package	\$56,926.00
Project Website w/ Year 1 Hosting	\$4,110.00
\$3,500 Website & Hosting \$610	
In-Person Workshop (First)	\$8,660.00
In-Person Workshop (Additional)	\$7,640.00
Animated Education Video	\$2,850.00
Contingency Amount*	\$9,814.00
<b>Total</b>	<b>\$90,000.00</b>

**NDC Research Compensation**

Project Fee	\$24,500.00
In-Person Workshop	\$13,750.00
Hearing	\$11,000.00
Online and Paper Mapping Tools	\$4,500.00
Contingency Amount*	\$6,250.00
<b>Total</b>	<b>\$60,000.00</b>

PUBLIC OUTREACH/ INTEREST

Staff posted the Request for Qualifications on the City’s website.

COORDINATION

City Attorney, City Manager, Assistant City Managers, Assistant to the City Manager, and the Public Information Officer will work in conjunction with the consultants on the districting process. Assistant City Manager, Karin Schnaider has been assigned as the project lead.

### CEQA DETERMINATION

This item is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., 'CEQA') and CEQA regulations (14 California Code of Regulations §§ 15000, et seq.; 'CEQA Guidelines') in that it is not a "project" for purposes of CEQA (as defined by CEQA Guidelines §15378). Specifically, this item proposes an organizational or administrative activity that will not result in a direct or indirect physical change in the environment (CEQA Guidelines §§15378(b)(5)). Further, even if this item was deemed a "project," and therefore subject to CEQA, the item would be exempt as it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment (CEQA Guidelines §15061(b)(3)).

### STRATEGIC PLAN

This action addresses and contributes to Council's Strategic Priority of Governance, Goal No. 1 "Model Good Governness, Teamwork, and Transparency".

### ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution Approving a Professional Services Agreement with: (1) Tripepi Smith and Associates, Inc. for the performance of community engagement services related to the creation of City Council Districts for a term of ten (10) months and in a total not to exceed amount of \$90,000; and 2) National Demographics Corporation for the performance of demographic and mapping services related to the creation of City Council Districts, for a term of ten (10) months and in a total not to exceed amount of \$60,000.

Prepared by: Karin Schnaider, Assistant City Manager

Approved by: Michael Rogers, City Manager

### ATTACHMENTS

Attachment A: Professional Services Agreement – Tripepi Smith  
Attachment B: Professional Services Agreement – NDC Research

# ATTACHMENT A

City of Tracy -- Professional Services Agreement with Tripepi Smith and Associates, Inc.

## CITY OF TRACY PROFESSIONAL SERVICES AGREEMENT WITH *Tripepi Smith and Associates, Inc. – Demographic And Mapping Services, and Outreach Assistance for The Districting Process*

This Professional Services Agreement (**Agreement**) is entered into between the City of Tracy, a municipal corporation (**City**), and Tripepi Smith and Associates, Inc., a corporation (**Consultant**). City and Consultant are referred to individually as “Party” and collectively as “Parties.”

### Recitals

- A. City desires to retain Consultant to perform Demographic and Mapping Services, and Outreach Assistance for The Districting Process; and
- B. On December 1<sup>st</sup>, 2022, the City issued a Request for Qualifications (RFQ) for Demographic and Mapping Services, and Outreach Assistance for The Districting Process. On December 15<sup>th</sup>, 2022, Consultant submitted its proposal to the City. City has determined that Consultant possesses the skills, experience and certification required to provide the services.
- C. After negotiations between the City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.
- D. This Agreement is being executed pursuant to Resolution No. \_\_\_\_ approved by Tracy City Council on \_\_\_\_\_, 2023.

### 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 Representatives: Ryder Todd Smith and Jennifer Nentwig. Consultant shall not replace its Authorized Representatives, 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. Consultant shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit “A.” Any services for which times for performance are not specified in this Agreement shall be started and completed by 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 February 13, 2023 and end December 31, 2023, unless terminated in accordance with Section 6.

3. **Compensation.** City shall pay Consultant in accordance with 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 \$90,000. Consultant's fixed-price package rates and 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 invoices to the City describing the work or task performed. Consultant's bill shall include a brief description of the services performed and/or the specific milestone in the Payment Schedule to which it relates, the date the services were performed, and a description of any reimbursable expenditures as detailed in Compensation details set forth in Exhibit "B."

**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** Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 covering any auto (Code 1), or if Consultant has no owned autos, hired (code 8) and non-owned autos (Code 9).

**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:

City of Tracy  
Karin Schnaider, Assistant City Manager  
333 Civic Center Plaza  
Tracy, CA 95376

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

To Consultant:

Tripepi Smith and Associates, Inc.  
Ryder Todd Smith, President  
PO Box 52152  
Irvine, CA 92619

**13. Miscellaneous.**

**13.1 Standard of Care.** Unless otherwise specified in this Agreement, the standard of care applicable to Consultant's services will be the degree of skill and diligence ordinarily used by reputable

professionals performing in the same or similar time and locality, and under the same or similar circumstances.

**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 will 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**

**Tripepi Smith and Associates, Inc.**

\_\_\_\_\_  
By: Nancy D. Young  
Title: Mayor  
Date: \_\_\_\_\_

*Ryder Todd Smith*  
\_\_\_\_\_  
By: Ryder Todd Smith  
Title: President  
Date: January 26, 2023

Federal Employer Tax ID No. 73-1642614

Attest:

\_\_\_\_\_  
Adrienne Richardson, City Clerk

*Nicole Smith*

Approved as to form:

\_\_\_\_\_  
By: Nicole Smith  
Title: Chief Financial Officer  
Date: January 26, 2023

\_\_\_\_\_  
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

### **Collaboration with Expert Consultants**

Consultant will join all planning calls with the legal counsel and National Demographics Corporation (NDC). Consultant will handle all the meeting/workshop planning and facilitation services, graphic design, and all other outreach. At the workshops Consultant will facilitate, NDC will present; at times, the special legal counsel will attend the meetings. Once the process shifts to formal hearings before the City Council, NDC and the special legal counsel will be present. In an expansive outreach process, Consultant can be present at one hearing by the City Council to attest to the outreach process or report on the facilitated sessions that Consultant led.

### **Project & Outreach Planning**

Consultant, in partnership with NDC, will conduct initial project and outreach planning sessions as well as regular project calls to execute project management of this work. Consultant will facilitate all project calls for this engagement and create a living agenda to manage the efforts and timing between NDC, legal counsel, the City and Consultant. After the initial set-up, these meetings will be biweekly from the beginning of the outreach process to the map adoption. The online video calls could last up to an hour and will have a detailed agenda and notes. After each call, Consultant will send a summary email about decisions made on the phone call and related action steps for all involved parties. Call content will focus on action steps, timeline, coordination with City staff and verifications of action steps with the legal and demographic experts.

### **Public Hearings/Meetings**

Consultant and NDC will advise the City on the creation of a districting process schedule, including a minimum of 5 hearings, the 4th and 5th may be held at the same Council meeting. The first two hearings will present information on the overall process and solicit input on communities of interest, the third hearing will present draft maps, and the fourth and fifth hearings will focus on the selection of a final map.

### **Public Engagement and Solicitation**

**Workshops (In-Person or Virtual):** Consultant will coordinate with City staff to identify venues and dates to host workshops (either in-person or virtual) to seek public feedback on new district lines and provide information on map-drawing tools. Consultant will collaborate on development of an agenda, facilitate workshops, document community feedback and promote positive engagement around the process. Additionally, Consultant will provide graphic design services to create bilingual PowerPoint decks for the presentations and flyers for attendees. If needed, Consultant will coordinate simultaneous translation with local partners or City contractors.

Consultant can facilitate optionally recording the meetings and provide videos, with any relevant slides interspersed and closed captions. These videos will fulfil the requirement to post a summary of the meeting.

**Press Release/News Article for Website:** Consultant will draft bilingual press releases throughout the project to ensure local media aids the efforts to reach City residents. Consultant will identify media

contacts, collaborate with City staff to further expand the media list, and ensure Consultant reaches ethnic media. For key media, Consultant will follow up with phone calls. Possible press releases:

- Districting kickoff announcement,
- Announcements on venues and times for meetings and workshops,
- Announcement of mapping resources and tools,
- Announcement about the Council's hearings on the draft maps,
- Announcement on the adoption of new district lines.

**Creation and Updates to Bilingual Redistricting Webpage/Website:** Consultant will create a separate bilingual districting website or a webpage on the City's website in coordination with the demographer. The website/webpage would launch in the winter of 2023 with information from the Secretary of State about districting and a preview of the process in the City. Consultant will update the website/webpage throughout the districting process with resources for the community, including all required information about meetings and draft maps.

**Social Media Support:** Consultant will create bilingual copy and graphics for one social media post about the districting process per week throughout the engagement. Consultant anticipates this outreach lasting 12 months or less, from January 2023 to fall 2023. Consultant will work with the City to boost posts (paid advertising) on Facebook and Instagram to help spread the word about meetings and solicit public commentary.

**Community Group Outreach:** Consultant will contact a list of community groups to increase engagement on the project. Particular attention will be paid to locate and contact groups representing or connected to hard-to-reach populations in the City. The outreach work will be thoroughly documented to create a record of the outreach to these groups.

### **Draft Mapping**

Consultant will publicize draft map due dates and promote community participation to solicit draft maps from the public.

Consultant will proactively address any community members' questions about the website, mapping tools, and the district formation process.

### **Map Review and Direction**

Consultant will post draft maps to the project website. Draft maps will be posted in both PDF format (for printing) and on an interactive review map.

### **Map Adoption**

Consultant will post the final map and accompanying demographic information to the project website, as well as develop and publish social media and a press release with the final map announcement.



## EXHIBIT B - Compensation

The Expansive Engagement includes the following:

- Project management for the entire project, including overall schedule, resource scheduling, timeline management and demographer engagement.
- Graphic design for flyers/PowerPoints for 4 Council hearings
- Bilingual (Spanish) social media outreach over 6 months: 1 post and graphic per week
- 5 Bilingual Press Releases
- 2 social media advertisements
- 2 in-person workshops – all project management/planning, facilitation, and recordings
- Principal or Director attendance at up to 1 Council hearing to provide commentary on the outreach
- Creation of content and maintaining content for a bilingual districting website/webpage
- Community group research, outreach and phone calls (2 rounds)

Expansive Engagement Package	\$56,926.00
Project Website w/ Year 1 Hosting	\$4,110.00
\$3,500 Website & Hosting \$610	
In-Person Workshop (First)	\$8,660.00
In-Person Workshop (Additional)	\$7,640.00
Animated Education Video	\$2,850.00
Contingency Amount*	\$9,814.00
Total	\$90,000.00

\*Contingency Amount: In the event additional workshops, hearings or other additions are needed, a contingency amount of \$9,814.00 will cover those expenses.

**Payment Schedule:**

- Kickoff: 30%
- Conclusion of Second Hearing: 30%
- Final Map Adoption: 40%

Additional Pricing Options:

Additional Virtual Workshop (Includes All Planning, Attendance and Recording)	\$3,528 (Additional)
Each Additional Press Release	\$650
Video Recording at In-Person Meeting	\$2,550
Creation of Separate Districting Website	\$3,500 plus hosting fees
Customized District Formation Education Video	\$2,850

Rates and Related Fees for Services

Title	Hourly - Ad Hoc:
Principal	\$336
Director	\$220
Senior Business Analyst	\$175
Business Analyst	\$120
Junior Business Analyst	\$95
Photographer/Videographer	\$120
Senior Graphic Artist	\$160
Graphic Artist	\$120
Web Developer	\$175
Drone Operator	\$175

Time at Tripepi Smith is billed in 15-minute increments. See the following examples for how we invoice our time: 1.25, .75, 4 or 6.5 hours.

If Tripepi Smith is requested to be onsite, we will invoice for travel time at half-rate of the resource's Standard Rate when work is being performed on an ad hoc basis.

**NDC Ad Hoc Rates:**

Principal (Dr. Douglas Johnson)	\$300 per hour
Vice President (Justin Levitt)	\$250 per hour
Senior Consultant	\$200 per hour
Consultant	\$150 per hour
Analyst / Clerical	\$50 per hour

Dr. Johnson is also available for deposition and/or testimony work if needed, at \$350 per hour.

**Equipment Fees**

Consultant offers some services that require equipment, such as drone operations and video production. As such, in those cases, the following rates apply:

- \$550 for a full day of video equipment use (includes full set of video equipment). Full day is defined as a shoot lasting more than four hours.
- \$350 for a half day of video equipment use. Half day is defined as anything up to four hours of video production. All such expenses will be authorized by the organization prior to fee being assessed.
- \$500/day drone fee applies and is not inclusive of the drone operator time (drone operator rate).

Larger production projects may require additional fees for extensive equipment needs, multiple cameras, live switchboards and more. These fees will be discussed prior to being incurred with the City.

**Printing Fees**

Consultant will have the printer bill the City directly for work.

## ATTACHMENT B

City of Tracy -- Professional Services Agreement with National Demographics Corporation

### CITY OF TRACY PROFESSIONAL SERVICES AGREEMENT WITH *National Demographics Corporation – Demographic and Mapping Services, and Outreach Assistance for The Districting Process*

This Professional Services Agreement (**Agreement**) is entered into between the City of Tracy, a municipal corporation (**City**), and National Demographics Corporation, a corporation (**Consultant**). City and Consultant are referred to individually as “Party” and collectively as “Parties.”

#### Recitals

- A. City desires to retain Consultant to perform Demographic and Mapping Services, and Outreach Assistance for The Districting Process; and
- B. On December 1<sup>st</sup>, 2022, the City issued a Request for Qualifications (RFQ) for Demographic and Mapping Services, and Outreach Assistance for The Districting Process. On December 15<sup>th</sup>, 2022, Consultant submitted its proposal to the City. City has determined that Consultant possesses the skills, experience and certification required to provide the services.
- C. After negotiations between the City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.
- D. This Agreement is being executed pursuant to Resolution No. \_\_\_\_ approved by Tracy City Council on \_\_\_\_\_, 2023.

#### 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: Dr. Douglas Johnson. NDC may be represented at some workshops or hearings by Vice President Dr. Justin Levitt, Douglas Yoakam or Ken Chawkins. Consultant shall not replace its Authorized Representative, 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. Consultant shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit “A.” Any services for which times for performance are not specified in this Agreement shall be started and completed by 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 February 13, 2023 and end December 31, 2023, unless terminated in accordance with Section 6.

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

**3.1 Not to Exceed Amount.** Consultant's total compensation under this Agreement shall not exceed \$60,000. 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 monthly invoice(s) to the City that describe the services performed, including times, dates, and names of persons performing the services.

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

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

**3.3 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:

City of Tracy  
Karin Schnaider, Assistant City Manager  
333 Civic Center Plaza  
Tracy, CA 95376

To Consultant:

National Demographics Corporation  
Douglas Johnson, President  
PO Box 5271  
Glendale, CA 91221

With a copy to:

City Attorney  
333 Civic Center Plaza  
Tracy, CA 95376

**13. Miscellaneous.**

**13.1 Standard of Care.** Unless otherwise specified in this Agreement, the standard of care applicable to Consultant's services will be the degree of skill and diligence ordinarily used by reputable

professionals performing in the same or similar time and locality, and under the same or similar circumstances.

**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 will 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**

\_\_\_\_\_  
By: Nancy D. Young  
Title: Mayor  
Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Adrienne Richardson, City Clerk

Approved as to form:

\_\_\_\_\_  
Bijal M. Patel, City Attorney

**National Demographics Corporation**



\_\_\_\_\_  
By: Douglas Johnson  
Title: President  
Date: January 31, 2023

Federal Employer Tax ID No. 95-3388237



\_\_\_\_\_  
By: Douglas Johnson  
Title: Secretary / Treasurer  
Date: January 31, 2023

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

### **Collaboration with Expert Consultants**

Consultant will join planning calls with legal counsel and Tripepi, Smith and Associates as requested. At the workshops Consultant will present, answer questions, and provide any available and requested follow up information; at times, the special legal counsel will attend the meetings. Once the process shifts to formal hearings before the City Council, Consultant and the special legal counsel will be present.

### **Project & Outreach Planning**

Consultant, in partnership with Tripepi, Smith and Associates, will conduct initial project and outreach planning sessions as well as regular project calls to execute project management of this work. Tripepi Smith will facilitate all project calls for this engagement and create a living agenda to manage the efforts and timing between Consultant, legal counsel, the City and Tripepi Smith. After the initial set-up, these meetings would be biweekly from the beginning of the outreach process to the map adoption. Call content will focus on action steps, timeline, coordination with City staff and verifications of action steps with Consultant, Tripepi, Smith and Associates and legal counsel.

### **Public Hearings/Meetings**

Consultant, with Tripepi, Smith and Associates, will advise the City on the creation of a districting process schedule, including a minimum of 5 hearings, though the 4th and 5th may be held at the same Council meeting. The first two hearings will present information on the overall process and solicit input on communities of interest, the third hearing will present draft maps, and the fourth and fifth hearings will focus on the selection of a final map.

### **Data Analysis and Outreach**

- Development of demographic database including Census Bureau and California Statewide Database data of total population, citizen voting age population, voter registration, voter turnout, and socio-economic data on language spoken at home, renter's vs homeowners, age, education level, and other factors useful in identifying communities of interest.
- Incorporation of any Geographic Information System (GIS) data that the jurisdiction wishes to include and provides (often including school locations; school attendance areas; important local landmarks; or local neighborhood boundaries)
- Initial telephonic discussion about data, communities of interest, schedule, criteria and special concerns of the jurisdiction
- Assist jurisdiction with developing a communications plan for public outreach, including suggestions for webpage content and design, public feedback logistics, and strategies for engaging constituents

- Assist jurisdiction with developing a project plan, including a detailed timeline, goals and objectives, and specific deliverables list
- Provide progress reports on an as-needed basis as determined by the project manager and meet regularly with project team
- Any phone- or web-conference calls to discuss the project's progress or to answer any questions that may arise.
- Provide education and guidance on required districting criteria, and advice on selecting optional districting criteria, for staff and elected officials.
- Setup and manage an online public mapping tool and provide paper and PDF maps for the public to use to develop and submit proposed district maps.

### **Draft Mapping**

Consultant will proactively address any community members' questions about the website, mapping tools, and the district formation process.

During districting plan development, Consultant will also:

- Create 2 to 4 initial draft maps.
- Analyze and preparation for presentation all whole or partial plans submitted by the public.
- Convert all maps and reports to web-friendly versions.
- Post of all maps to an interactive review website.
- Create any requested additional and/or revised maps as requested.

### **Map Review and Direction**

Consultant will review and analyze all draft maps received in the process. Consultant will participate in public hearings to present the draft maps and guide a process through which the City can select the final map.

### **Map Adoption**

Consultant will provide spatial data in GIS-friendly format of any dataset used or created for this project to staff upon request and will work with the County Registrar of Voters to implement the final adopted plan.

EXHIBIT B - Compensation

1. Basic Project Elements, covers everything in Consultants scope described in Exhibit A, except for per-meeting expenses and the online and paper public mapping tools \$ **24,500**

2. Per-Meeting (Workshops and Hearings) Expense:

- In-person attendance, per meeting \$ **2,750**
- Virtual (telephonic, Zoom, etc.) attendance, per meeting: \$ **1,500**

For each meeting, Consultant will prepare meeting materials, including presentation materials and maps; present and explain key concepts, including mandatory and traditional redistricting criteria and “communities of interest”; facilitate conversations; answer questions; and gather feedback on proposed boundaries.

Per-meeting prices include all travel and other anticipated meeting-related expenses. Telephone calls to answer questions, discuss project status, and other standard project management tasks do not count as meetings and do not result in any charge.

3. Project Elements:

- Online and paper system including all elements below: \$**4,500**
  - i. DRA (an easy-to-use online mapping tool, also known as "Dave's Redistricting App")
  - ii. Public Participation Kit paper- and Excel-based mapping tool
    - a. Working with independent or advisory redistricting commission: no additional charge.

Project Fee	\$ 24,500.00
In-Person Workshop	\$ 13,750.00
Hearing	\$ 11,000.00
Online and Paper Mapping Tools	\$ 4,500.00
Contingency Amount*	\$ 6,250.00
<b>Total</b>	<b>\$ 60,000.00</b>

4. Contingency Amount\*: In the event additional hearings are required, a contingency amount of \$6,250.00 will cover up to two last-minute additional hearings.

5. Payment Schedule:

- Kickoff: 30%
- Conclusion of Second Hearing: 30%
- Final Map Adoption: 40%

**TRACY CITY COUNCIL**  
**RESOLUTION NO. \_\_\_\_\_**

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**APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH: (1) TRIPEPI SMITH AND ASSOCIATES, INC. FOR THE PERFORMANCE OF COMMUNITY ENGAGEMENT SERVICES RELATED TO THE CREATION OF CITY COUNCIL DISTRICTS FOR A TERM OF TEN (10) MONTHS AND IN A TOTAL NOT TO EXCEED AMOUNT OF \$90,000; AND 2) NATIONAL DEMOGRAPHICS CORPORATION FOR THE PERFORMANCE OF DEMOGRAPHIC AND MAPPING SERVICES RELATED TO THE CREATION OF CITY COUNCIL DISTRICTS, FOR A TERM OF TEN (10) MONTHS AND IN A TOTAL NOT TO EXCEED AMOUNT OF \$60,000**

**WHEREAS**, at the December 6, 2022, City Council meeting, Council Member Arriola requested that staff bring back a resolution with the intention of forming election districts; which was seconded by Mayor ProTem Vargas; and

**WHEREAS**, City desires to retain consultants to perform demographic and Mapping services, and outreach assistance for the creation of City Council Districts; and

**WHEREAS**, on December 1st, 2022, the City issued a Request for Proposals (RFP) for these services, and Tripepi Smith and Associates, Inc. and National Demographics Corporation (NDC) submitted proposals to the City; and

**WHEREAS**, City has determined that these consultants possess the skills, experience and certification required to provide the services; and

**WHEREAS**, the City desires a districting process which will be transparent, accessible, and participatory to all residents of Tracy; and

**WHEREAS**, Tripepi Smith and NDC are experienced in facilitating robust processes that include dedicated websites, interactive maps, community-generated maps, media relations, stakeholder outreach, multilingual outreach material development, public meetings/workshops, and tracking of results; now, therefore, be it

**RESOLVED:** That the City Council hereby approves a Professional Services Agreement with Tripepi Smith and Associates, Inc. for the performance of community engagement services related to the creation of City Council Districts for a term of ten (10) months and in a total not to exceed amount of \$90,000; and be it

**FURTHER RESOLVED:** That the City Council hereby approves a Professional Services Agreement with National Demographics Corporation for the performance of demographic and

mapping services related to the creation of City Council Districts for a term of ten (10) months and in a total not to exceed amount of \$60,000; and be it

**FURTHER RESOLVED:** This Resolution is exempt from review under the California Environmental Quality Act (California Public Resources Code SS 21000, et seg., 'CEQA') and CEQA regulations (14 California Code of Regulations \$15000, et seg.; 'CEQA Guidelines') in that it is not a "project" for purposes of CEQA (as defined by CEQA Guidelines S 15378). Specifically, this Resolution proposes an organizational or administrative activity that will not result in a direct or indirect physical change in the environment (CEQA Guidelines 15378(b)(5)). Further, even if this Resolution was deemed a "project," and therefore subject to CEQA, the Resolution would be exempt as it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment (CEQA Guidelines 15061(bX3)).

\* \* \* \* \*

The foregoing Resolution 2023-\_\_\_\_\_ was adopted by the Tracy City Council on the 7<sup>th</sup> day of February 2023 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