

Tuesday, April 4, 2023, 7:00 P.M.

A quorum of City Council will be in attendance at
Tracy City Hall Chambers, 333 Civic Center Plaza, Tracy

Web Site: www.cityoftracy.org

And a Council Member will attend remotely at the following location:
Mardi Gras Hotel, 3500 Paradise Road, Las Vegas, Nevada 89169

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

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

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

Remote Public Comment:

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

- *Comments via:*
 - **Online by visiting** <https://cityoftracyevents.webex.com> and using the following **Event Number: 2559 919 4332** and **Event Password: TracyCC**
 - ***If you would like to participate in the public comment anonymously***, you may submit your comment in WebEx by typing "Anonymous" when prompted to provide a First and Last Name and inserting Anonymous@example.com when prompted to provide an email address.
 - Join by phone by dialing +1-408-418-9388, enter 25599194332#8722922# Press *3 to raise the hand icon to speak on an item.
- *Protocols for commenting via WebEx:*
 - *If you wish to comment on the "Consent Calendar", "Items from the Audience/Public Comment" or "Regular Agenda" portions of the agenda:*
 - *Listen for the Mayor to open that portion of the agenda for discussion, then raise your hand to speak by clicking on the Hand icon on the Participants panel to the right of your screen.*
 - *If you no longer wish to comment, you may lower your hand by clicking on the Hand icon again.*
 - *Comments for the "Consent Calendar" "Items from the Agenda/Public Comment" or "Regular Agenda" portions of the agenda will be accepted until the public comment for that item is closed.*

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

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

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

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

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

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

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

Date Posted: March 30, 2023

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

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

ROLL CALL

PRESENTATIONS

1. Proclamation – Arts Month
2. Proclamation – National Public Safety Telecommunications Week
3. Proclamation – National Volunteer Week

1. CONSENT CALENDAR

- 1.A Approval of March 21, 2023, Closed Session Minutes, March 21, 2023 Regular Meeting Minutes, and March 22, 2023, special concurrent City Council and Planning Commission Meeting Minutes.
- 1.B Adopt a resolution to 1) authorize the acceptance of a grant award from San Joaquin County in the amount of \$99,000 to fund City tourism attraction efforts, and 2) appropriate \$99,000 in grant funds to the Mobility and Housing department for uses consistent with grant requirements.
- 1.C. Adopt a resolution approving a leave of absence for Transportation Advisory Commissioner Maurice Francis for the month of April 2023 pursuant to the requirements of the Transportation Advisory Commission Bylaws.
- 1.D. Adopt a resolution to (1) accept the construction for the Tracy Transit Station Renovations, CIP 77584, for work completed by Gowan Construction Company, Inc., of Tracy, 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.
- 1.E. Adopt a resolution (1) accepting the construction for the Americans with Disabilities Act Accessibility Improvements Project, CIP 73177 for work completed by Tracy Grading and Paving, Inc., of Tracy, California, (2) authorizing the City Clerk to File the Notice of Completion with the San Joaquin County Recorder's Office, (3) authorizing the City Engineer to release the bonds and retention payment, and (4) authorizing the Finance Department to close the Project.
- 1.F. Adopt a resolution approving a Professional Services Agreement with Black Water Consulting, Inc. to prepare an update to the City's Sewer System Management Plan for a term of one year and a not-to-exceed amount of \$64,000.
- 1.G Adopt a resolution approving a Master Services Agreement with CommSys, Inc. for the installation, implementation, training, and maintenance of the California Law Enforcement Telecommunications System for a term of five years and a not-to-exceed amount of \$200,000.

2. ITEMS FROM THE AUDIENCE

3. REGULAR AGENDA

- 3.A. Adopt a resolution 1) authorizing the issuance and sale of special tax bonds for the purpose of financing authorized facilities and 2) approving and authorizing related documents and actions for Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2.
- 3.B. City Council receive information and provide feedback regarding 1) the proposed FY 2024 Capital Budget, 2) the proposed five-year FY 2024-2028 Capital Improvement Plan (CIP), and 3) Measure V updates.
- 3.C. City Council: (1) adopt a Resolution of Intention to approve an amendment to the contract between the City of Tracy and the Board of Administration of the Public Employees' Retirement System to provide Public Service Credit for Peace Corps, AmeriCorps Vista, or AmeriCorps Service for all local miscellaneous members and all local police members, and (2) introduce an Ordinance authorizing an amendment to the contract between the City of Tracy and the California Public Employees' Retirement System Plan to provide Public Service Credit for Peace Corps, AmeriCorps Vista, or AmeriCorps Services for all local miscellaneous members and all local police members, pursuant to Government Code section 20471.

4. ITEMS FROM THE AUDIENCE

5. STAFF ITEMS

6. COUNCIL ITEMS

7. ADJOURNMENT

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

March 21, 2023, 5:00 p.m.

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

1. Mayor Young called the meeting to order at 5:00 p.m.
2. No actions, by City Council pursuant to AB 2449.
3. Roll call found Council Members Arriola, Evans, Mayor Pro Tem Davis and Mayor Young present.

Council Member Bedolla arrived at 5:02 p.m. after roll call.

4. ITEMS FROM THE AUDIENCE - None
5. REQUEST TO CONDUCT CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)

- A. **CITY OF TRACY V. GALVAO**, San Joaquin County Superior Court No. STK-CV-UED-2020-0000544
- B. **CITY OF TRACY V. DURKEE**, San Joaquin County Superior Court No. STK-CV-UED-2020-0000544
- C. **MARY MITRACOS, v. CITY OF TRACY, and SURLAND COMMUNITIES, LLC**, CASE NO. C093383; COURT OF APPEAL, STATE OF CALIFORNIA THIRD APPELLATE DISTRICT

Mayor Pro Tem Davis recused herself from item 5.C due to proximity of real property.

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

6. Reconvene to Open Session – 7:21 p.m.
7. Report of Final Action, if Any - None
8. Council Items and Comments – None

9. Adjournment – Time: 7:21 p.m.

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

Mayor

ATTEST:

City Clerk

March 21, 2023, 7:00 p.m.

City Hall, 333 Civic Center Plaza, Tracy

Web Site: www.cityoftracy.org

Mayor Young called the meeting to order at 7:22 p.m.

Mayor Young invited the College Bound Tracy Academy Scholars and Teacher to lead the Pledge of Allegiance (Tracy Coria, Elijah Dewett, Athena Watkiss, Titan Gonzalez, Matthew Johnson, Karla Leon, Heaven Policin, Philip Williams and Dianna Griffin (Teacher).

Arthur Cummings, Lay Leader for First United Methodist Church offered the invocation.

Actions, by motion, of City Council pursuant to AB 2449, if any – No action was required.

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

Mayor Young presented Certificates of Recognition to D.A.R.E. graduating students.

Mayor Young called for a recess at 7:38 p.m.

Mayor Young reconvened the meeting at 7:48 p.m.

Midori Lichtwardt, Acting City Manager presented the March Employee of the Month Award to Matt Kopinski, Utilities Department.

1. CONSENT CALENDAR – Following the removal of Consent Item 1.G by Dotty Nygard and 1.F by Mayor Young motion was made by Council Member Arriola and seconded by Mayor Pro Tem Davis to adopt the Consent Calendar. Roll call found all in favor; passed and so ordered.
 - 1.A Adoption of the February 28, 2023 Citywide Public Safety and Public Facilities Master Plan Workshop Minutes, and February 28, 2023 Code of Conduct and Meeting Protocols and Rules of Procedure Workshop Minutes, and the March 7, 2023 Regular Meeting Minutes. – **Minutes were adopted.**
 - 1.B Adopt a resolution (1) Approving the annual Military Equipment Report and finding that each type of military equipment identified in the annual report complies with the standards set forth in Government Code section 7071(d); and (2) Renewing, pursuant to Government Code section 7071(e), Ordinance 1327 authorizing the continued use of the military equipment specified in Tracy Police Department Policy 708 – Military Equipment. - **Resolution 2023-051** approved the Military Equipment Report and renewed Ordinance 1327.
 - 1.C Adopt a resolution awarding a construction contract to American Asphalt Repair & Resurfacing Co., Inc. of Hayward, California, for the Slurry Seal Project FY 21/22 – CIP 73184, with a not-to-exceed budget of \$880,812. - **Resolution 2023-052** awarded a construction contract to American Asphalt Repair.

- 1.D Adopt a resolution approving the (1) Acceptance of the Rachel Ray Save Them All Grant award of \$20,000 to fund neonatal kitten kits and spaying and neutering of cats in the City of Tracy and (2) Appropriation of the full grant proceeds to the Police Department's (Animal Services) Operational Budget for Fiscal Year 22/23. – **Resolution 2023-053** approved acceptance of the Rachel Ray Save Them All Grant Award and appropriation of the full grant proceeds to the Police Department's Operational Budget.
- 1.E Adopt a resolution amending Resolution 2022-164 delegating authority to the City Manager to execute the application, funding agreement, and related documents for the Department of Water Resources Urban Community Drought Relief Grant Program.– **Resolution 2023-054** amended Resolution 2022-164.
- 1.H Adopt a resolution designating the City Manager as the City's agent for the purposes of obtaining federal, state, and county emergency financial assistance for a period of three (3) years, as required by the California Office of Emergency Services – **Resolution 2023-055** designated the City Manager as the City's agent for obtaining federal, state and county emergency financial assistance for the period of three years.
- 1.F By motion, authorize staff to enter into real property negotiations with the Housing Authority of the County of San Joaquin for City owned surplus property located at 729/741 N. Central Avenue (APN 235-068-06).

Mayor Young pulled the item to provide an update to the public on what is happening with that property.

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

There was no public comment.

There were no comments from Council.

ACTION: Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Davis to authorize staff to enter into real property negotiations with the Housing Authority of the County of San Joaquin for City owned surplus property located at 729/741 N. Central Avenue (APN 235-068-06). Roll call found all in favor; passed and so ordered.

- 1.G. Receive the Annual Progress Report for the Tracy General Plan and the Annual Element Progress Report for the Tracy Housing Element for calendar year 2022, as required by Government Code section 65400.

Kimberly Matlock, Associate Planner provided the staff report.

Dotty Nygard pulled the item and spoke about fulfilling income levels required to meet the need, increasing the number of low-income housing, people that live in Tracy being outpriced, make sure we can house our own

community and are addressing the unhoused and who are meeting poverty level.

Veronica Vargas stated the item requires more attention than one workshop. Diversity in housing is important and has not been addressed. Centric communities, transit-oriented development has not been addressed, and urged Council to have more community input, highlight housing element. If we don't update this developer's rights kick in and they have the right to develop anywhere, any place without having to comply with some rules we have in Tracy.

Council questions and comments followed.

Jaylen French, Development Services Director responded to questions.

ACTION: Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Davis that City Council receive the Annual Progress Report for the Tracy General Plan and the Annual Element Progress Report for the Housing Element. Roll call found all in favor; passed and so ordered.

2. ITEMS FROM THE AUDIENCE – Michelle Trew, Tracy Cannabis Collective asked Council for help with moving the cannabis process forward, waiting on the City to approve the already submitted background checks and community benefit plan. Ms. Trew asked Council to direct staff to put it on the next agenda.

Wes Huffman stated he was excited about what the coming year is going to be like with people that are representing him. Two decades ago, the budget came with a per unit cost for every item per department and was much easier to evaluate. Mr. Huffman shared he completed ethics training and requested Council consider changes in our election rules for public office in the City of Tracy.

Michaela Toscas, Inspire Positive, LLC expressed disappointment that the cannabis item was not on the agenda, spoke about background checks and community benefit requirements in Chapter 6.36 of the TMC. Ms. Toscas stated she submitted a signed copy of a Community Benefit Agreement and asked to waive requirement for employee permits and allow them to open for business.

Kimberly Cargile, Tracy Cannabis Collective stated they have completed the cannabis CUP process, are ready to open, agreed to the Community Benefits Agreement as part of the CUP process and have been waiting for the City to respond for months. Have signed and turned in the Community Benefits Agreement to the City. Shared concerns regarding the cost so far on the process and background check process, and requested Council put this issue on the next meeting agenda.

Robert Tanner stated at the last meeting Council approved the Master Fee Schedule and brought up bingo fee which is \$63 now and \$13 per renewal every six months. The City Attorney said Council has to approve the fee schedule as is and come back at a later date to make modifications. Asked Council to put it on the schedule to review. Mr. Tanner also stated if one does not attend a meeting, they cannot motion to close the meeting and Mayor Pro Tem Davis was sitting in Chambers during the Closed Session and she seconded the motion to adjourn.

Karin Schnaider, Assistant City Manager clarified it was part of the motion to leave the bingo as is and did not allow the increase in the fee.

Mayor Young clarified that Mayor Pro Tem Davis did participate in the meeting but had to recuse herself from one item on the Closed Session agenda.

Jamie Medina spoke about a town hall meeting held downtown on March 19 and provided key takeaways of problems/solutions agreed on – 1) Reckless driving and sideshows and demanded an ordinance be drafted that parallels AB 2000 that addresses sideshows and shared suggested penalties for those engaged or spectating sideshows. 2) Accountability for energy prices and investigating viable options to become energy independent from PG&E and EBCE. 3) Streamline permitting processes. 4) Reallocating resources to get potholes filled beginning tomorrow and expected progress reports on these items.

Alice English stated at the last meeting she found it discouraging Mayor Young and Council Member Arriola were pushing the letter from Surland, hoped the Code of Conduct and Ethics comes back to Council soon to address issues such as violating the Brown Act by stopping meeting to discuss the letter. As far as the DOJ and cannabis, it was always four, it is because they wanted more so it opened flood gates, not putting zoning in a city ordinance so this is the delay and not the City Attorney.

Mayor Young disagreed with the previous speaker's comments.

Karen Moore stated there seems to be a dumping spot for cars on the street from George Kelly School to Redbridge, commended staff on responses to requests she submitted into the system and spoke about a tree on her yard she thought was dying and staff informed her it was struggling with drought, and they were right. Ms. Moore spoke about Measure V and stated we are not using Measure V money when we need it and we have it.

Veronica Vargas stated Item I.G does not have the attachments A, B and C and requested complete agendas. Ms. Vargas urged Council to put in place some civic Code of Conduct about people accusing and naming names that are derogatory and creating their own narrative.

Dotty Nygard addressed a conversation she had with many of Council regarding warehouse growth, Tracy Alliance is coming back in April, approached two Planning Commissioners who stated they would be interested in a workshop on CEQA and also the Attorney General best practices for warehouse growth and the City Manager also agreed to spearhead it. There is a lot of traffic and infrastructure wear and tear through our city. Need to pay attention to and address health impacts this industry brings.

Christine Aikin stated she was disappointed the City has not done anything on solar energy for the City buildings. Main reason public would get behind solar on City buildings is finances. Four months ago CPUC approved new metering rules which means PGE is no longer paying regular retail rates on energy they produce and urged the City to look into solar and battery storage so we can have clean energy and better finances.

3. REGULAR AGENDA

3.A Receive an informational report regarding the Tracy Arts Commission annual report for calendar year 2022.

William Wilson, Cultural Arts Supervisor provided the staff report and introduced Cynthia Reis, Chair of the Tracy Arts Commission who provided a presentation and answered questions.

Council questions and comments followed.

Myron Evans suggested building a production facility, has connections for producing and outlets where talents can have music taken out to industry.

A resident suggested getting students from high school to consider what is going on and investing in City Government and give a Certificate and positive affirmation. Council's presence at one event means a lot.

ACTION: Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Davis to receive the informational report regarding the Tracy Arts Commission annual report for calendar year 2022. Roll call found all in favor; passed and so ordered.

3.B Receive an informational report regarding the City of Tracy Police Department's Annual Report for Calendar Year 2022.

Sekou Millington, Police Chief provided the staff report and presentation.

Octavio Lopez, Police Captain and Beth Lyons-McCarthy, Police Support Operations Manager responded to questions.

Council comments followed.

Karen Moore asked if there were different rape categories used in the data.

Robert Tanner stated some rapes reported are two years plus old, encouraged people to report when it happens, is glad the Police Department is at full staff, and encouraged Council to make it sooner than later to get a substation in south Tracy.

Alice English stated we need a substation now. Police need to be increase staff. County roads that are in city limits are not being reported on. Shared traffic issues where Police did not respond.

Sandy Taylor stated could have found more value if percentages weighted with population.

City Council comments and questions followed.

ACTION: Motion was made by Mayor Pro Tem Davis and seconded by Council Member Arriola to receive an informational report regarding the City of Tracy Police Department's Annual Report for Calendar Year 2022. Roll call found all in favor; passed and so ordered.

Due to the late hour, Mayor Young asked Council if they would hear the remaining items.

Karin Schnaider, Assistant City Manager confirmed Item 3.C can be moved to the next meeting.

Sara Cowell, Finance Director confirmed 3.C is not time sensitive that it has to be done today but it is important to the development of the budget.

Ms. Schnaider confirmed item 3.E is time sensitive.

ACTION: Motion was made by Mayor Pro Tem Davis and seconded by Council Member Arriola to move Item 3.D to the April 4, 2023, regular Council meeting. Roll call found all in favor; passed and so ordered.

ACTION: Motion was made by Council Member Bedolla and seconded Council Member Evans to continue item 3.C to the next available time. Roll call found Council Members Bedolla, Evans and Mayor Pro Tem Davis in favor; passed and so ordered. Council Member Arriola and Mayor Young opposed.

3.C Receive information and provide feedback regarding 1) the proposed FY 2024 Capital Budget, 2) the proposed five-year FY 2024-2028 Capital Improvement Plan (CIP), and 3) Measure V updates. – **Item moved to the next available time.**

There was no public comment.

3.D Receive information and provide feedback regarding the five-year forecast for the City's General Fund. – **Item moved to April 4, 2023, regular Council meeting.**

There was no public comment.

3.E Discuss and Approve, by motion, out-of-state travel for Mayor to Attend the Annual African American Mayors Association conference in Washington, D.C. from April 18-21, 2023.

Karin Schnaider, Assistant City Manager provided the staff report.

Mayor Young explained her request for travel.

Council questions followed.

Robert Tanner stated the Mayor went to a conference in January and wants to go now and in April, one in June and November and shared his concerns regarding travel costs and suggested staying home, do the job and save City money.

Karen Moore stated SJCOG has Measure K and we all pay into that and asked what we are submitting as our project. Ms. Moore shared concerns about missing Tracy representation on the SJCOG Citizen Advisory Group. Ms. Moore also shared she is a survivor of domestic violence and stated statistics have to be investigated, just because stats have gone up, means you have more calling.

Alice English stated she cannot see this trip being approved. Spending way too much money. Mayor just went in January and another one in June. Shared concerns about no representation on the Advisory Board, Council being over on the travel budget, and Council being elected to be mindful of our money.

Council comments continued.

ACTION: Motion was made by Council Member Arriola and seconded by Mayor Young to approve out-of-state travel for Mayor to attend the Annual African American Mayors Association conference in Washington, D.C. from April 18-21, 2023. Roll call found Council Member Arriola and Mayor Young in favor. Council Members Bedolla, Evans and Mayor Pro Tem Davis opposed. Motion failed.

Mayor Young stated staff will need to find out if we can get a refund for the membership since she will not be going. Mayor Young clarified there are two memberships that were purchased – U.S. Mayor’s and African American Mayors and this is the only trip this year.

4. ITEMS FROM THE AUDIENCE – Karen Moore shared her frustration with the previous item discussion regarding the budget and being out of money.

Council Members Bedolla and Evans disagreed with characterization.

Alice English spoke about failure to add buffer zones in a City Ordinance for cannabis stores, previous City Attorney being worn down, same thing they are trying to do to this Attorney, and there is something wrong that we are giving passes to certain development. Ms. English asked when the Topgolf application was submitted to the Planning Department.

Mayor Young objected to Ms. English’s comments.

5. STAFF ITEMS – Midori Lichtwardt, Acting City Manager provided the following updates.
 - o A special concurrent Council and Planning Commission meeting will be taking place here tomorrow at 5:00 p.m. prior to the regular 7:00 p.m. Planning Commission meeting.
 - o There is an open recruitment for both adult and youth positions on our Youth Advisory Commission, as well as an open position on our Parks and Community Services Commission. For more information and to apply, please visit CityofTracy.org.
 - o The opening reception for the new Grand Theatre gallery exhibit “The Grateful Chair” is this Saturday from 12-2:00 p.m., visit AtTheGrand.org for details.
6. COUNCIL ITEMS – Council Member Evans gave a huge vote of support for the City Attorney stating she has a background in legal development which suits her perfectly

because the city, in his opinion, has a horrendous background of making one sided developer agreements. Finally have a City Attorney that will put residents first.

Council Member Evans stated he wanted members of the public to know that this is their house. A member of the public came up here and criticized him, he disagreed with everything she said, however, supported her right to make those comments to this dais and encouraged members of the public to exercise their right to voice their opinion because if they don't folks can come and infringe on that so don't let them do it.

Council Member Arriola reported on the following meetings - City Chamber meeting and the City Schools and their upcoming events. Thanked staff, Tracy Police, Fire and Sheriff's Office for collaborative effort working with the City for safety plans for our schools and for Citywide evacuation plans. Council Member Arriola asked when the following two items will come back: Delayed cannabis concerns brought up at the last meeting and sustainable warehouse policies. Wished everyone a blessed Ramadan.

Midori Lichtwardt, Acting City Manager responded the cannabis item will be coming back to Council on April 18, and will have to get information to Council regarding sustainable warehouses.

Council Member Bedolla asked for support and a motion to amend his prior motion in regard to scheduling of the acceptance of the Irrevocable Offer of Dedication from Surland Communities for 16 acres of land. Prior motion asked for the proposed acceptance be scheduled for April 4, 2023 and requested that the proposed acceptance be moved to a meeting on or before June 20, 2023. Council Member Arriola seconded the request.

Council Member Bedolla stated he has a written report on Council appointed boards, commission, committees, events and updates that were provided to Council, staff and copies at the front for the public. The details include attendance at EBCE, Valley Link, different community events, Tracy Babe Ruth rescheduled opening day ceremony and mentioned for the Council meeting on April 4 he will work with Clerk's office on remote participation.

Mayor Pro Tem Davis thanked Tracy Little League for inviting her to throw the first pitch out ever for Tracy Little League softball. Asked when the environmental sustainability ordinance regarding warehouse expansion is coming back, would like it to come back in 30 to 45 days as we are expanding quickly and would like to have responsible policies in place about how we do that. Mayor Pro Tem Davis asked for support for the consultant who is helping with the Housing Element to present to us and the likelihood of whether we are going to finish the Housing Element by the deadline and what they foresee as hurdles and challenges to getting that done so we are not subject to the builders remedy and what progress has been made since 2022.

Ms. Lichtwardt responded the consultant will be at tomorrow's concurrent meeting and will be presenting on their work so far and will make sure they cover that time stamp.

Mayor Young provided updates on events she has attended and asked at the last Council meeting when a memo or email is coming back regarding the solar update.

Ms. Lichtwardt responded staff did report out that they would not be making the April deadline for that particular version of the 2.0 but continue to pursue an RFP for an overall energy efficiency project to come to the City.

Mayor Young stated it is important to know we are not aiming for that deadline so will miss out on millions of dollars going forward so we are looking at fiscal health of our community.

Bijal Patel, City Attorney stated there is going to be a legal memo later this week from the City Attorney's office to Council with input from the Director of Operations and Utilities as well who is overseeing the procurement process.

Mayor Young requested a breakdown or even in a memo form travel costs estimated per Council Member for the year for out of state travel. Wanted to make sure we are looking at travel in its entirety.

Mayor Young stated the City Attorney start date was April 2022, so it is time for an annual review which is in her contract. This was already discussed with the City Manager before he went on leave to utilize a contract for an entity to help do that and is asking for a follow up. A closed session needs to be scheduled.

Ms. Patel responded the City Attorney works on closed session items and she will look at the contract and has no problem with that, but the City Manager did not consult with her on that issue before he left.

Mayor Young spoke about scheduling presentations from partner organizations, so our Council and the community are all aware of current plans, special programs and opportunities, as although we have representatives on different boards there are aspects that they cannot bring. It is good information for our public to know what is going on with RTD, Caltrans, ACE. Mayor Young stated she has been asked by the Chair of Valley Link to give an update and it would be great to have an update from EBCE to see what benefits have come from that. Our policy clearly says that the City Manager can sponsor that and two Council Members can as well.

Ms. Lichtwardt responded she is looking for a second and some clarity on what you would like to see these agencies bringing forward.

Mayor Young responded they have different presentations and programs. When sitting at a COG or ACE meetings, RTD will give an update.

Mayor Young responded to Ms. Patel that she is asking for a presentation at the very beginning of the Council meeting.

Ms. Patel clarified the presentation section under current Council meeting protocols is intended for ceremonial items and not presentations from third party agencies. Currently under Council rules a Council Member is appointed to these third-party agencies and report back through the Council items section.

Mayor Young responded the policy she sent to Acting City Manager, Midori Lichtwardt talks specifically about third party agencies and can still be sponsored by the City Manager and wants the four boards she sits on to do presentations as she does not

have the bandwidth and their entity is better equipped to do that. Mayor Young clarified she is not asking for a standing item, just informational update.

Ms. Patel stated under the Brown Act informational items go on the regular agenda. The presentation section is for ceremonial items.

Mayor Young stated SJCOG came before Council with a presentation at the beginning of a meeting.

Ms. Patel responded this was before her and the current protocols are specific.

Mayor Young stated we need to reagentize Council Protocols as they are being interpreted differently and subjectively.

Ms. Patel responded based on the specific topics discussed at the Council retreat and workshop, the next step is to bring back a proposed amendment to the Code of Conduct and Meeting Protocols and is targeting April 18, but this is a new topic that was not discussed. If Council wishes an informational item can be brought back to talk about different items, but a second would be needed to bring back an info item because the last direction given was to bring back an action item of the proposed amendment of the Code of Conduct and Meeting Protocols.

Mayor Young referred to Council Meeting Protocols and Rules of Procedures Section 4.3.2 – Other public agencies – This is for the public agencies for presentations and proposals and asked what is the protocol she needs to follow.

Ms. Patel responded the language Mayor Young read is consistent with that which is when the third-party agency contacts the City to say they would like to do a presentation, staff does not actively ask them to come because we already have Council representatives on all of the different boards who report out under Council items.

Mayor Young announced there is a 5:00 p.m. joint workshop tomorrow with the Planning Commission and Council on the Housing Element and Building Remedy.

Council Member Bedolla wanted to add to his Council items report that he was sworn in on EBCE on January 18 and Valley Link in January, the executive staff of those joint power authorities are reaching out to staff to schedule an informational item. Regrettably omitted it on the first part of his Council items report for EBCE, but for Tri-Valley San Joaquin Valley Regional Rail Authority for Valley Link are scheduling an informational item to brief Council and public on Valley Link project phases including timelines and funding. Very much appreciate the call for transparency.

Mayor Young responded they are two that we should have updates and will ask the ones she serves on to contact our staff to be put on the schedule.

7. ADJOURNMENT – Time: 12:27 a.m. Wednesday, March 22, 2023.

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

The above agenda was posted at the Tracy City Hall on March 16, 2023. The above are action minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk

SPECIAL CONCURRENT MEETING MINUTES OF THE TRACY CITY COUNCIL AND
THE TRACY PLANNING COMMISSION

March 22, 2023, 5:00 p.m.

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

1. Mayor Pro Tem Davis called the meeting to order at 5:07 p.m.
2. No actions, by City Council pursuant to AB 2449.
3. Roll call found Council Members Arriola, Bedolla, Evans, and Mayor Pro Tem Davis present. Mayor Young was absent from roll call.

Roll call found Planning Commissioners Augustus, Atwal, and Chair Hudson present. Vice Chair Orcutt was absent.

Commissioner Boakye-Boateng arrived at 5:20 p.m. during Items of the Audience.

Mayor Young arrived at 5:38 p.m. during Discussion Items.

4. ITEMS FROM THE AUDIENCE – Melyssa Barrett representing NAACP Stockton Branch, expressed concerns regarding diversity, equity, and inclusion, especially during recent Council actions regarding proposals for diversity investments that came to a discussion and then not approved along with Mayor Young’s representation at the African American Mayor’s conference. Ms. Barrett asked about the challenges and urged Council to reconsider their focus in Tracy because she would like to ensure her children and grandkids have opportunities and the consistent patterns of lack of investment creates concern because it shows that Tracy is not welcoming to a diverse population.

Dotty Nygard echoed the sentiments of the previous speaker and is disappointed that the Mayor is not allowed to represent the City at this important conference and as the first African American Mayor and hopes a conversation takes place on how people treat each other in our workplaces, community spaces and interactions as a community. Ms. Nygard shared that she has started a GoFundMe page to send the Mayor to the conference in Washington D.C. to show that the community wants her there.

Gary Cooper echoed sentiment from previous speakers and shared that it is important that the City is represented at the event and that if we do not learn from our mistakes, we are doomed to repeat it. Council was investigated by a Grand Jury, and it seems that we are headed down that path. Mr. Cooper encouraged the Council and citizens to stand behind the Mayor so that she can represent the City at this event.

Ron Teague, President of the African American Chamber of Commerce Stockton, shared that diversity and inclusion should start at the top and this is an important event for not only the City but that it shows that we are standing behind the Mayor. Mr. Teague expressed his support for the Mayor and the City.

Pastor Young shared how his home was defaced with racist rhetoric and vandalism that he and his family endured after Mayor Young’s appointment to Council and prays that the wrongs can be corrected. He wants her to participate in the African American Mayors conference and if Council does not get it done, the community will.

Victor Silva shared that he had seen a photo of past Mayors where it showed unity and stated that the effectiveness of a City is the relationship between the Council and City Manager and if City Council is not backing up the Mayor as the City Manager is, the City is in a bad situation, there should not be a GoFundMe, it should be the City's responsibility, Mayor has attended conferences before where she secured money for Police mental health.

D'Adrea Davie, Vice President of the National Association of the Advancement of Colored People, Stockton Branch, echoed the sentiments of the previous speakers, shared that the African American Mayor's Conference would allow Mayor to meet with other Mayors, Federal and Congressional leaders and where they can discuss the challenges that they collectively share, and it is an opportunity where they can create safer more inclusive communities. The City of Tracy is growing more diverse, and the Council has not shown the openness to that growth by declining the opportunity to have those that are specialized in diversity, equity, and inclusion to come in and teach the Council on how to be more inclusive.

Robin Cole asked how diversity, equity and inclusion and supporting the Mayor in general, specifically for the African American Mayor's Conference, and asked why this Council consistently votes against things that are good for the City of Tracy. Ideas, initiatives, and opportunities from Tracy on becoming a better City and encouraged Council to rethink their vote for the good of the community.

5. DISCUSSION ITEMS:

5.A The City Council and Planning Commission, concurrently, receive an informational presentation regarding the City's General Plan Housing Element Update, the "Builder's Remedy" as provided for in the State Housing Accountability Act, and on-going City initiatives to help encourage housing production.

Alan Bell, Senior Planner and Consultants Veronica Tam from Veronica Tam and Associates and Dan Baker from Dan Baker International, Inc., provided the staff report.

Council and Planning Commission comments followed.

D'Adrea Davie shared that the City needs to have a conversation around creating affordable housing and affordability options for renters and potential homeowners, housing affordability is not on the radar for the City. Accessory Dwelling Units (ADU) and inclusionary housing for moderate to low-income households is beneficial but not the only option and that the City getting community input this late in the process raises concerns because the community should have been involved from the beginning and shared information on legislature regarding fair housing.

Mary Mitracos shared that the presentation was informative and as a property manager sees the need and finds this to be an extremely pressing issue, asked if the additional housing units across these income levels if that would solve all the housing needs in Tracy or help. Ms. Mitracos asked if there was a way that unpermitted dwellings would someday be able to count or become permitted at one point and the City should have had inclusionary zoning practices in place long ago and thanked Council, Planning Commission and staff for all the work.

Alice English expressed her concerns regarding the fact that Cycle 5 made it to the Planning Commission in 2021 and not to Council and recommended that it be a public hearing and not a consent item. Concern has always been public safety and transportation and everything that is happening in South Tracy. The City needs to be proactive, this conversation should have taken place last year including infrastructure especially Valpico and the developers need to be held accountable for the conditions of the roads and suggested that a public hearing be held on a Saturday.

Cynthia Camacho wanted to clarify that when building median to low-income housing, not to make the homes look like they are low-income, would like program to be fair and meets the needs of those that truly need it. Ms. Camacho also expressed concern about changes to her street and that it was presented as four (4) large homes with a 22-foot-wide road and no street parking in that area and now it has turned into four (4) lots and the neighbors are unsure what is happening and what the area is zoned for.

Council Member Evans left at 8:03 p.m.

Council and Planning Commission questions and comments continued.

Action: Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Davis to receive the informational presentation regarding the City's General Plan Housing Element Update, the "Builder's Remedy" as provided for in the State Housing Accountability Act, and on-going City initiatives to help encourage housing production. Roll call found Council Members Arriola, Bedolla, Mayor Pro Tem Davis, Mayor Young, Planning Commissioners Augustus, Atwal, Boakye-Boateng and Chair Hudson all in favor; passed and so ordered. Council Member Evans and Planning Commission Vice Chair Orcutt were absent.

6. COUNCIL ITEMS AND COMMENTS – No Council or Commission comments.

7. ADJOURNMENT – Time: 8:23 p.m.

ACTION: Motion was made by Mayor Pro Tem Davis and seconded by Council Member Arriola to adjourn. Roll call found Council Members Arriola, Bedolla, Mayor Pro Tem Davis, Mayor Young, Planning Commissioners Augustus, Atwal, Boakye-Boateng and Chair Hudson all in favor; passed and so ordered. Council Member Evans and Planning Commission Vice Chair Orcutt were absent.

The above agenda was posted at the Tracy City Hall on March 17, 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 City Council adopt a resolution to 1) authorize the acceptance of a grant award from San Joaquin County in the amount of \$99,000 to fund City tourism attraction efforts, and 2) appropriate \$99,000 in grant funds to the Mobility and Housing department for uses consistent with grant requirements.

EXECUTIVE SUMMARY

This item provides Council with an opportunity to receive a grant award in the amount of \$99,000 from San Joaquin County for City tourism attraction efforts. This grant is funded by the County and is designed to enhance tourism recovery and economic development efforts with the focus on the local retail, restaurant, and hospitality industries. The grant activities will be in partnership with Tracy Chamber of Commerce and Tracy City Center Association (TCCA), in which the City of Tracy will serve as the direct recipient of funding and the Tracy Chamber of Commerce and TCCA as subrecipients of the City, with each entity receiving an equitable allocation of \$33,000 of the total grant amount of \$99,000.

BACKGROUND AND LEGISLATIVE HISTORY

Project Background

Tourism is an important contributor to economic growth, local business support, and job creation as it injects outside spending into the local economy. Attraction of visitors depends on the ability to create a unique and themed experience, find a tourism market niche, and tell a unique story in a compelling way. As the second largest city in the County, Tracy offers a vibrant downtown, recreational opportunities, hotels, and eateries from casual to elegant, which are all in the process of rebounding from the COVID-19 pandemic. As the City's retail, restaurant, and hospitality sectors continue to reinvent themselves to service today's customers, this grant award will support these sectors by funding special events and marketing campaigns to draw tourists to the region.

San Joaquin County awarded Tracy a tourism grant in the amount of \$66,500 for FY21-22 in the first round of a pandemic recovery effort. With the assistance of the City's marketing consultant and in partnership with Tracy Chamber of Commerce and TCCA, this grant funded the implementation of a tourism campaign that included graphic design of flyers, social media advertisements via Facebook and Google, ad placement in magazines, BART poster placements and a tourism video production.

On December 19, 2022, San Joaquin County released a Notice of Funding Opportunity and Request for Proposals for the 2023 Tourism Promotion. The City of Tracy Economic Development Division responded with a proposal on January 26, 2023, and on February 17, 2023, the County notified the City of Tracy that the proposal was selected for grant funding in the amount of \$99,000.

This proposal is scoped to highlight unique attractions and events to appeal to prospective Tracy visitors from outside the immediate area, including: historic downtown Tracy, Grand Theatre Center of Arts, dining opportunities, golf courses, the emerging craft beer, wine and spirit scene, recreational amenities, the Tracy airports, and hotels. To accomplish this

scope of work, the City of Tracy will collaborate with the Tracy Chamber of Commerce and TCCA to roll out a robust advertising program with the goal of stimulating local and countywide economic growth. Approval of this item will accept this Tourism grant of \$99,000.

ANALYSIS AND DISCUSSION

The City of Tracy will serve as the direct recipient of grant funding in the amount of \$99,000 and will work in partnership with the Tracy Chamber of Commerce and TCCA, with each of the three entities receiving an equitable amount of \$33,000. The City of Tracy was the lead on the San Joaquin County Tourism Grant 2021-2022 which achieved a high profile for increasing the marketing reach of the tourism partners. The general tourism campaign funded in part by the prior grant, generated more than 19,000 social media clicks and 1.3 million impressions in Spring 2022. The City's visitor services webpage traffic nearly quadrupled between 2021 (pre-campaign) and 2022 (during campaign) – 1,996 unique page views in 2022 compared to 536 in 2021. This additional grant will fund continued focused tourism efforts to attract outside spending to our local economy which in turn contributes to economic growth, local business support, and job creation.

FISCAL IMPACT

The \$99,000 in grant funds from San Joaquin County will be appropriated to the FY2022/23 Mobility and Housing department, Economic Development Division's operating budget for tourism attraction efforts. The City of Tracy is the direct recipient of funding and will work in partnership with Tracy Chamber of Commerce and TCCA, in which each entity is allocated an equitable amount of \$33,000.

CEQA DETERMINATION

A CEQA determination is not required of this item.

STRATEGIC PLAN

This agenda item supports City Council's Economic Development Strategic Priority 1.2; to coordinate with the Tracy Chamber of Commerce and Tracy City Center Association to develop and implement a "Shop Tracy" marketing and outreach campaign.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that City Council, by resolution, authorize 1) the acceptance of a grant award from San Joaquin County in the amount of \$99,000 to fund City tourism attraction efforts, and 2) appropriate \$99,000 in grant funds to the Mobility and Housing department for uses consistent with grant requirements.

Prepared by: Joseph Viorge-Koide, Economic Development Administrative Technician

Reviewed by: Amalia Cunningham, Interim Economic Development Manager
Sara Cowell, Finance Director
Nancy Ashjian, Assistant City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, Acting City Manager

ATTACHMENTS

Attachment A – City of Tracy Proposal dated January 26, 2023



City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
CITY MANAGER'S OFFICE

MAIN 209.831.6000
FAX 209.830.6120
www.cityoftracy.org

January 26, 2023

Adam Brucker
Senior Deputy County Administrator
44 N. San Joaquin Street, Suite 640
Stockton, CA 95202

Subject: San Joaquin County Tourism Promotion Proposal

Dear Mr. Brucker:

The City of Tracy, in partnership with Tracy City Center Association (TCCA) and the Tracy Chamber of Commerce (Chamber), is delighted to submit this proposal for \$99,000 in grant funding in response to San Joaquin County's 2023-24 solicitation for tourism promotion.

As the second largest city in the county, Tracy offers a vibrant downtown, recreational opportunities, hotels, and eateries from casual to elegant, which are all in the process of rebounding from the COVID-19 pandemic. As our retail, restaurant, and hospitality sectors continue to reinvent themselves to serve today's customers, we hope to support them by funding special events and marketing campaigns to draw tourists to spend money in San Joaquin County for the benefit of all residents. Our partnership would leverage the award of tourism funds from the County to amplify the marketing and boost the special events to draw even more visitors.

With appreciation for the award from the County's Tourism Recovery campaign in 2021-22, the current proposal builds on that effort and refocuses on bringing more visitors to special events that are unique to Tracy and the County region, with potential to capture new visitors without cannibalizing existing events. The proposal reflects the partnership between the following organizations, all of which have extensive experience promoting their respective segments in the city and the region as a whole:

- City of Tracy (interdepartmental team led by the City Manager's Office, also tapping Tripepi Smith, City's communications and marketing consultant)
- Tracy Chamber of Commerce
- Tracy City Center Association (TCCA)

As a unified team, we envision further development and coordinated implementation of a robust marketing campaign promoting the City as a major destination within San Joaquin County, using strategies and promotions of activities, events, amenities, and destinations unique to Tracy/the region. A list of these amenities will include, but are not limited to Downtown Tracy, The Grand Theatre Center for the Arts, including their Centennial Celebration and the many other food and beverage options throughout the city, highlighting the emerging craft beer/wine/spirits scene, golf courses and other

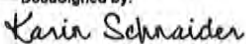
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recreational amenities, the airport, hotels new and old, and the recently completed Legacy Fields. Additionally, the team will promote a number of events, including Tracy Restaurant Week, Taps on 10th craft brew event, Holiday Ornament Stroll, Annual Downtown Wine Stroll, the 4th of July Fireworks Show and Downtown Parade, the Summer Block Party series, and Girls Night Out. These events and amenities will be strategically promoted via web-based marketing, social media, radio, television, and print advertisements to segmented audiences to increase tourism and visitor spending.

The Tracy team has a demonstrated depth of expertise in promotion and visitor attraction services and development of marketing materials. We are hopeful that the County's funding of the campaign will sustain momentum for a long-term tourism campaign that will draw new visitors to the County for decades to come. Please find a copy of our team's proposal for your review. Do not hesitate to contact Interim Economic Development Manager Amalia Cunningham at 209-831-6419 or me at 209-831-6124 with any questions about our proposal.

Sincerely,

DocuSigned by:

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Karin Schnaider

Assistant City Manager

January 26, 2023

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City of Tracy 2023 Tourism Promotion Grant Proposal

A. Cover Letter *preceding*

B. Proposed Scope of Work, Cost, and Schedule

The scope of work described below will focus on highlighting unique attractions and events to appeal to prospective Tracy visitors from outside the immediate area. Many of these are unique to Tracy and may not be offered elsewhere in the County. They include:

- **Historic downtown Tracy:** Developed as a railroad station at the end of the 19th century, the City's downtown is still a gathering place and a focal point for visitors and residents alike. With public investment of more than \$70 million in infrastructure improvements and programs for downtown over the last 20 years, projects like the renovated Grand Theatre Center of the Arts, sidewalk and roadway improvements, sewer upgrades, façade improvements, public art projects, festival lighting, and cultural and community events continue to attract visitors year-round. Despite COVID-19, the following new businesses opened in Downtown within the last year: Peaches & Cream Day Spa, The Station, The Market on Sixth, Central Coffee Co., Lavender Formals, Bahay Kubo, Monarch Collective, Tracy Awards Creative Studio, and Noemi and Bell; up and coming this year - Giuliana Ristorante Italiano. Downtown Tracy also hosts a number of community events including a weekly Farmers' Market, Taps on Tenth Craft Beer Crawl, the 4th of July Parade, annual Downtown Tracy Wine Stroll, Street Dreams Car Show, Holiday Ornament Stroll, the Summer Block Party series, and Girls Night Out events.
- **Grand Theatre Center of the Arts:** The Grand, located in the heart of downtown Tracy, is a historic cultural resource that is the only one of its kind in the state to offer interdisciplinary arts programming through arts education, exhibitions, performances and rentals of all kinds. The 37,000-square foot facility will celebrate its 100th anniversary this year, and hosts over 50,000 patrons in a normal year. The Center is owned and operated by the City of Tracy and managed by the Cultural Arts Division in the City Manager's Office. The Grand Foundation is a non-profit fundraising partner providing annual underwriting for programming and technical support, as well as contributing to an endowment fund to provide long-term financial stability. The Grand is part of an exclusive network of arts and cultural facilities in America.
- **Dining:** Tracy visitors have their pick of a wide spectrum of casual to upscale options, from America's favorite chains to a plethora of ethnic cuisine. Options range from the award-winning Morgan Territory brewery, to Hella Pie Pizza, named as one of the rising stars in the pizza industry in the June 2021 edition of "Pizza Today", to white tablecloth restaurants like Magellan's on 6th Street across the street from Front Street Plaza, known for its summer concert series.
- **Golf:** The City has two golf courses that include Tracy Golf and Country Club and Old River Golf Course and Range, each offering 18 holes. Tracy Golf and Country Club was reconstructed in 2014 and includes a newly revamped driving range and two practice areas and putting greens. It has a full-service restaurant, an array of golf equipment, supplies, and merchandise, and provides services including lessons, equipment repair, and community golf programs. It also has a complete club house facility with sweeping views of the valley from the Diablo Mountains to

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the Sierras and is open for special events, tournaments, fundraisers and weddings. Old River Golf Course offers play for golfers at all skill levels. Well-groomed fairways and greens keep Old River Golf Course challenging and friendly. Both courses draw locals as well as “golf tourists” who are in the know!

- **Emerging craft beer, wine, and spirit scene:** With Windmill Ridge and Ramon Rios wineries in South Tracy, Morgan Territory brewery, Purgatory Whiskey Bar, and restaurants and tap houses with wide selections of local favorites, there is something for everyone, as evidenced by Taps on 10th and Wine Stroll attendees coming from as far away as San Francisco.
- **Recreational amenities:** Tracy’s 78 parks, sports complex, community pool, library services, bikeways and other recreational facilities are a tremendous asset for visitors. A wide variety of community sports programs includes softball, baseball and soccer leagues; art and dance classes, fitness and martial arts, a variety of senior programming and other special events and programs. A crown jewel amenity in Tracy is the Legacy Fields Sports Complex. At full build-out, this \$50 million project will consist of 166-acres of active recreation areas. The first phase consists of 72 acres, and includes 10 lighted baseball fields and 8 lighted soccer fields. The City of Tracy has invested \$33 million to date and another \$17 million recently allocated to the facility. Legacy Fields will eventually serve as the largest multi-sport facility in the region and will aid in responding to the growing demand for sports for generations. Legacy Fields needs marketing support to grow into its potential as a visitor attraction engine, drawing in people from up and down the West Coast to compete in baseball, soccer, and softball tournaments. In fact, we anticipate hosting as many as three tournaments per month all year round just with Phase 1. More than 350,000 visits to Legacy Fields are forecasted annually at full buildout.
- **Tracy airport:** The Tracy Municipal Airport has 166 acres of aircraft parking, taxiways, and runway space. An additional 144 acres remain to be developed for future capacity. There are two active runways at the airport. Runway (8/26) is aligned east/west and is 3,438 feet long and 75 feet wide. Runway (12/30) is aligned northwest/southeast and is 4,001 feet long by 75 feet wide. Other airport services include hangar rentals, tie-downs, flight training, aircraft maintenance, aircraft sales and shipping, as well as aviation and jet fuel sales. The airport has recently completed resurfacing of both runways, taxiway areas, and the general aviation ramp area. Currently, the airport is undergoing an Airport Layout Master Plan update. Nearby lodging, restaurants, shopping and wineries make the Tracy Municipal Airport convenient for both business and out of town travelers.
- **Hotels:** Tracy’s hotel market is booming! Tracy has many hospitality lodging options for all travel segments, ranging from historic Tracy Inn downtown, to modern, new brands like Home2Suites and a Marriott Courtyard currently under construction. There are an additional six hotels currently in the planning pipeline. There is plenty of “room at the inn” in Tracy!

B.1. Scope of Work

The following tasks describe the City of Tracy’s plan to target three distinct tourism segments identified below:

1. In-state overnight leisure tourists
2. Out-of-state overnight leisure tourists
3. Conference attendees/ business travelers

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While we also anticipate to be drawing a fourth tourism segment – families with youth competing at Legacy Fields sporting events – for the purposes of this campaign we will merge that sector with the two leisure tourism categories since families coming to town for a tournament can be targeted by the same campaign to extend their stay by hours or days to spend more time and money in Tracy.

Learning from the work of the past two years coming out of the pandemic, we identified the following streamlined tasks for the grant-funded work program:

Task 1 - Marketing materials refresh. City staff will work closely with renowned marketing and communications firm Tripepi Smith to freshen up the industry leading marketing materials for each tourism segment to be used for web-based marketing, social media, radio, television, and print advertisements. The materials will use the templates created by the prior grant funding (examples are included in Appendix A) but refine them for 2023-24 where appropriate. This will continue to build Tracy's tourism brand recognition, and leverage the prior investments from all sources.

Task 2 – Advertising buys. The biggest share of the tourism grant as proposed will be allocated to advertising placements to extend the reach of the Tracy tourism partners outside the city. The team will blend digital advertising capabilities and specific targeting in deployment of a range of strategies for web-based, social media, radio, television, and print. Placements may include but not be limited to sub-regional media (such as Diablo magazine), local newspapers (such as the East Bay Times), Bay Area or Sacramento radio stations, and transit agency posters. Because the costs for the various placements are dynamic, the placements will be negotiated and bought in bulk as much as possible to realize efficiencies. The City will track the data for performance of the marketing and adjust in real time where feasible.

B.2. Detailed Cost Proposal

The scope of work described above envisions economies of scale associated with the City of Tracy's technical expertise, the partners' track record of successful events that draw people to Tracy - even with the interruption of COVID shutdowns, and the three entities' work under the prior tourism grant award from the County. The City plans to provide grant administrative services at no cost to the County, Chamber, or TCCA, and as with the prior round of grant funding, will be the master contractor with the Chamber and TCCA as sub-grantees.

The total grant request is for \$99,000, with the majority of the cost, at least \$60,000, allocated to ad placements (Task 2) to out-of-area visitors, with the remainder allocated to developing the ads to be placed. We understand that agencies selected for awards may be asked to prepare a detailed work plan and would be happy to do so if necessary.

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Table 1. Tracy Tourism Campaign Budget Summary

	City of Tracy	Tracy City Center Association (TCCA) (sub-grantee)	Tracy Chamber of Commerce (sub-grantee)	Subtotal
Task 1 (Marketing Materials)	\$33,000	\$1,020	\$1,020	\$35,040
Task 2 (Advertising Buys)	\$0*	\$30,000	\$30,000	\$60,000
Administrative Support (6%)	\$0	\$1,980	\$1,980	\$3,960
Subtotal	\$33,000	\$33,000	\$33,000	Total request: \$99,000

* The City would like the flexibility within the grant award to move its direct funds from Task 1 into Task 2 if it determines that not all will be spent within Task 1 by the end of the grant term, and to move Task 2 funds allocated to any of the entities, to another if it recognizes greater economies in the ad buys.

B.3. Schedule

The scope of work described above would be implemented during the 2023 calendar year, in accordance with the County's solicitation. The emphasis on tourism segments varies seasonally, with more focus on leisure tourism during summer and winter holidays, and on business travel during the fall and spring.

C. General Approach, Organization, and Staffing

Tourism is an important contributor to economic growth, local business support, and job creation as it injects outside spending into the local economy. Attraction of visitors depends on the ability to create a unique and themed experience, find a tourism market niche, and tell a unique story in a compelling way. Tracy's attraction of the three identified tourism segments would not only benefit the City, but would also enable tourists to stay in the San Joaquin County region longer, spend more, and cross-pollinate by visiting various communities in the region.

To accomplish the scope of work identified in this proposal, the City of Tracy (interdisciplinary team led by the City Manager's Office) has teamed up with Tracy Chamber of Commerce and Tracy City Center Association, to roll out a robust program to improve tourism attraction to the City of Tracy and San Joaquin County, with the goal of stimulating local and countywide economic growth. City staff will be the administrative lead for the tourism grant funds, if awarded, with TCCA, the Chamber, and marketing consultant Tripepi Smith acting as subcontractors for the purposes of the grant. The City is not proposing any administrative fee for its role. The following section describes each organization and identifies key staff to be involved in the campaign.

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City of Tracy

Tracy is centered in a triangle formed by major interstates I-205 to the North, I-580 to the west and I-5 to the east. The second largest city in San Joaquin County, Tracy is a clean and safe community where opportunity, growth, and success prosper. With a population of nearly 100,000 and 42,000+ jobs, the City has developed a balanced mix of residential and commercial uses and is known for a high quality of life. The tourism grant implementation lead is Assistant City Manager Karin Schnaider. Brian MacDonald, Parks and Recreation Director, manages city recreation facilities and opportunities, including Legacy Fields.



Chamber of Commerce

The Tracy Chamber of Commerce was established in 1923. The Chamber's mission is "Creating a Community Where Business Thrives" to create a strong local economy through business attraction, retention, promotion, and advocacy, as well as serving as a liaison to the business community while actively promoting the local quality of life. The Chamber partners with The City of Tracy, Small Business Administration, SJC Worknet and successful business leaders to provide ongoing business support and education through workshops and leadership training to improve business practice, knowledge, resources to entrepreneurs and start-up businesses. The Tracy Chamber of Commerce promotes the talents and resources of its business members through business referrals and promotion in Chamber communications such as a weekly e-newsletter, website, social media platforms, and special marketing campaigns for community events. The chamber's annual events include Restaurant Week, 4th of July Day in the Park and fireworks show, golf tournament, Concert on the Green, the Mariachi Concert, the Community Awards Gala, the RED (Real Estate and Development) Tour, and the State of The City. The Chamber also provides a wealth of community information, including a city map, city fact book, community calendar, relocation packets, etc. Through networking and community events, the Chamber provides a desirable environment for individuals and businesses to connect. Maria Valenzuela, Chamber CEO, oversees and executes the Chamber's mission and activities.



Tracy City Center Association

Led by Kristin Kardous, Executive Director, and its Board of Directors, Tracy City Center Association (TCCA) started operating in July 2010 as a non-profit organization created to help drive and navigate the revitalization of Downtown Tracy. It is the entity that administers the downtown property-based improvement district (PBID) that is beginning its twelfth year of service. TCCA is a 501(c)(3) public benefit non-profit corporation and the driving force behind the continued revitalization of the downtown area. It is an organization that advocates on behalf of its district stakeholders (property owners, merchants, local government) and the Tracy community at large, through its focus and support of targeted economic development, tourism, business retention and attraction, events, activities, public safety, and beautification. TCCA is committed and cognizant of its role to foster a vibrant, thriving downtown that preserves and emphasizes Tracy's unique local history. TCCA visualizes our downtown as an amenity for the community and a driver for targeted tourism in our region.



Think Inside the Triangle™ 

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Tripepi Smith

Tripepi Smith is a public affairs firm with 46 communications experts. It excels in a complex environment where successful communications go hand-in-hand with marketing and technical expertise. As a full-service marketing and creative services firm, Tripepi Smith delivers content and design tailored for local government, public agencies, nonprofits and private companies.

Tripepi Smith began working with the City of Tracy in 2017 to assist the Economic Development Department to create and implement a marketing plan to drive engagement, awareness, and increase business attraction and retention with the City.



Tripepi Smith has since successfully developed various messaging, graphic design, digital advertisements, ad placement and analytics, website updates, and promotional videos. Recent digital advertising campaigns include Google remarketing; prompted ads across social media platforms; graphic design for multiple projects such as digital and print ads, citywide street banners, ACE Train poster ads, and style guide/branding refresh; monthly dashboard metrics on all ad campaigns and social media platform engagement; and strategy sessions for continued campaign success. Key staff include Ryder Smith, President & Co-Founder and Melanie James, Senior Business Analyst & Graphic Artist.

D. Outline of Proposed Outcomes

In general, the metrics used in tourism economics are sales tax from hospitality businesses (restaurants, lodging, and recreation), transient occupancy tax (TOT) on hotels, and jobs, with the understanding that jobs in the hospitality industry can vary widely in terms of pay and seasonality. Due to the tight schedule of this grant opportunity, it is important to recognize that these markers will not be available to track progress during the course of the grant term if it ends in December 2023. Sales tax data typically lags by two quarters, TOT by one quarter, and jobs by two months (for State data) or one fiscal year (for local business license data). City staff already track all these metrics and can develop a baseline for the start of the grant period with final metrics available in 2024. As of November 2022, the EDD reports San Joaquin County's total number of hospitality sector jobs was 22,700 - while certainly a big improvement from 2020's numbers, it was actually slightly down from November 2021, highlighting the need for this tourism grant program investment.

The authentically measurable outcomes that will be reportable during the term of the grant are impact and reach of the advertisements. For social media ads, number of impressions and clicks; for web pages, unique pageviews; for print media, circulation; for radio, listeners; for transit operators, riders; and so on. Getting Tracy's name, and by extension, San Joaquin County's name to have a higher profile outside the immediate area, is measured by the reach statistics. Much of the advertising will result in visits to the City's tourism webpage, on which hits are tracked. (See Section E for more of how successful this was in the prior round of funding.)

E. Marketing Campaign Experience and Prior Results

City of Tracy

The City of Tracy continually engages in strategic communication and outreach activities with support from its internal Public Information and Community Engagement Division and marketing consultant. For

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more than five years, the Economic Development and Communication teams have partnered to launch several targeted business attraction campaigns that span across digital and traditional platforms. The experience garnered from these campaigns, as well as their successful outcomes, has positioned the City of Tracy and its partners for an effective tourism campaign. The City of Tracy was also the lead on a San Joaquin County tourism grant in 2022-23 that achieved a high profile for increasing the marketing reach of the tourism partners. The general tourism campaign funded in part by the prior round grant, generated more than 19,000 social media clicks and 1.3 million impressions in spring 2022. Impressively, the City's visitor services webpage traffic almost quadrupled between 2021 (pre-campaign) and 2022 (during campaign) - 1,996 unique pageviews in 2022 compared to 536 in 2021. Tourism advertising is paying off, and this grant will keep up the momentum.

Examples of the City's past marketing campaign materials, not limited to the tourist audience, showing the range of experience on the team, include:

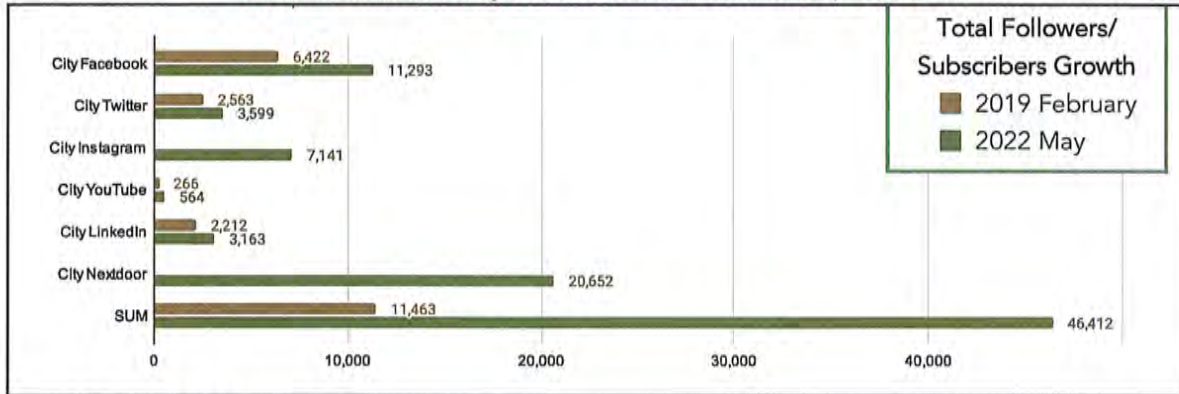
- Transit operator posters (see **Appendix A**)
- Digital Advertisements (see **Appendix A**)
- Event flyers
- Support Tracy window decals
- [New Economic Development website](#)
- [Holiday shopping promo video](#)
- [Magazine advertisements](#)
- [Newsletters](#)

Each season, the City on behalf of The Grand embarks on a marketing campaign to promote the upcoming presenting season and live performances, rental opportunities, and arts education programming. Print, social media, Internet, radio and television advertising are part of the overall marketing campaign at The Grand. The Spring 2022 social media campaign, funded in part by the prior round tourism grant, resulted in 19,000 clicks over the season, and almost one million impressions.

For the past several years, The Grand has hosted Downtown Tracy Arts Week, which brings local artists, downtown businesses, and the community together. A variety of art forms are showcased for guests, such as music, painting, and sculpture, to name a few. This unique event draws local and regional visitors to Downtown Tracy. This year, there's more than ever to celebrate and promote at The Grand, with its 100th anniversary as a theatre. Originally opened in 1923 for vaudeville and converted to show "talkies" in the late 1920s, The Grand has long been a centerpiece for the region.

The City's overall long-term marketing efforts have resulted in a documented increase in followers and subscribers in the past three years.

Table 2. Growth in City's Online Social Media Reach, 2019-2022



Tracy Chamber of Commerce

The Tracy Chamber of Commerce continuously promotes its members, programs and community events through event flyers, newspaper ads, all social media platforms, digital ads, weekly newsletters, radio, promotional videos, annual magazine publishing, digital advertisements and banners, and posters in the community.

Tracy City Center Association

TCCA actively promotes and markets the following events in downtown: Downtown Tracy Farmers' Market, Taps on Tenth (Craft Beer Tasting), Golf Tournament, 4th of July Parade, Social at Sunset, Downtown Tracy Wine Stroll, Street Dreams Car Show, Candy Crawl (Halloween Trick-or-Treat), Holiday Ornament Stroll, Holiday Parade & Tree Lighting Ceremony, and Hop & Shop (Easter Event). The successful social media visitor campaign assisted through the prior tourism funding round resulted in more than 6,000 clicks on downtown events, as shown by the table below.

Table 3. TCCA Social Media Campaign Results, Spring 2022

Total	Start Date	End Date	Reach	Impressions	Clicks	CTR	CPC	Spent	Total Budget
All TCCA Ads	6/6/22	6/10/22	197,104	272,297	7,085	2.84%	\$0.31	\$1,992.20	\$2,000.00
Facebook									
Event Ad	Start Date	End Date	Reach	Impressions	Clicks	CTR	CPC	Spent	Total Budget
Block Party - June	6/6/22	6/10/22	68,352	82,637	2,190	2.65%	\$0.23	\$498.08	\$500.00
Facebook									
Event Ad	Start Date	End Date	Reach	Impressions	Clicks	CTR	CPC	Spent	Total Budget
Golf Tournament	5/9/22	5/23/22	37,543	50,887	1,336	2.63%	\$0.37	\$496.03	\$500.00
Facebook									
Event Ad	Start Date	End Date	Reach	Impressions	Clicks	CTR	CPC	Spent	Total Budget
Block Party - May	5/2/22	5/6/22	63,329	89,296	1,194	1.34%	\$0.42	\$498.36	\$500.00
Facebook									
Event Ad	Start Date	End Date	Reach	Impressions	Clicks	CTR	CPC	Spent	Total Budget
Taps on Tenth	3/18/22	4/2/22	27,880	49,477	2,345	4.74%	\$0.21	\$499.73	\$500.00

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F. Project Leads' Qualifications

City of Tracy Staff

Karin Schnaider, Assistant City Manager. Ms. Schnaider, previously Tracy's Finance Director since 2017, is Assistant City Manager for the City of Tracy and her portfolio includes Economic Development. She has over 20 years of governmental accounting experience. Her policy and leadership experience in Tracy also includes participation in the development of the cannabis policy and ordinance, oversight of the City's State and Federal lobbying activities, and completion of the City's Local Hazard Mitigation Plan. Ms. Schnaider holds a Bachelor of Science degree in Accountancy from San Diego State University, and a Master's in Public Policy Administration from CSU Long Beach.

Brian MacDonald, Parks and Recreation Director. Mr. MacDonald began his career in local government in 2004 when he was hired as an Eligibility Worker for the County of San Joaquin. He brings with him an extensive background in budget administration, community outreach, facilities management, public policy, project management and parks programming. Mr. MacDonald was responsible for managing the Legacy Fields Sports Complex project, in which he developed partnerships with local youth sports groups and oversaw the construction of Phase 1B. He has also collaborated with non-profits, community based organizations and other agencies to deliver activities and programs to the City. In his most recent experience, he oversaw the financing and administrative operations of the City's Landscape Maintenance District. Mr. MacDonald holds a Bachelor's Degree in Sociology from the University of California, Santa Barbara and a Master's Degree in Public Administration from Stanislaus State University.

Tracy Chamber of Commerce Staff

Maria Valenzuela, President / Chief Executive Officer. Ms. Valenzuela has over 20 years of experience within the Chamber. Her professional experience includes operations management, strategic planning, special events, budget and finance, and membership attraction and retention. Ms. Valenzuela is committed to expanding the partnership and collaboration with the Tracy Business Community, the City of Tracy, and the Tracy City Center Association. She strongly believes in and supports the Chamber's mission of "Creating a Community Where Business Thrives."

Tracy City Center Association Staff

Kristin Kardous, Executive Director. Ms. Kardous is in her first year as TCCA's Executive Director with seven years of prior experience as District Coordinator and District Manager. She works closely with the City of Tracy on various downtown marketing and promotion initiatives and has extensive experience in event promotions and marketing. Her organization's short and long-term goals include:

- Continuing the focus on Downtown Tracy as an integrated tourism draw for the region.
- Integrating higher density workforce housing in our downtown core, including the potential for development of the "bow-tie" area at Sixth Street and Central Avenue.
- Continuing to campaign for a Valley Link Rail stop in Downtown Tracy.
- Targeting downtown infill opportunities as "smart growth" options for our community.
- Maximizing permanent options for outdoor dining in either street, sidewalk, or parklet formats.
- Improving the visual aesthetics and boundary definition of downtown with items such as new monument signage.

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- Creating adaptive reuse opportunities for existing/historic buildings.
- Promoting cultural and art-based activities via the Grand Theatre Center for the Arts.
- Returning to our (and City of Tracy sponsored) regular events calendar including Farmers' Market, Wine Stroll, Taps on Tenth, 4th of July Parade, Social at Sunset event, Golf Tournament, Candy Crawl, Holiday Parade, and Tree Lighting Ceremony.
- Expanding and extending our Downtown Tracy Farmers' Market to its new Central Avenue location year-round.
- Encouraging existing business retention and new business expansion.

Tripepi Smith Staff

Ryder Smith, President & Co-Founder. Ryder has over 20 years of experience in government relations, technology and marketing. As president, he leads Tripepi Smith and is the ultimate project owner of its clients, which span over 90 public, private, and non-profit agencies. Ryder is also the creator of the City Internet Strategies Study, publisher of the Civic Business Journal and a frequent speaker on the local government circuit. Additionally, his insights have been published by industry-leading publications, such as Western City Magazine and Public Management Magazine, and local government professional organizations, such as the California City Management Foundation and Municipal Management Association of Northern California, have recognized and awarded his support as a longtime partner.

Melanie James, Senior Business Analyst & Graphic Artist. Melanie James is a talented graphic artist, expert on the WordPress platform and a skilled project manager. She has managed and delivered dozens of successful website development and tourism oriented projects and has a full suite of creativity skills rooted in her formal graphic arts education. Her skills cover the full Adobe Creative Suite and into HTML and CSS. In addition, she has managed an array of projects ranging from robust digital advertising campaigns to comprehensive video production projects. Her clients include City of Tracy, City of Daly City, City of Bellflower, City of Huntington Beach, City of Fullerton, Santa Clara County Fire Department, Rowland Water District, Placer Mosquito Vector Control District, Palmdale Water District, and Inland Empire Utilities Agency.

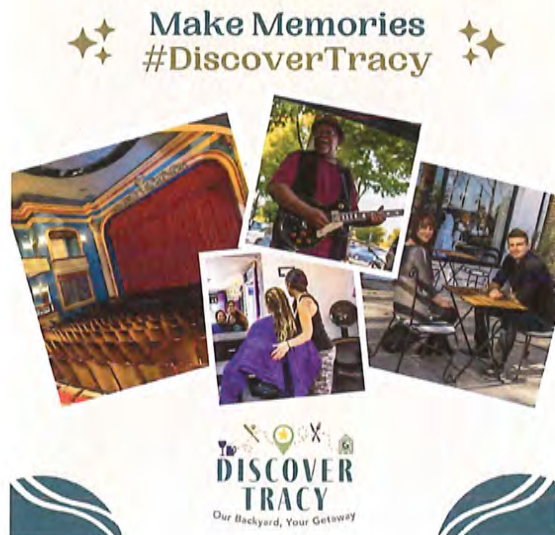
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Appendix A – Recent Marketing Campaign Samples



BART Posters for SJC Tourism Campaign

Sample of Shop Local Campaign Social Media Posts



Think Inside the Triangle™ 

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

1) AUTHORIZING THE ACCEPTANCE OF A GRANT AWARD FROM SAN JOAQUIN COUNTY IN THE AMOUNT OF \$99,000 TO FUND CITY TOURISM ATTRACTION EFFORTS, AND 2) APPROPRIATE \$99,000 IN GRANT FUNDS TO THE HOUSING AND MOBILITY DEPARTMENT FOR USES CONSISTENT WITH GRANT REQUIREMENTS

WHEREAS, on December 19, 2022, San Joaquin County released a Notice of Funding Opportunity and Request for Proposals for the 2023 Tourism Promotion; and

WHEREAS, on January 26, 2023, the Tracy Economic Development Division submitted a proposal to San Joaquin County for grant funding in the amount of \$99,000; and

WHEREAS, on February 17, 2023, San Joaquin County notified the City of Tracy that the proposal submitted was selected for grant funding; and

WHEREAS, the grant provides for the funding of a tourism campaign and visitor attraction efforts that will support local businesses, retain jobs, and generate new revenue to the City; and

WHEREAS, the City of Tracy is the direct recipient of funding and will work in partnership with Tracy Chamber of Commerce and Tracy City Center Association, in which budgeting will grant each entity an equitable allocation of \$33,000; and

WHEREAS, staff recommends that City Council accept the San Joaquin County Tourism grant to assist with tourism marketing efforts; now therefore be it

RESOLVED: That the City Council of Tracy hereby accepts the \$99,000 grant award from San Joaquin County, and appropriates \$99,000 in grant funds to the Mobility and Housing department for uses consistent with grant requirements.

* * * * *

The foregoing Resolution 2023-_____ was adopted by the Tracy City Council on April 4, 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.C

RECOMMENDATION

Staff recommends that the City Council adopt a resolution approving a leave of absence for Transportation Advisory Commissioner Maurice Francis for the month of April 2023 pursuant to the requirements of the Transportation Advisory Commission Bylaws.

EXECUTIVE SUMMARY

Staff received a request from Transportation Advisory Commissioner Maurice Francis for a leave of absence for the month of April, 2023 due to work-related scheduling conflicts. The Transportation Advisory Commission Bylaws state that 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.

BACKGROUND AND LEGISLATIVE HISTORY

Under the Transportation Advisory Commission Bylaws, a commission member who fails to attend four regular commission meetings in any calendar year vacates his/her position. The Bylaws further stipulate that any Commissioner can request up to a six- month leave of absence from his/her duties on the Commission. An approved leave of absence excuses a commissioner from attending commission meetings during the specified period of time and ensures that those absences are not counted against the three-absence limit. This request is to be directed to, and can only be approved by, the City Council.

The Transportation Advisory Commission consists of five members and all seats are currently filled.

ANALYSIS

Transportation Advisory Commissioners hold regular monthly meetings and are allowed to miss up to three meetings throughout the calendar year. This amounts to being able to miss 25% of regularly schedule meetings throughout the year based on 12 regular monthly meetings. Once a fourth meeting is missed, a commissioner is automatically removed from the Commission. If a meeting is canceled, it does not count against a commissioner. If a commissioner misses a scheduled special meeting, that absence does not count against them.

The current bylaws do not take into consideration the reason why a meeting is missed, be it due to work related conflicts, vacations, family related matters, or illness. Per the bylaws, the only way to have an "excused" absence is to have a formal leave of absence approved by City Council.

As there are only five members of the Transportation Advisory Commission, a minimum of three commissioners are needed to form a quorum needed to conduct meetings. During the previous calendar year, there were nine commission meetings held. Of those nine meetings only two of the nine, or 22% of the meetings, had full commissioner attendance. One meeting was canceled due to lack of a quorum.

While a commissioner often cannot plan ahead of time if they will be absent from a meeting, there are circumstances where they can do so periodically, especially with planned work schedules. Requesting a leave of absence helps to ensure that a commissioner will be able to remain on the commission should unexpected circumstances arise throughout the year.

AB 2449 is not triggered by this requested leave of absence.

FISCAL IMPACT

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

STRATEGIC PLAN

This is a routine operational item and does not directly relate to a City Council Strategic Priority.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution approving a leave of absence for Transportation Advisory Commissioner Maurice Francis for the month of April 2023 pursuant to the requirements of the Transportation Advisory Commission Bylaws.

Prepared by: Ed Lovell, Transit Manager

Reviewed by: Brian MacDonald, Parks and Recreation Director
Adriana Castaneda, Director of Mobility & Housing
Sara Cowell, Director of Finance
Riana Daniel, Deputy City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, Acting City Manager

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

**APPROVING A LEAVE OF ABSENCE FOR TRANSPORTATION
ADVISORY COMMISSIONER MAURICE FRANCIS FOR THE MONTH OF
APRIL 2023 PURSUANT TO THE REQUIREMENTS OF THE
TRANSPORTATION ADVISORY COMMISSION BYLAWS**

WHEREAS, Transportation Advisory Commissioner Maurice Francis requested a leave of absence for the month of April 2023, due to work-related scheduling conflicts; and

WHEREAS, the Transportation Advisory Commission Bylaws require that any Commissioner can request up to a six-month leave of absence with Council approval; and

WHEREAS, the Transportation Advisory Commission consists of five members and all seats are currently filled; and

WHEREAS, this leave of absence does not trigger the requirements under AB 2449; now, therefore, be it

RESOLVED: That the City Council hereby approves a leave of absence for Transportation Advisory Commissioner Maurice Francis for the month of April 2023.

* * * * *

The foregoing Resolution 2023-_____ was adopted by the Tracy City Council on April 4, 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 to (1) accept the construction for the Tracy Transit Station Renovations, CIP 77584, for work completed by Gowan Construction Company, Inc., of Tracy, 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.

EXECUTIVE SUMMARY

City staff requests that the City Council accept the construction for the Tracy Transit Station Renovations Project, CIP 77584 (Project), as complete. Project costs are within the available budget and work was completed in a timely manner and in accordance with plans and specifications as provided. Staff recommends that the City Council accept the Project as complete to enable the City Engineer to release the contractor's bonds and retention payment.

BACKGROUND AND LEGISLATIVE HISTORY

The Tracy Transit Station opened for use in February 2010. Over the past ten years, the growth of the City's transit services has led to an increase in the number of staff working in the building to the point that there was no additional space that could be utilized in an effective manner for additional staff. In order to create additional office space, an expansion of the work area into the existing lobby space of the Transit Station was required. Due to the need, this Project was designed and constructed.

The Tracy Transit Station Renovations Project is an approved Capital Improvement Project (CIP) established to create additional office space for City staff and contract employees, create private office space for supervisory staff, separate workspaces to allow for social distancing, create additional storage space and update the ticket sales window in the Station Lobby. The Project adds approximately 600 square feet of additional office space within the east end of the existing lobby.

Engineering consultant, FCGA Architecture, LLC (Consultant) and City staff prepared the plans, specifications, and estimates. The Project was advertised for competitive bids on June 4, 2021, and June 11, 2021. Bids were received and publicly opened via Skype conference call at 3:00 p.m. on Thursday, July 22, 2021. City Council approved and awarded a construction contract on August 17, 2021, to Gowan Construction Company, Inc., of Tracy, California in a not-to-exceed amount of \$880,402, for the construction of the Tracy Transit Station Renovations, CIP 77584. Additionally, two change orders were issued in the amount of \$137,097.10, however only \$116,964 was spent of the authorized change orders. The change orders were for 1) unforeseen conditions discovered during demolition, 2) additional costs for restroom work to meet ADA requirements, 3) re-carpeting and paint of all conference rooms. All work was addressed and completed as requested and in compliance with all ADA, Building, and City Standard and Specifications.

The Contractor has completed all the work required to be done in accordance with the plans

and specifications and has requested acceptance of the project. The City Engineer has inspected the completed work and confirmed that all work conform to the contract plans and specifications.

The project has been completed within the time frame of the original contract.

ANALYSIS

Due to growth in the City's Transit Services, this project was created to meet the needs and necessities of the Transit Station and Staff.

FISCAL IMPACT

The Tracy Transit Station Renovations Project, CIP 77584, is an approved Capital Improvement Project with a budget of \$2,274,000. The total completed cost is \$1,378,390 and was funded through Transit Development Act Funds (F241), and Transit Capital funds (F573).

Final project costs were within budget as follows:

A. Construction Contract Amount	\$ 880,402
B. Approved Change orders	\$ 116,964
C. Design, construction management, inspection, Testing & miscellaneous project management Expenses	\$ 381,024
<u>Total Project Costs</u>	<u>\$ 1,378,390</u>
<u>Total Budget Amount</u>	<u>\$ 2,274,000</u>
Budget Remaining	\$ 895,610

The remaining balances in the project will be released back into fund balance as follows:

	Budget	Cost	Balance
241 -Transit Development Act	\$ 1,874,000	\$ 1,189,386	\$ 684,614
573 -Transit Capital	\$ 400,000	\$ 189,003	\$ 210,997
<u>Totals</u>			<u>\$ 895,610</u>

PUBLIC OUTREACH / INTEREST

Not applicable.

COORDINATION

Coordination between Transit Staff, Parks and Recreation Staff, Engineering and Public Works, Street Maintenance Division occurred on multiple occasions to coordinate and establish this project as complete.

CEQA DETERMINATION

Ministerial Exemption, Code Section #151268.

STRATEGIC PLAN

This agenda item is consistent with the City Council's adopted Quality of Life Strategy and meets the goal of enhancing the City's amenities.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council, by resolution, (1) accept the construction for the Tracy Transit Station Renovations, CIP 77584, in Tracy, California, for work completed by Gowan Construction Company, Inc., of Tracy, 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.

Prepared by: Leisser Mazariegos, Associate Engineer

Reviewed by: Koosun Kim, PE, City Engineer / Assistant Director of Development Services
Jaylen French, Development Services Director
Sara Cowell, Finance Director
Nancy Ashjian, Assistant City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, Acting City Manager

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION 2023-_____

- (1) ACCEPTING THE CONSTRUCTION FOR THE TRACY TRANSIT STATION RENOVATION, CIP 77584, FOR WORK COMPLETED BY GOWAN CONSTRUCTION COMPANY, INC., OF TRACY, CALIFORNIA;
- (2) AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION WITH THE SAN JOAQUIN COUNTY RECORDER'S OFFICE;
- (3) AUTHORIZING THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT; AND
- (4) AUTHORIZING THE FINANCE DEPARTMENT TO CLOSE THE PROJECT.

WHEREAS, on August 17, 2021, the City Council approved and awarded a construction contract to Gowen Construction Company, Inc., of Tracy, California (Contractor) for the Tracy Transit Station Renovation, in Tracy, California, CIP 77584 (Project); and

WHEREAS, the contractor has completed all the work required to be done in accordance with the plans and specifications and has requested acceptance of the Project. The City Engineer has inspected the completed work and confirmed that all work conform to the contract plans and specifications; and

WHEREAS, two change orders were issued as part of this Project; and

WHEREAS, the status of budget costs is as follows; and

A. Construction Contract Amount	\$ 880,402
B. Approved Change orders	\$ 116,964
C. Design, construction management, inspection, Testing & miscellaneous project management expenses	\$ 381,024
<u>Total Project Costs</u>	<u>\$ 1,378,390</u>
<u>Total Budget Amount</u>	<u>\$ 2,274,000</u>
Budget Remaining	\$ 895,610

WHEREAS, the Project has been completed with the available budget, within the time frame of the original contract plus the time extension given to the contractor for extra work, including rain delays, per plans, specifications, and City of Tracy Standards; and

WHEREAS, the Tracy Transit Station Renovation Project, CIP 77584, is an approved project with total funding Project cost of \$1,378,390. The total project budget is \$2,274,000, which allowed for the project to come in under budget. The total project budget funding is from the Transit Development Act, and Transit Capital funds. Any remaining funds will be reimbursed their appropriate funds when the project is closed by the Finance Department; now therefore, be it

RESOLVED: That the City Council (1) accept the construction for the Tracy Transit Station Renovation Project, CIP 77584, for work completed by Gowan Construction Company, Inc., of Tracy, 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.

The foregoing Resolution 2023-_____ was adopted by the Tracy City Council on the 4th day of April 2023 by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: 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 the City Council adopt a resolution (1) accepting the construction for the Americans with Disabilities Act Accessibility Improvements Project, CIP 73177 for work completed by Tracy Grading and Paving, Inc., of Tracy, California, (2) authorizing the City Clerk to File the Notice of Completion with the San Joaquin County Recorder's Office, (3) authorizing the City Engineer to release the bonds and retention payment, and (4) authorizing the Finance Department to close the Project.

EXECUTIVE SUMMARY

City staff requests that the City Council accept the construction for the Americans with Disabilities Act (ADA) Accessibility Improvements Project, CIP 73177 as complete. Project costs are within the available budget and work was completed in a timely manner and in accordance with plans and specifications as approved. Staff recommends that the City Council accept the project as complete.

BACKGROUND AND LEGISLATIVE HISTORY

The project was part of the City's annual Community Development Block Grant (CDBG) program awarded in 2019. Projects funded by CDBG are required to be in low- to moderate-income areas. This City Capital Improvement Project (CIP) 73177 consists of ADA curb ramp improvements, asphalt grinding and paving, pavement repair, slurry seal, striping, and the installation of a new crosswalk at Ninth Street and East Street; the installation of an ADA parking stall and curb ramp on Tenth Street; and sidewalk, curb, and gutter repair at various locations along Sixth Street, Seventh Street, and E Street.

Engineering staff prepared the plans and specifications and advertised the Project for competitive bids on February 4th, and February 11, 2022. Bids for this Project were publicly opened on March 3, 2022. On April 18, 2022, City Manager approved and awarded a construction contract to Tracy Grading and Paving, Inc., of Tracy, California in a not to exceed amount of \$276,842. No change orders were issued during construction activities.

The contractor has completed all the work required in accordance with the plans and specifications and City staff is requesting acceptance of the project. The City Engineer has inspected the completed work and confirmed that all work conforms to the contract plans and specifications and has been completed within the time frame of the original contract.

ANALYSIS

This project was part of the City's annual Community Development Block Grant (CDBG) program awarded in 2019. Project locations were chosen based on community need, severity of needed repair, and qualification for CDBG funding. City Engineering Staff worked with City Staff of Public Works, Economic Development, and Building Safety to determine best locations based on the above criteria.

FISCAL IMPACT

The ADA Accessibility Improvements Project, CIP 73177, is an approved Capital Improvement Project with a budget of \$430,000. The total completed cost is \$339,307, and was funded through, Gas Tax fund (F245) and a Community Development Block Grant (CDBG) funds.

Final project costs were within budget as follows:

A. Construction Contract Amount	\$	283,502
B. Approved Change orders	\$	-
C. Design, construction management, inspection, testing & miscellaneous project management expenses	\$	55,805
<hr/>		
Total Project Costs	\$	340,107
<hr/>		
Total Budget Amount	\$	430,000
<hr/>		
Budget Remaining	\$	89,893
<hr/>		

The remaining balances in the project will be released back into fund balance as follows:

	Budget	Cost	Balance
Gas Tax (F245)	\$ 280,000	\$ 190,107	\$ 89,893
CDBG (F268)	\$ 150,000	\$ 150,000	\$ -
<hr/>			
Totals	\$ 430,000	\$ 340,107	\$ 89,893
<hr/>			

PUBLIC OUTREACH / INTEREST

Not applicable

COORDINATION

Coordination between Engineering and Public Works, Economic Development and Building Safety occurred on multiple occasions to coordinate and establish this project as complete.

CEQA DETERMINATION

15301. EXISTING FACILITIES

The project is exempt pursuant to categorical exemptions per CEQA Guidelines §15301(c), (c) Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety), and other alterations such as the addition of bicycle facilities, including but not limited to bicycle parking, bicycle-share facilities and bicycle lanes, transit improvements such as bus lanes, pedestrian crossings, street trees, and other similar alterations that do not create additional automobile lanes.

STRATEGIC PLAN

This agenda item is consistent with the City Council's adopted Quality of Life Strategy and meets the goal of enhancing the City's amenities.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council, by resolution, (1) accept the construction for the Americans with Disabilities Act Accessibility Improvements Project, CIP 73177 in Tracy, California, for work completed by Tracy Grading and Paving, Inc., of Tracy, 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.

Prepared by: Leisser Mazariegos, Associate Engineer

Reviewed by: Koosun Kim, PE, City Engineer / Assistant Director of Development Services
Jaylen French, Development Services Director
Sara Cowell, Finance Director
Nancy Ashjian, Assistant City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, Acting City Manager

TRACY CITY COUNCIL

RESOLUTION 2023-_____

- (1) ACCEPTING THE CONSTRUCTION FOR THE AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY IMPROVEMENTS PROJECT, CIP 73177, FOR WORK COMPLETED BY TRACY GRADING AND PAVING, INC., OF TRACY, CALIFORNIA;
- (2) AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION WITH THE SAN JOAQUIN COUNTY RECORDER'S OFFICE;
- (3) AUTHORIZING THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT; AND
- (4) AUTHORIZING THE FINANCE DEPARTMENT TO CLOSE THE PROJECT.

WHEREAS, on April 18, 2022, the City Manager approved and awarded a construction contract to Tracy Grading and Paving, Inc., of Tracy, California (Contractor) for the ADA Accessibility Improvements Project, in Tracy, California, CIP Project 73177; and

WHEREAS, the contractor has completed all the work required to be done in accordance with the plans and specifications and has requested acceptance of the project. The City Engineer has inspected the completed work and confirmed that all work conform to the contract plans and specifications; and

WHEREAS, no change orders were issued as part of this project; and

WHEREAS, the status of budget costs is as follows; and

A. Construction Contract Amount	\$	283,502
B. Approved Change orders	\$	-
C. Design, construction management, inspection, testing & miscellaneous project management expenses	\$	56,605
<u>Total Project Costs</u>	<u>\$</u>	<u>340,107</u>
<u>Total Budget Amount</u>	<u>\$</u>	<u>430,000</u>
<u>Budget Remaining</u>	<u>\$</u>	<u>89,893</u>

WHEREAS, the Project has been completed with the available budget, within the time frame of the original contract plus the time extension given to the contractor for extra work, including rain delays, per plans, specifications, and City of Tracy Standards; and

WHEREAS, the ADA Accessibility Improvements Project, CIP 73177, is an approved project with total funding Project cost of \$340,107. The total project budget is \$430,000, which allowed for the project to come in right on budget. The total project budget funding is from the Gas Tax, and Community Development Block Grant (CDBG) of which CDBG Gas Tax will be reimbursed when the project is closed by the Finance Department; now therefore, be it

RESOLVED: That the City Council (1) accept the construction for the Americans with Disabilities Act (ADA) Accessibility Improvements Project, in Tracy, California, CIP 73177, for work completed by Tracy Grading and Paving, Inc., of Tracy, 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.

The foregoing Resolution 2023-_____ was adopted by the Tracy City Council on the 4th day of April 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 City Council adopt a resolution approving a Professional Services Agreement with Black Water Consulting, Inc. to prepare an update to the City's Sewer System Management Plan for a term of one year and a not-to-exceed amount of \$64,000.

EXECUTIVE SUMMARY

The State Water Resources Control Board (Water Board) regulates sanitary sewer systems designed to convey sewage through the Statewide Sanitary Sewer Systems General Order (Order). The City of Tracy must comply with this Order as it conveys waste (sewage) to a publicly owned treatment facility. A new Order (2022-0103-DWQ) was adopted by the Water Board on December 6, 2022 and becomes effective on June 5, 2023. This new Order requires the City to upgrade its existing Sewer System Management Plan (SSMP) established in 2009. Consultant services are required to assist the City with this upgrade. This agenda item requests authorization to enter into a Professional Services Agreement (PSA) with the most qualified and cost-effective proposer, Black Water Consulting, Inc., selected through a Request for Proposal (RFP) process, to prepare an update to the City's Sewer System Management Plan for a not-to-exceed total amount of \$64,000.

BACKGROUND AND LEGISLATIVE HISTORY

1. Background

The City's SSMP was created in 2009 and updated in 2010 in compliance with the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, Water Quality Order No. 2006-0003 (Sanitary Sewer Systems General Order) dated May 2, 2006.

The SSMP is a living planning document that demonstrates through effective management, the ongoing local sewer system management program activities, procedures, and decision-making at a scale necessary to address the size and complexity of the City's sanitary sewer system. The SSMP helps facilitate sewer system management, operations, improvements, and maintenance to sustain the infrastructure, protect public health, protect the environment, and achieve compliance with all regulations.

2. Project

The Scope of Work for this project includes reviewing existing policies, plans and procedures to determine gaps in the existing SSMP and what is needed for full compliance with the new Order. Areas to be reviewed and included in the gap analysis should include goals, legal authority, organizational structure, operations, and maintenance activities related to the collections system, design standards, FOG (Fats, Oils, and Grease) Control program, monitoring, reporting and budget to conduct the recommended programs associated with the SSMP. Deliverables included an Overflow

Emergency Response Plan and an updated SSMP.

Under the new Order, the City's existing SSMP must be updated to meet the new requirements which go into effect on June 5, 2023. The new requirements state that the City must update its SSMP every six (6) years and conduct audits every two (2) years. The City will need to complete another full update of the plan prior to August 2025.

3. Professional Services Agreement

An RFP for Sewer System Management Plan Update was posted on the City's website on January 18, 2023 and two (2) proposals were received on February 1, 2023. City staff met with both proposers, and after a careful review of the proposals and presentations, the City believes that Black Water Consulting, Inc. demonstrates the required degree of relevant experience and past performance in preparing projects of similar type and complexity in a satisfactory and timely manner at the most cost-effective rate.

ANALYSIS

The Water Board adopted a new Order (2022-0103 DWQ) that supersedes the 2006 Order (2006-003 DWQ). This new Order consists of eleven required elements. Four (4) areas need in-depth updates, while the other seven (7) need a basic review. In the absence of a sound inventory and assessment of the system, updates to the delineated areas are critical to the City's maintenance plan. The following areas need in-depth review and updates (*~~strikethrough~~ indicates language change to Plan):

- a) Item 6 – ~~Spill Overflow~~ Emergency Response Plan
 - a. Complete update by June 4, 2023
 - b. Remove any sewage that enters a stormwater conveyance system
 - c. Sanitize the spill area and drainage conveyance system in a manner that does not inadvertently impact beneficial uses in the receiving waters
 - d. Annually review and assess the effectiveness of the Spill Emergency Response and update the Plan as needed.
- b) Item 7 – ~~Fats, Oils and Grease (FOG)~~ Sewage Pipe Blockage Control Program
 - a. Addition of rags and debris to control the program
 - b. An implementation plan and schedule for public education and outreach that promotes proper disposal of pipe-blocking substances;
 - c. A plan and schedule for the disposal of pipe-blocking substances.
 - d. The legal authority to prohibit discharges to the system and identify measures to prevent spills and blockages.
- c) Item 8 -~~System Evaluation, and~~ Capacity Assurance and Capital Improvements
 - a. Routine evaluation and assessment of system conditions;
 - b. Capacity assessment and design criteria;
 - c. Prioritization of corrective actions; and
 - d. A capital improvement plan
- d) Item 10 – Communication Program
 - a. The City must be able to communicate with the public regarding spills and discharges resulting in closures of public areas, or that enter a source of drinking water, and

- b. The development, implementation, and update of its Plan, including opportunities for public input to Plan implementation and updates.
- c. System operation, maintenance, and capital improvement-related activities

Once the City receives the final plan as a deliverable, the revised SSMP will be brought to Council for final approval.

FISCAL IMPACT

Funding for the Professional Services Agreement with Black Water Consulting, Inc. in the not-to-exceed total amount of \$64,000 exists within the FY2022/23 Wastewater fund's operating budget.

STRATEGIC PLAN

This is routine in nature and does not apply to the Strategic Plan.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that City Council adopt a resolution approving a Professional Services Agreement with Black Water Consulting, Inc. to prepare an update to the City's Sewer System Management Plan for a term of one year and a not-to-exceed amount of \$64,000.

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

Reviewed By: James A. Jackson, Director of Operations & Utilities
Sara Cowell, Director of Finance
Riana Daniel, Deputy City Attorney
Karin Schnaider, Assistant City Manager

Approved By: Midori Lichtwardt, Acting City Manager

Attachment A – Professional Service Agreement with Black Water Consulting, Inc.
Attachment B – Order No. 2022-0103-DWQ Statewide Waste Discharge Requirements
Attachment C - General Order for Sanitary Sewer Systems

CITY OF TRACY
PROFESSIONAL SERVICES AGREEMENT WITH
Black Water Consulting Engineers, Inc. for 2023 Sewer System Management Plan Update

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

Recitals

- A. City desires to retain Consultant to perform an update to the City's Sewer System Management Plan services to comply with the State Water Resource Control Board; and
- B. On January 18, 2023, the City issued a Request for Proposals (RFP) for the 2023 Sewer System Management Plan Update (**Project**). On February 15, 2023, 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. _____ 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: Aja Verburg. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit "A," nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

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 on April 4, 2023 and end on March 31, 2024, 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 \$64,000. 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:

Operations & Utilities
Office of the Director
520 S. Tracy Blvd.
Tracy, CA 95376

To Consultant:

Aja Verburg, P.E. Vice President
Black Water Consulting Engineers, Inc
602 Lyell Drive
Modesto, CA 95356

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]

City of Tracy -- Professional Services Agreement with Black Water Consulting Engineers, 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

Consultant

Black Water Engineering Consultant, Inc.

DocuSigned by:
Aja Verburg
776787088610130

By: Aja Verburg, P.E.

Title: Vice President

Date: 3/7/2023 | 3:11 PM PST

Federal Employer Tax ID No. 46-1504431

DocuSigned by:
Jeff Black
C102305547784ED

By: Jeff Black

Title: President

Date: 3/7/2023 | 6:16 PM EST

Exhibits:

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

EXHIBIT A - Scope of Work

The CONSULTANT is to update the CITY'S previous Sewer System Management Plan (SSMP) and related services that will keep the CITY compliant with the elements of the State Water Resources Control Board (SWRCB) Order WQ 2022-0103-DWQ, Sanitary Sewer System Waste Discharge Requirements (WDR).

It shall be the Consultants responsibility to:

- Determine what portion of the previous SSMP currently meets requirements and will not require modifications.
- Identify what portion of the previous SSMP requires updates, and prepare the documents required to comply with SWRCB Order WQ 2022-0103-DWQ.
- Assist the CITY with the re-certification process in accordance with existing regulations.

TASK 1 – REVIEW EXISTING PLANS, POLICIES, AND PROCEDURES

- A. Conduct a detailed review of all relevant documents, plans, and procedures.
- B. Identify plans and procedures (written and non-written) currently in place and review these practices to ensure compliance with WDR requirements.
- C. Develop a written inventory in SSMP compliant format of all procedures, programs, policies, etc. instituted by the CITY and organized similar to WDR requirements.

Task 1 Deliverables:

- Inventory of procedures, programs, and policies

TASK 2 – GAP ANALYSIS, PLAN AND STANDARDS AND PROCEDURES UPDATE OR DEVELOPMENT

Complete a full comparison between the CITY'S previous SSMP and related documents versus WQ 2022-0103-DWQ WDR. Identify whether or not practices are fully compliant with new WDR requirements and indicate where shortcomings or gaps may exist. The gap analysis is to ensure the SSMP updates, addresses, is compliant with, and properly documents the following items, at a minimum:

- A. Goals: Review and prepare a clear statement of goals that is both manageable and achievable by and compliant with the intent of the WDR. Potential goals to consider are:
 - Properly manage and maintain all parts of the sanitary sewer system as comparable to other cities
 - Provide capacity to convey base and design storm flows
 - Continual improvement to reduce all preventable Sanitary Sewer Overflows (SSOs)
 - Mitigate and reduce the impact of non-preventable SSOs
- B. Organization: Identify current CITY organizational structure and develop procedures for future updates to organization charts and publicly noticed contact information. Topics of development to consider include:

- Organization of Key Personnel and Departments
 - Duties and responsibilities of all key personnel
 - Chain of communications
 - Service area and major system elements
 - Staffing recommendations
- C. Legal Authority: The CITY must demonstrate, through duly adopted ordinances, service agreements, or other legally binding procedures, that it possesses the necessary authority to apply and enforce measures needed to properly manage its sanitary sewer system. Key elements that must be considered include:
- Legal authority to prohibit illicit discharges to the system
 - Authority to inspect grease producing facilities and enforce the FOG ordinance
 - Industrial pretreatment program and FOG program
 - Control infiltration/inflow from satellite wastewater collection systems and laterals
 - Require proper design and construction of new and rehabilitated sewers and connections
 - Require proper installation, testing, and inspection of new and rehabilitated sewers
 - Ability to disconnect the user if they fail to comply with the established conditions of use
 - Recourse in cases where deliberate and significant violations of these conditions occur and there is a substantial impact to a receiving water or endangerment of human health
- D. Operation and Maintenance (O&M) Activities: The WDR identifies general standards that must be included in an O&M Program. The Consultant will collaborate with the CITY to:
- Develop standard operating procedures (SOPs) for routine sanitary sewer system operation and maintenance, equipment, and identification and inventory for critical spare parts
 - Ensure mapping and data management activities are in place, or recommend procedures and processes to facilitate accurate and up-to-date mapping and data management procedures
 - Recommend schedule and tracking process for routine operations & preventive maintenance activities and inspections for all gravity sewers, manholes, pumping facilities, and force mains (if applicable)
 - Identify equipment and replacement part inventories, and help identify procedures for identifying critical replacement parts that should remain on hand
 - Consultant shall work with the CITY to prioritize its preventive maintenance activities
 - Identify training programs for CITY staff and include a description of the agency's training program and whether any changes or improvements are anticipated soon
 - Develop staff recommendations based on maintenance and inspection schedules.
- E. Design Standards: Collaborate with the CITY'S Engineering Department to review and update sanitary sewer system design and construction standards, as needed. The Consultant will collaborate with the CITY to:
- Review and update design and construction standards and specifications for the installation of new sanitary sewer systems, pump stations and other equipment, and also for the rehabilitation and repair of existing sewer system

- Establish standards and procedures for inspecting and testing new facilities
 - Develop procedures to ensure adequate downstream capacity for future approval of new upstream dischargers
- F. Fats, Oils and Grease (FOG) Control Program: Review existing FOG programs, or update or recommend and develop a new one to ensure WDR compliance, if needed. Potential areas of investigation and further program development may include:
- FOG analysis through spill reports to determine if additional program development and formal study is needed
 - Public education program that promotes proper handling and disposal of FOG
 - Legal authority to prohibit discharges to the system
 - Maintenance cleaning schedule for pipe segments subject to FOG blockages (if SSO reports indicate potential issues)
 - FOG disposal plan including a list of disposal facilities
 - Best management practices, grease removal devices, record keeping and reporting requirements
 - Authority to inspect grease producing facilities and enforce the FOG ordinance
 - Establish source control measures for FOG discharged to the sewer system
 - Potential GIS application that can identify "Hot Spots" and businesses responsible for FOG management and establish cleaning schedules to help manage this issue more effectively
 - Review of current CITY Municipal Code and Ordinances to determine if revisions are necessary
 - Development of FOG Control related fees
- G. Monitoring, Measurement and Program Modification: Effective asset management requires data systems necessary to evaluate performance. Consultant is to:
- Recommend a document and information control system used to establish and prioritize SSMP activities
 - Develop performance matrix intended to measure effectiveness of the SSMP program including appropriate management reports
 - Develop protocol and schedule to modify SSMP plan for future optimization
- H. Annual Reporting and Audit Program: As part of the SSMP, the CITY must conduct internal audits at least every two years. Work with CITY staff to establish efficient and effective audits. To comply with this requirement, the Consultant is to work with the CITY to recommend:
- SSMP audit and reporting procedures, including templates and checklists that will be used to evaluate the effectiveness of the SSMP
 - These procedures will include potential participants that should be involved in both the audit development and review
 - Protocols for dissemination of the information and SSMP modifications as a result of these changes will also be addressed
 - Describe the approach currently used for scheduled inspections and condition assessment of the sewer collection system and update, if necessary
 - Review the maintenance of records to support appropriate analysis and reporting

- The SSMP should describe reporting requirements to regulatory agencies, methods for reporting, reporting schedule, and who is responsible for maintaining reporting compliance
- I. Annual Maintenance Budget: The Consultant shall recommend to CITY staff budgetary forecasts necessary to sustain programs associated with the SSMP. The SSMP should demonstrate that the resources are adequate for an acceptable delivery of the CITY of Tracy's services to the public, including capital replacement. Budgetary assistance shall include:
- Review and prioritization of system short term and long term actions
 - Develop an updated cost estimate
 - Analyze resources needed to implement SSMP programs and projects (long and short term), including staffing levels, potential capital improvements projects, as well as other related expenditures
 - Evaluate potential funding sources to assist with SSMP program development, implementation, and capital improvement projects

Task 2 Deliverables:

- Incorporate all analysis, requirements, plans, programs, procedures, checklists, standards, fees, and related documents developed or updated under Task 2 into Task 4

TASK 3 – DEVELOP OVERFLOW EMERGENCY RESPONSE PLAN

The response plan should be developed/updated as a stand-alone document and summarized in the SSMP and updated as necessary to reflect any changes in staffing or notification requirements, including contact numbers. Develop an overflow emergency response plan with the following elements:

- Notification – Provide SSO notification procedures.
- Response – Develop and implement a plan to respond to SSOs.
- Reporting – Develop procedures to report and notify SSOs per SSO Monitoring and Reporting Program.
- Impact Mitigation – Develop steps to contain wastewater, to prevent overflows from reaching surface waters, and to minimize or correct any adverse impact from SSOs.
- Identify response training programs
- Potential GIS applications that can help CITY use its existing GIS to enhance its overflow prevention program

Task 3 Deliverables:

- Overflow Emergency Response Plan

TASK 4 - DRAFT AND FINAL UPDATED SSMP

- A. Consultant shall submit (4) four copies and (1) one electronic copy of the draft SSMP document to the CITY for CITY staff review and comment
- B. Consultant shall submit (4) four copies and (1) one electronic copy of the final SSMP document that incorporates CITY comments along with all supporting materials

TASK 5 – PROJECT MANAGEMENT AND MEETINGS

- A. The Consultant is to prepare for and host a project kick off meeting with their project team and CITY staff. The Consultant is to meet with CITY staff on a regular basis (frequency determined by Consultant and agreed to by CITY staff) to discuss project progress. Meetings can be virtual in nature with the Consultant responsible for agendas and meeting minutes. The project schedule is to be prepared and submitted using Microsoft Project or another electronic platform that the CITY has access to.

Task 5 Deliverables:

- Meeting agendas
- Meeting minutes
- Preliminary and updated project schedules, as needed

Proposed Schedule:

Task 1 – 4 weeks after NTP

Tasks 2 & 3 – 16 weeks after City comments on Task 1

Task 4 – 8 weeks after completion of Task 3

Task 5—Continuous throughout the project duration

EXHIBIT B – Compensation



CITY OF TRACY
Sanitary Sewer Management Plan Update
 February 2023



estimated level of effort - staff time

TASK	Billing Rates \$/hr						Black Water Total Hours	Black Water Fee
	250	160	150	155	98	TOTAL		
	Principal	Assistant Engineer	Engineer Technician	Senior CAD Technician/ GIS	Administration			
1.0 Review Existing Plans, Policies, and Procedures	4	16	40		4	64	\$9,952	\$9,952
2.0 Gap Analysis, Plans and Standards and Procedures Update or Development	4	16	40		4	64	\$9,952	\$9,952
3.0 Develop Overflow Emergency Response Plan	8	16	40	8	8	80	\$12,584	\$12,584
4.0 Draft and Final Updated SSMP	16	32	40	8	12	108	\$17,536	\$17,536
5.0 Project Management and Meetings	8	16			6	30	\$5,148	\$5,148
TOTALS	40	96	160	16	34	346	\$55,172	\$55,172

1. All scope items and associated fees are based on the best approximation we can make given the current level of information available. Black Water will discuss and/or negotiate any scope or fee item shown on this Fee Proposal.
2. Additional services will be charged at the current rate schedule.
3. Mileage is charged at the IRS rate.
4. Reimbursable expenses are charged at consultant's cost plus 10 percent.



2023 Rate Schedule

	Hourly Rate
ENGINEERING:	
PRINCIPAL	\$250.00
PROJECT MANAGER	\$228.00
ASSOCIATE ENGINEER	\$198.00
ASSISTANT ENGINEER	\$160.00
ENGINEER TECHNICIAN	\$150.00
TECHNICAL STAFF:	
SENIOR CAD TECHNICIAN	\$155.00
CAD TECHNICIAN	\$135.00
FIELD SERVICES:	
CONSTRUCTION MANAGER	\$228.00
CONSTRUCTION INSPECTOR	\$184.00
ADMINISTRATION:	
ADMINISTRATION	\$98.00
EXPERT WITNESS:	\$325.00
DIRECT COSTS:	COST PLUS 10 PERCENT
SUBCONSULTANTS:	COST PLUS 10 PERCENT
MILEAGE:	IRS RATE

The above rate schedule is effective January 1, 2023 and is subject to adjustment July 1, 2023.

STATE WATER RESOURCES CONTROL BOARD
1001 I Street, Sacramento, California 95814
ORDER WQ 2022-0103-DWQ
STATEWIDE WASTE DISCHARGE REQUIREMENTS
GENERAL ORDER FOR SANITARY SEWER SYSTEMS

This Order was adopted by the State Water Resources Control Board on December 6, 2022.

This Order shall become effective **180 days after the Adoption Date of this General Order**, on June 5, 2023.

The Enrollee shall comply with the requirements of this Order upon the Effective Date of this General Order.

This General Order does not convey any property rights of any sort or any exclusive privileges. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property, protect the Enrollee from liability under federal, state, or local laws, nor create a vested right for the Enrollee to continue the discharge of waste.

CERTIFICATION

I, Jeanine Townsend, Clerk to the Board, do hereby certify that this Order with all attachments is a full, true, and correct copy of the Order adopted by the State Water Board on December 6, 2022.

AYE: Chair E. Joaquin Esquivel
 Vice Chair Dorene D'Adamo
 Board Member Sean Maguire
 Board Member Laurel Firestone
 Board Member Nichole Morgan

NAY: None

ABSENT: None

ABSTAIN: None

 for

Jeanine Townsend
Clerk to the Board

STATEWIDE SANITARY SEWER SYSTEMS GENERAL ORDER

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STATEWIDE SANITARY SEWER SYSTEMS GENERAL ORDER

1. INTRODUCTION

This General Order regulates sanitary sewer systems designed to convey sewage. For the purpose of this Order, a sanitary sewer system includes, but is not limited to, pipes, valves, pump stations, manholes, siphons, wet wells, diversion structures and/or other pertinent infrastructure, upstream of a wastewater treatment plant headworks. A sanitary sewer system includes:

- Laterals owned and/or operated by the Enrollee;
- Satellite sewer systems; and/or
- Temporary conveyance and storage facilities, including but not limited to temporary piping, vaults, construction trenches, wet wells, impoundments, tanks and diversion structures.

Sewage is untreated or partially treated domestic, municipal, commercial and/or industrial waste (including sewage sludge), and any mixture of these wastes with inflow or infiltration of stormwater or groundwater, conveyed in a sanitary sewer system. Sewage contains high levels of suspended solids, non-digested organic waste, pathogenic bacteria, viruses, toxic pollutants, nutrients, oxygen-demanding organic compounds, oils, grease, pharmaceuticals, and other harmful pollutants.

For the purpose of this General Order, a spill is a discharge of sewage from any portion of a sanitary sewer system due to a sanitary sewer system overflow, operational failure, and/or infrastructure failure. Sewage and its associated wastewater spilled from a sanitary sewer system may threaten public health, beneficial uses of waters of the State, and the environment.

This General Order serves as statewide waste discharge requirements and supersedes the previous State Water Resources Control Board (State Water Board) Order 2006-0003-DWQ and amendments thereafter. All sections and attachments of this General Order are enforceable by the State Water Board and Regional Water Quality Control Boards (Regional Water Boards). Through this General Order, the State Water Board requires an Enrollee to:

- Comply with federal and state prohibitions of discharge of sewage to waters of the State, including federal waters of the United States;
- Comply with specifications, and notification, monitoring, reporting and recordkeeping requirements in this General Order that implement the federal Clean Water Act, the California Water Code (Water Code), water quality control plans (including Regional Water Board Basin Plans) and policies;
- Proactively operate and maintain resilient sanitary sewer systems to prevent spills;
- Eliminate discharges of sewage to waters of the State through effective implementation of a Sewer System Management Plan;
- Monitor, track, and analyze spills for ongoing system-specific performance improvements; and
- Report noncompliance with this General Order per reporting requirements.

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An Enrollee is a public, private, or other non-governmental entity that has obtained approval for regulatory coverage under this General Order, including:

- A state agency, municipality, special district, or other public entity that owns and/or operates one or more sanitary sewer systems:
 - greater than one (1) mile in length (each individual sanitary sewer system);
 - one (1) mile or less in length where the State Water Board or a Regional Water Board requires regulatory coverage under this Order; or
- A federal agency, private company, or other non-governmental entity that owns and/or operates a sanitary sewer system of any size where the State Water Board or a Regional Water Board requires regulatory coverage under this Order in response to a history of spills, proximity to surface water, or other factors supporting regulatory coverage.

For the purpose of this Order, a sanitary sewer system includes only systems owned and/or operated by the Enrollee.

2. REGULATORY COVERAGE AND APPLICATION REQUIREMENTS

2.1. Requirements for Continuation of Existing Regulatory Coverage

To continue regulatory coverage from previous Order 2006-0003-DWQ under this General Order, **within the 60-days-prior-to the Effective Date of this General Order**, the Legally Responsible Official of an existing Enrollee shall electronically certify the Continuation of Existing Regulatory Coverage form in the online California Integrated Water Quality System (CIWQS) Sanitary Sewer System Database. The Legally Responsible Official will receive an automated CIWQS-issued Notice of Applicability email, confirming continuation of regulatory coverage under this General Order. All regulatory coverage under previous Order 2006-0003-DWQ will cease on the Effective Date of this Order.

An Enrollee continuing existing regulatory coverage is not required to submit a new application package or pay an application fee for enrollment under this General Order. The annual fee due date for continued regulatory coverage from previous Order 2006-0003-DWQ to this General Order remains unchanged.

A previous Enrollee of Order 2006-0003-DWQ that fails to certify the Continuation of Existing Regulatory Coverage form in the online CIWQS database by the Effective Date of this Order is considered a New Applicant, and will not have regulatory coverage for its sanitary sewer system(s) until:

- A new application package for system(s) enrollment is submitted per section 2.2 (Requirements for New Regulatory Coverage) below; and
- The new application package is approved per section 2.2.2 (Approval of Application Package (For New Applicants Only)).

2.2. Requirements for New Regulatory Coverage

No later than 60 days prior to commencing and/or assuming operation and maintenance responsibilities of a sanitary sewer system, a duly authorized representative that

STATEWIDE SANITARY SEWER SYSTEMS GENERAL ORDER

maintains legal authority over the public or private sanitary sewer system is required to enroll under this General Order by submitting a complete application package as specified below and as provided in Attachment B (Application for Enrollment Form) of this General Order.

Unless required by a Regional Water Board, a public agency that owns a combined sewer system subject to the Combined Sewer Overflow Control Policy (33 U.S. Code § 1342(q)), is not required to enroll, under this Order, the portions of its sanitary sewer system(s) that collects combined sanitary wastewater and stormwater.

2.2.1. Application Package Requirements

The Application for Enrollment package for new applicants must include the following items:

- **Application for Enrollment Form.** The form in Attachment B of this General Order must be completed, signed, and certified by a Legally Responsible Official, in accordance with section 5.1 (Designation of a Legally Responsible Official) of this General Order. If an electronic Application for Enrollment form is available at the time of application, a new applicant shall submit its application form electronically; and
- **Application Fee.** A fee payable to the “State Water Resources Control Board” in accordance with the Fee Schedule in the California Code of Regulations, Title 23, section 2200, or subsequent fee regulations updates.

The application fee for this General Order is based on the sanitary sewer system’s threat to water quality and complexity designations of category 2C or 3C, which is assigned based on the population served by the system. The current Fee Schedule for sanitary sewer systems is listed under subdivision (a)(2) at the following website: [Fee Schedule](https://www.waterboards.ca.gov/resources/fees/water_quality/) (https://www.waterboards.ca.gov/resources/fees/water_quality/).

2.2.2. Approval of Application Package (For New Applicants Only)

The Deputy Director of the State Water Board, Division of Water Quality (Deputy Director) will consider approval of each complete Application for Enrollment package. The Deputy Director will issue a Notice of Applicability letter which serves as approved regulatory coverage for the new Enrollee.

If the submitted application package is not complete in accordance with section 2.2.1 (Application Package Requirements) of this General Order, the Deputy Director will send a response letter to the applicant outlining the application deficiencies. The applicant will have 60 days from the date of the response letter to correct the application deficiencies and submit the identified items necessary to complete the application package to the State Water Board.

2.2.3. Electronic Reporting Account for New Enrollee

Within 30 days after the date of the Approval of Complete Application Package for System Enrollment, a duly authorized representative for the Enrollee shall obtain a CIWQS Sanitary Sewer System Database user account by clicking the “User Registration” button and following the directions on the [CIWQS Login Page](#)

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(<https://ciwqs.waterboards.ca.gov>). If additional assistance is needed to establish an online CIWQS user account, contact State Water Board staff by email at CIWQS@waterboards.ca.gov. The online user account will provide the Enrollee secure access to the online CIWQS database for electronic reporting.

2.3. Regulatory Coverage Transfer

Regulatory coverage under this General Order is not transferable to any person or party except after an existing Enrollee submits a written request for a regulatory coverage transfer to the Deputy Director, at least 60 days in advance of any proposed system ownership transfer. The written request must include a written agreement between the existing Enrollee and the new Enrollee containing:

- Acknowledgement that the transfer of ownership is solely of an existing system with an existing waste discharge identification (WDID) number;
- The specific ownership transfer date in which the responsibility and regulatory coverage transfer between the existing Enrollee and the new Enrollee becomes effective; and
- Acknowledgement that the existing Enrollee is liable for violations occurring up to the ownership transfer date and that the new Enrollee is liable for violations occurring on and after the ownership transfer date.

The Deputy Director will consider approval of the written request. If approved, the Deputy Director will issue a Notice of Applicability letter which serves as an approved transfer of regulatory coverage to the new Enrollee.

3. FINDINGS

3.1. Legal Authorities

3.1.1. Federal and State Regulatory Authority

The objective of the Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of the waters of the United States (33 U.S.C. 1251). The Water Code authorizes the State Water Board to implement the Clean Water Act in the State and to protect the quality of all waters of the State (Water Code sections 13000 and 13160).

3.1.2. Discharge of Sewage

A discharge of untreated or partially treated sewage is a discharge of waste as defined in Water Code section 13050(d) that could affect the quality of waters of the State and is subject to regulation by waste discharge requirements issued pursuant to Water Code section 13263 and Chapter 9, Division 3, Title 23 of the California Code of Regulations. A discharge of sewage may pollute and alter the quality of the waters of the State to a degree that unreasonably affects the beneficial uses of the receiving water body or facilities that serve those beneficial uses (Water Code section 13050(l)(1)).

3.1.3 Water Boards Authority to Require Technical Reports, Monitoring, and Reporting

Water Code sections 13267 and 13383 authorize the Regional Water Boards and the State Water Board to establish monitoring, inspection, entry, reporting, and recordkeeping requirements. Water Code section 13267(b), authorizes the Regional Water Boards to “require any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region... or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of water within its region shall furnish, under penalty of perjury, technical or monitoring reports which the regional board requires...In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports and shall identify the evidence that supports requiring that person to provide the reports.” Water Code section 13267(f) authorizes the State Water Board to require this information if it consults with the Regional Water Boards and determines that it will not duplicate the efforts of the Regional Water Boards. The State Water Board has consulted with the Regional Water Boards and made this determination.

The technical and monitoring reports required by this General Order and Attachment E (Notification, Monitoring, Reporting and Recordkeeping Requirements) are necessary to evaluate and ensure compliance with this General Order. The effort to develop required technical reports will vary depending on the system size and complexity and the needs of the specific technical report. The burden and cost of these reports are reasonable and consistent with the interest of the state in protecting water quality, which is the primary purpose of requiring the reports.

Water Code section 13383(a) authorizes the Water Boards to “establish monitoring, inspection, entry, reporting, and recordkeeping requirements... for any person who discharges, or proposes to discharge, to navigable waters, any person who introduces pollutants into a publicly owned treatment works, any person who owns or operates, or proposes to own or operate, a publicly owned treatment works or other treatment works treating domestic sewage, or any person who uses or disposes, or proposes to use or dispose, of sewage sludge.” Section 13383(b) continues, “the state board or the regional boards may require any person subject to this section to establish and maintain monitoring equipment or methods, including, where appropriate, biological monitoring methods, sample effluent as prescribed, and provide other information as may be reasonably required.”

Reporting of spills from privately owned sewer laterals and systems pursuant to section 5.15 (Voluntary Reporting of Spills from Privately-Owned Sewer Laterals and/or Private Sanitary Sewer Systems) of this General Order is authorized by Water Code section 13225(c) and encouraged by the State Water Board, wherein a local agency may investigate and report on any technical factors involved in water quality control provided the burden including costs of such reports bears a reasonable relationship to the need for the report and the benefits to be obtained therefrom. The burden of reporting private spills under section 5.15 (Voluntary Reporting of Spills from Privately-Owned Sewer Laterals and/or Private Sanitary Sewer Systems) is minimal and is outweighed by the benefit of providing Regional Water Boards an opportunity to respond to these spills

STATEWIDE SANITARY SEWER SYSTEMS GENERAL ORDER

when an Enrollee, which in many cases has a contractual relationship with the owner of the private system, has knowledge of the spills.

3.1.4. Water Board Authority to Prescribe General Waste Discharge Requirements

Water Code section 13263(i) provides that the State Water Board may prescribe general waste discharge requirements for a category of discharges if the State Water Board finds or determines that:

- The discharges are produced by the same or similar operations;
- The discharges involve the same or similar types of waste;
- The discharges require the same or similar treatment standards; and
- The discharges are more appropriately regulated under general waste discharge requirements than individual waste discharge requirements.

Since 2006, the State Water Board has been regulating over 1,100 publicly owned sanitary sewer systems (See section 3.1.5 (Previous Statewide General Waste Discharge Requirements) of this General Order). California also has a large unknown number of unregulated privately owned sanitary sewer systems. All waste conveyed in publicly owned and privately owned sanitary sewer systems (as defined in this General Order) is comprised of untreated or partially treated domestic waste and/or industrial waste. Generally, sanitary sewer systems are designed and operated to convey waste by gravity or under pressure; system-specific design elements and system-specific operations do not change the common nature of the waste, the common threat to public health, or the common impacts on water quality. Spills of waste from a sanitary sewer system prior to reaching the ultimate downstream treatment facility are unauthorized and enforceable by the State Water Board and/or a Regional Water Board. Therefore, spills from sanitary sewer systems are more appropriately regulated under general waste discharge requirements.

As specified in Water Code sections 13263(a) and 13241, the implementation of requirements set forth in this Order is for the reasonable protection of past, present, and probable future beneficial uses of water and the prevention of nuisance. The requirements implement the water quality control plans (Basin Plans) for each Regional Water Board and take into account the environmental characteristics of sewer service areas and hydrographic units within the state. Additionally, the State Water Board has considered water quality conditions that could reasonably be achieved through the coordinated control of all factors that affect water quality, costs associated with compliance with these requirements, the need for developing housing within California, and the need to protect sources of drinking water and other water supplies.

3.1.5. Previous Statewide General Waste Discharge Requirements

On May 2, 2006, the State Water Board adopted Order 2006-0003-DWQ serving as Waste Discharge Requirements pursuant to Article 4, Chapter 4, Division 7 of the Water Code (commencing with section 13260) for inadvertent discharges to waters of the State. Order 2006-0003-DWQ prohibited discharges of untreated or partially treated sewage. Order 2006-0003-DWQ also required system-specific management, operation, and maintenance of publicly owned sewer systems greater than one mile in length.

STATEWIDE SANITARY SEWER SYSTEMS GENERAL ORDER

To decrease the impacts on human health and the environment caused by sewage spills, the previous Order required enrollees to develop a rehabilitation and replacement plan that identifies system deficiencies and prioritizes short-term and long-term rehabilitation actions. The previous Order also required enrollees to:

1. Maintain information that can be used to establish and prioritize appropriate Sewer System Management Plan activities; and
2. Implement a proactive approach to reduce spills.

The previous Order required Sewer System Management Plan elements for “the proper and efficient management, operation, and maintenance of sanitary sewer systems, while taking into consideration risk management.”

On July 30, 2013, the State Water Board amended General Order 2006-0003-DWQ with Order WQ 2013-0058-EXEC, Amending Monitoring and Reporting Program for Statewide General Waste Discharge Requirements for Sanitary Sewer Systems.

Many enrollees of Order 2006-0003-DWQ have already implemented proactive measures to reduce sewage spills. Other enrollees, however, still need technical assistance and funding to improve sanitary sewer system operation and maintenance for the reduction of sewage spills.

3.1.6. Existing Memorandum of Agreement with California Water Environment Association

The California Water Environment Association is a nonprofit organization dedicated to providing water industry certifications, training, and networking opportunities. The Association’s Technical Certification Program provides accredited sanitary sewer system operator certification for collection system operators and maintenance workers.

On February 10, 2016, the State Water Board entered into a collaborative agreement with the Association titled *Memorandum of Agreement Between the California State Water Resources Control Board and the California Water Environment Association - Training Regarding Requirements Set Forth in Statewide General Waste Discharge Requirements for Sanitary Sewer Systems*. The Memorandum sets forth collaborative training necessary for regulated sanitary sewer system personnel to operate and maintain a well operating system and ensure full compliance with statewide sewer system regulations.

On March 15, 2018, the State Water Board and the California Water Environment Association amended the existing Memorandum of Agreement to include collaborative outreach and expand training needs associated with further updates to Water Board regulations for sanitary sewer systems. The State Water Board encourages further Agreement updates as necessary to support improved sewer system operations and the professionalism of collection system operators.

STATEWIDE SANITARY SEWER SYSTEMS GENERAL ORDER

3.2. General

3.2.1. Waters of the State

Waters of the State include any surface water or groundwater, including saline waters, within the boundaries of the state as defined in Water Code section 13050(e), and are inclusive of waters of the United States.

3.2.2. Sanitary Sewer System Spill Threats to Public Health and Beneficial Uses

Sewage contains high levels of suspended solids, pathogenic organisms, toxic pollutants, nutrients, oxygen-demanding organic compounds, oil and grease and other pollutants. Sewage spills may cause a public nuisance, particularly when sewage is discharged to areas with high public exposure such as streets and surface waters used for drinking, irrigation, fishing, recreation, or other public consumption or contact uses.

More specifically, sanitary sewer spills may:

- Adversely affect aquatic life and/or threaten water quality when reaching receiving waters;
- Inadvertently release trash, including plastics;
- Impair the recreational use and aesthetic enjoyment of surface waters by polluting surface water or groundwater;
- Threaten public health through direct public exposure to bacteria, viruses, intestinal parasites, and other microorganisms that can cause serious illness such as gastroenteritis, hepatitis, cryptosporidiosis, and giardiasis;
- Negatively impact ecological receptors and biota within surface waters; and
- Cause nuisance including odors, closure of beaches and recreational areas, and property damage.

Sanitary sewer system spills may pollute receiving waters and threaten beneficial uses of surface water and groundwater. Potentially threatened beneficial uses include, but are not limited to the following (with associated acronym representations as included in statewide water quality control plans and Regional Water Boards' Basin Plans):

- Municipal and Domestic Supply (MUN)
- Water Contact Recreation (REC-1) and Non-Contact Water Recreation (REC-2)
- Cold Freshwater Habitat (COLD)
- Warm Freshwater Habitat (WARM)
- Native American Culture (CUL)
- Wildlife Habitat (WILD)
- Rare, Threatened, or Endangered Species (RARE)
- Spawning, Reproduction, and/or Early Development (SPWN)
- Wetland Habitat (WET)
- Agricultural Supply (AGR)
- Estuarine Habitat (EST)

STATEWIDE SANITARY SEWER SYSTEMS GENERAL ORDER

- Commercial and Sport Fishing (COMM)
- Subsistence Fishing (SUB)
- Tribal Tradition and Culture (CUL)
- Tribal Subsistence Fishing (T-SUB)
- Aquaculture (AQUA)
- Marine Habitat (MAR)
- Preservation of Biological Habitats of Special Significance (BIOL)
- Migration of Aquatic Organisms (MIGR)
- Shellfish Harvesting (SHELL)
- Industrial Process Supply (PROC)
- Industrial Service Supply (IND)
- Hydropower Generation (POW)
- Navigation (NAV)
- Flood Peak Attenuation/Flood Water Storage (FLD)
- Water Quality Enhancement (WQE)
- Fresh Water Replenishment (FRSH)
- Groundwater Recharge (GWR)
- Inland Saline Water Habitat (SAL)

3.2.3. Proactive Sanitary Sewer System Management to Eliminate Spill Causes

Finding 3 of the previous Order, 2006-0003-DWQ, states: “Sanitary sewer systems experience periodic failures resulting in discharges that may affect waters of the state. There are many factors (including factors related to geology, design, construction methods and materials, age of the system, population growth, and system operation and maintenance), which affect the likelihood of an SSO [sanitary sewer overflow]. A proactive approach that requires Enrollees to ensure a system-wide operation, maintenance, and management plan is in place will reduce the number and frequency of SSOs within the state. This approach will in turn decrease the risk to human health and the environment caused by SSOs.”

Many spills are preventable through proactive attention on sanitary sewer system management using the best practices and technologies available to address major causes of spills, including but not limited to:

- Blockages from sources including but not limited to:
 - Fats, oils and grease;
 - Tree roots;
 - Rags, wipes and other paper, cloth and plastic products; and
 - Sediment and debris.
- Sewer system damage and exceedance of sewer system hydraulic capacity from identified system-specific environmental, and climate-change impacts, including but not limited to:

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- Sea level rise impacts including flooding, coastal erosion, seawater intrusion, tidal inundation and submerged lands;
- Increased surface water flows due to higher intensity rain events;
- Flooding;
- Wildfires and wildfire induced impacts;
- Earthquake induced damage;
- Landslides; and
- Subsidence.
- Infrastructure deficiencies and failures, including but not limited to:
 - Pump station mechanical failures;
 - System age;
 - Construction material failures;
 - Manhole cover failures;
 - Structural failures; and
 - Lack of proper operation and maintenance.
- Insufficient system capacity (temporary or sustained), due to factors including but not limited to:
 - Excessive and/or increased storm or groundwater inflow/infiltration;
 - Insufficient capacity due to population increase and/or new connections from industrial, commercial and other system users; and
 - Stormwater capture projects utilizing a sanitary sewer system to convey stormwater to treatment facilities for reuse.
- Community impacts, including but not limited to:
 - Power outages;
 - Vandalism; and
 - Contractor-caused or other third party-caused damages.

3.2.4. Underground Sanitary Sewer System Leakage

Portions of some sanitary sewer systems may leak, causing underground exfiltration (exiting) of sewage from the system. Exfiltrated sewage that remains in the underground infrastructure trench and/or the soil matrix, and that does not discharge into waters of the State (surface water or groundwater) may not threaten beneficial uses.

Underground exfiltrated sewage may threaten beneficial uses if discharged to waters of the State. Exfiltrated sewage that discharges to groundwater may impact beneficial uses of groundwater and pollute groundwater supply. Additionally, if in close proximity, exfiltrated sewage may enter into a compromised underground drainage conveyance system that discharges into a water of the United States, or into groundwater that is hydrologically connected to (feeds into) a water of the United States, thus potentially causing: (1) a Clean Water Act violation, (2) threat and impact to beneficial uses, and/or (3) surface water pollution.

3.2.5. Proactive Sanitary Sewer System Management to Reduce Inflow and Infiltration

Excessive inflow (stormwater entering) and infiltration (groundwater seepage entering) to sanitary sewer systems is preventable through proactive sewer system management using the best practices and technologies available. The efficiency of the downstream wastewater treatment processes is dependent on the performance of the sanitary sewer system. When the structural integrity of a sanitary sewer system deteriorates, high volumes of inflow and infiltration can enter the sewer system. High levels of inflow and infiltration increase the hydraulic load on the downstream treatment plant, which can reduce treatment efficiency, lead to bypassing a portion of the treatment process, cause illegal discharge of partially treated effluent, or in extreme situations make biological treatment facilities inoperable (e.g., wash out the biological organisms that treat the waste).

3.3. Water Quality Control Plans, Policies and Resolutions

The nine Regional Water Boards have adopted region-specific water quality control plans (commonly referred to as Basin Plans) that designate beneficial uses, establish water quality objectives, and contain implementation programs and policies to achieve those objectives. The State Water Board has adopted statewide water quality control plans, policies and resolutions establishing statewide water quality objectives, implementation programs and initiatives.

3.3.1. State Water Board Antidegradation Policy

On October 28, 1968, the State Water Board adopted Resolution 68-16, titled Statement of Policy with Respect to Maintaining High Quality of Waters in California, which incorporates the federal antidegradation policy. Resolution 68-16 requires that existing water quality be maintained unless degradation is justified based on specific findings.

The continued prohibition of sewage discharges from sanitary sewer systems into waters of the State aligns with Resolution 68-16. A sewage discharge from sanitary sewers to waters of the State is prohibited by this Order. Therefore, this Order does not allow degradation of waters of the State. In addition, this Order: (1) further expands the existing prohibition of sewage discharges to include waters of the State, in addition to waters of the United States as provided in previous Order 2006-0003-DWQ, and (2) enhances the ability for Water Board enforcement of violations of the established prohibitions.

3.3.2. State Water Board Sources of Drinking Water Policy

On May 19, 1988, the State Water Board adopted Resolution 88-63 (amended on February 1, 2006), titled Sources of Drinking Water, establishing state policy that all waters of the State, with certain exceptions, are suitable or potentially suitable for municipal or domestic supply.

3.3.3. State Water Board Cost of Compliance Resolution

On September 24, 2013, the State Water Board adopted Resolution 2013-0029, titled Directing Actions in Response to Efforts by Stakeholders on Reducing Costs of

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Compliance While Maintaining Water Quality Protection. Through this resolution, the State Water Board committed to continued stakeholder engagement in identifying and implementing measures to reduce costs of compliance with regulatory orders while maintaining water quality protection and improving regulatory program outcomes.

3.3.4. State Water Board Human Right to Water Resolution

On February 16, 2016, the State Water Board adopted Resolution 2016-0010, titled Adopting the Human Right to Water as a Core Value and Directing its Implementation in Water Board Programs and Activities, addressing the human right to water as a core value and directing Water Board programs to implement requirements to support safe drinking water for all Californians.

On November 16, 2021, the State Water Board adopted Resolution 2021-0050 titled Condemning Racism, Xenophobia, Bigotry, and Racial Injustice, and Strengthening Commitment to Racial Equity, Diversity, Inclusion, Access, and Anti-racism. Among other actions, through Resolution 2021-0050, the State Water Board, in summary as corresponding to this General Order, reaffirms its commitment to its Human Right to Water resolution, upholding that every human being in California deserves safe, clean, affordable, and accessible water for human consumption, cooking, and sanitation purposes. Resolution 2021-0050 provides the State Water Board commitment to:

- Protect public health and beneficial uses of waterbodies in all communities, including communities disproportionately burdened by wastes discharge of waste to land and surface water;
- Restore impaired surface waterbodies and degraded aquifers; and
- Promote multi-benefit water quality projects.

Through Resolution 2021-0050, the State Water Board also commits to expanding implementation of its Climate Change Resolution to address the disproportionate effects of extreme hydrologic conditions and sea-level rise on Black, Indigenous, and people of color communities, prioritizing:

- The right to safe, clean, affordable, and accessible drinking water and sanitation;
- Sustainable management and protection of local groundwater resources;
- Healthy watersheds; and
- Access to surface waterbodies that support subsistence fishing.

On June 7, 2022, the State Water Board adopted a Resolution, titled Authorizing the Executive Director or Designee to Enter into One or More Multi-Year Contracts Up to a Combined Sum of \$4,000,000 for a Statewide Wastewater Needs Assessment, supporting the equitable access to sanitation for all Californians and implementation of Resolutions 2016-0010 and 2021-0050.

This General Order supports the State Water Board priority in collecting a comprehensive set of data for California's wastewater systems, including sanitary sewer systems. Data reported per the requirements of this Order will be used with data from other Water Boards' programs, to further develop criteria and create a statewide risk

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framework to prioritize critical funding and infrastructure investments for California's most vulnerable populations, including disadvantaged or severely disadvantaged communities with inadequate or failing sanitation systems and threatened access to healthy drinking water supplies.

3.3.5. State Water Board Open Data Resolution

On July 10, 2018, the State Water Board adopted Resolution 2018-0032, titled Adopting Principles of Open Data as a Core Value and Directing Programs and Activities to Implement Strategic Actions to Improve Data Accessibility and Associated Innovation, directing regulatory programs to assure all monitoring and reporting requirements support the State Water Boards' Open Data Initiative.

3.3.6. State Water Board Response to Climate Change

On March 7, 2017, the State Water Board adopted Resolution 2017-0012, titled Comprehensive Response to Climate Change, requiring a proactive response to climate change in all California Water Board actions, with the intent to embed climate change consideration into all programs and activities.

3.4. California Environmental Quality Act

The adoption of this Order is an action to reissue general waste discharge requirements that is exempt from the California Environmental Quality Act (Public Resources Code section 21000 et seq.) because it is an action taken by a regulatory agency to assure the protection of the environment and the regulatory process involves procedures for protection of the environment (Cal. Code Regs., Title 14, section 15308). In addition, the action to adopt this Order is exempt from CEQA pursuant to Cal. Code Regs., Title 14, section 15301, to the extent that it applies to existing sanitary sewer collection systems that constitute "existing facilities" as that term is used in sections 15301 and 15302, to the extent that it results in the repair or replacement of existing systems involving negligible or no expansion of capacity.

3.5. State Water Board Funding Assistance for Compliance with Water Board Water Quality Orders

The State Water Board, Division of Financial Assistance administers the implementation of the State Water Board financial assistance programs, per Board-adopted funding policies. Among other funding areas, the Division administers loan and grant funding for the planning and construction of wastewater and water recycling facilities per funding program-specific policies and guidelines. Applicants may apply for Clean Water State Revolving Fund low-interest loan, Small Community Wastewater grant funding assistance, and other funding available at the time of application, for some of the costs associated with complying with this General Order.

Funding applicants may obtain further information regarding current funding opportunities, and Division of Financial Assistance staff contact information at the following website: [Financial Assistance Funding - Grants and Loans | California State Water Resources Control Board](https://www.waterboards.ca.gov/water_issues/programs/grants_loans/).

(https://www.waterboards.ca.gov/water_issues/programs/grants_loans/)

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Section 13477.6 of the Water Code authorizes the Small Community Grant Fund. The Small Community Grant Fund allows the State Water Board to provide grant funding assistance to small, disadvantaged communities and small severely disadvantaged communities that may not otherwise be able to afford a loan or similar financing for projects to comply with requirements of this General Order. The State Water Board also considers loan forgiveness on a disadvantaged community-specific basis.

For disadvantaged communities' wastewater needs, the State Water Board places priority on the funding of projects that address:

- Public health;
- Violations of waste discharge requirements and National Pollutant Discharge Elimination System (NPDES) permits;
- Providing sewer system service to existing septic tank owners; and
- High priority public health and water quality concerns identified by a Regional Water Board.

3.6. Notification to Interested Parties

On January 31, 2022, the State Water Board notified interested parties and persons of its intent to reissue Sanitary Sewer Systems General Order 2006-0003-DWQ by issuing a draft General Order for a 60-day public comment period. State Water Board staff conducted extensive stakeholder outreach and encouraged public participation in the adoption process for this General Order. On March 15, 2022, the State Water Board held a public meeting to hear and consider oral public comments. The State Water Board considered all public comments prior to adopting this General Order.

THEREFORE, IT IS HEREBY ORDERED, that pursuant to Water Code sections 13263, 13267, and 13383 this General Order supersedes Order 2006-0003-DWQ, Order WQ 2013-0058-EXEC, and any amendments made to these Orders thereafter, except for enforcement purposes and to meet the provisions contained in Division 7 of the Water Code (commencing with section 13000) and regulations adopted thereunder, and the provisions of the Clean Water Act and regulations and guidelines adopted thereunder, the Enrollee shall comply with the requirements in this Order.

4. PROHIBITIONS

4.1 Discharge of Sewage from a Sanitary Sewer System

Any discharge from a sanitary sewer system that has the potential to discharge to surface waters of the State is prohibited unless it is promptly cleaned up and reported as required in this General Order.

4.2 Discharge of Sewage to Waters of the State

Any discharge from a sanitary sewer system, discharged directly or indirectly through a drainage conveyance system or other route, to waters of the State is prohibited.

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4.3. Discharge of Sewage Creating a Nuisance

Any discharge from a sanitary sewer system that creates a nuisance or condition of pollution as defined in Water Code section 13050(m) is prohibited.

5. SPECIFICATIONS

5.1. Designation of a Legally Responsible Official

The Enrollee shall designate a Legally Responsible Official that has authority to ensure the enrolled sanitary sewer system(s) complies with this Order, and is authorized to serve as a duly authorized representative. The Legally Responsible Official must have responsibility over management of the Enrollee's entire sanitary sewer system, and must be authorized to make managerial decisions that govern the operation of the sanitary sewer system, including having the explicit or implicit duty of making major capital improvement recommendations to ensure long-term environmental compliance. The Legally Responsible Official must have or have direct authority over individuals that:

- Possess a recognized degree or certificate related to operations and maintenance of sanitary sewer systems, and/or
- Have professional training and experience related to the management of sanitary sewer systems, demonstrated through extensive knowledge, training and experience.

For example, a sewer system superintendent or manager, an operations manager, a public utilities manager or director, or a district engineer may be designated as a Legally Responsible Official.

The Legally Responsible Official shall complete the electronic [CIWQS "User Registration" form](https://ciwqs.waterboards.ca.gov/ciwqs/newUser.jsp) (<https://ciwqs.waterboards.ca.gov/ciwqs/newUser.jsp>). A Legally Responsible Official that represents multiple enrolled systems shall complete the electronic CIWQS "User Registration" form for each system.

The Enrollee shall submit any change to its Legally Responsible Official, and/or change in contact information, to the State Water Board within 30 calendar days of the change by emailing ciwqs@waterboards.ca.gov and copying the appropriate Regional Water Board as provided in Attachment F (Regional Water Quality Control Board Contact Information) of this General Order.

5.2. Sewer System Management Plan Development and Implementation

To facilitate adequate local funding and management of its sanitary sewer system(s), the Enrollee shall develop and implement an updated Sewer System Management Plan. The scale and complexity of the Sewer System Management Plan, and specific elements of the Plan, must match the size, scale and complexity of the Enrollee's sanitary sewer system(s). The Sewer System Management Plan must address, at minimum, the required Plan elements in Attachment D (Sewer System Management Plan – Required Elements) of this General Order. To be effective, the Sewer System Management Plan must include procedures for the management, operation, and maintenance of the sanitary sewer system(s). The procedures must: (1) incorporate the

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prioritization of system repairs and maintenance to proactively prevent spills, and (2) address the implementation of current standard industry practices through available equipment, technologies, and strategies.

For an existing Enrollee under Order 2006-0003-DWQ that has certified its Continuation of Existing Regulatory Coverage, per section 2.1 (Requirements for Continuation of Existing Regulatory Coverage) of this General Order:

Within six (6) months of the Adoption Date of this General Order:

- The Legally Responsible Official shall upload the Enrollee's existing Sewer System Management Plan to the online CIWQS Sanitary Sewer System Database.

For a new Enrollee:

Within twelve (12) months of the Application for Enrollment approval date:

- The governing entity of the new Enrollee shall approve its Sewer System Management Plan; and
- The Legally Responsible Official shall certify and upload its Sewer System Management Plan to the online CIWQS Sanitary Sewer System Database.

5.3. Certification of Sewer System Management Plan and Plan Updates

The Legally Responsible Official shall certify and upload its Sewer System Management Plan and all subsequent updates to the online CIWQS Sanitary Sewer System Database.

5.4. Sewer System Management Plan Audits

The Enrollee shall conduct an internal audit of its Sewer System Management Plan, and implementation of its Plan, at a minimum frequency of once every three years. The audit must be conducted for the period after the end of the Enrollee's last required audit period. **Within six months after the end of the required 3-year audit period**, the Legally Responsible Official shall submit an audit report into the online CIWQS Sanitary Sewer System Database per the requirements in section 3.10 (Sewer System Management Plan Audit Reporting Requirements) of Attachment E1 of this General Order.

Audit reports submitted to the CIWQS Sanitary Sewer System Database will be viewable only to Water Boards staff.

The internal audit shall be appropriately scaled to the size of the system(s) and the number of spills. The Enrollee's sewer system operators must be involved in completing the audit. At minimum, the audit must:

- Evaluate the implementation and effectiveness of the Enrollee's Sewer System Management Plan in preventing spills;
- Evaluate the Enrollee's compliance with this General Order;
- Identify Sewer System Management Plan deficiencies in addressing ongoing spills and discharges to waters of the State; and

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- Identify necessary modifications to the Sewer System Management Plan to correct deficiencies.

The Enrollee shall submit a complete audit report that includes:

- Audit findings and recommended corrective actions;
- A statement that sewer system operators’ input on the audit findings has been considered; and
- A proposed schedule for the Enrollee to address the identified deficiencies.

A new Enrollee of this General Order (that did not have a sanitary sewer system enrolled in the previous State Water Board Order 2006-0003-DWQ) shall conduct its first internal Sewer System Management Plan audit for the time period between the date of submittal of its certified Sewer System Management Plan and the third subsequent December 31st date. The audit report must be submitted into the online CIWQS Sanitary Sewer System Database **by July 1 of the following calendar year.**

See the following tables for clarification:

Initial Audit Period and Audit Due Date for New Enrollees

	Audit Period	Audit Due Date
New Enrollee	Certified Sewer System Management Plan Submittal Date through the third subsequent December 31 st date	July 1 st date after audit period
<i>Example</i>	<i>Certified Sewer System Management Plan Submittal Date of August 2, 2025 Audit Period of August 2, 2025 through December 31, 2027</i>	<i>July 1, 2028</i>

Initial Audit Period for Transition from 2-Year Audit Required in Previous Order 2006-0003-DWQ to 3-Year Audit Required in this General Order

	Audit Period	Audit Due Date
An Enrollee previously regulated by Order 2006-003-DWQ	A 3-year period starting from the end of last required 2-year Audit Period	Within six months after end of 3-year Audit Period
<i>Example</i>	<i>Last required Audit Period start date of August 2, 2021; Audit Period of August 2, 2021 through August 1, 2024</i>	<i>February 1, 2025</i>

Three-Year Ongoing Audit Period

	Audit Period	Audit Due Date
Each Enrollee	A 3-year period starting from the end of last required Audit Period	Within six months after end of 3-year Audit Period

5.5. Six-Year Sewer System Management Plan Update

At a minimum, the Enrollee shall update its Sewer System Management Plan every six (6) years after the date of its last Plan Update due date. (For an Enrollee previously regulated by Order 2006-0003-DWQ, the six-year period shall commence on the due date identified in section 3.11 of Attachment E1 (Notification, Monitoring, Reporting and Recordkeeping Requirements) of this Order. The Updated Sewer System Management Plan must include:

- Elements required in Attachment D (Sewer System Management Plan – Required Elements) of this Order;
- Summary of revisions included in the Plan update based on internal audit findings; and
- Other sewer system management-related changes.

The Enrollee’s governing entity shall approve the updated Plan. The Legally Responsible Official shall upload and certify the approved updated Plan in the online CIWQS Sanitary Sewer System Database in accordance with section 3.11 (Sewer System Management Plan Reporting Requirements) of Attachment E1 (Notification, Monitoring, Reporting and Recordkeeping Requirements) of this General Order. During the time period in between Plan updates, the Enrollee shall continuously document changes to its Sewer System Management Plan in a change log attached to the Plan.

5.6. System Resilience

The Enrollee shall include and implement system-specific procedures in its Sewer System Management Plan to proactively prioritize: (1) operation and maintenance, (2) condition assessments, and (3) repair and rehabilitation, to address ongoing system resilience, as specified in Attachment D (Sewer System Management Plan – Required Elements) of this General Order.

5.7. Allocation of Resources

The Enrollee shall:

- Establish and maintain a means to manage all necessary revenues and expenditures related to the sanitary sewer system; and
- Allocate the necessary resources to its sewer system management program for:
 - Compliance with this General Order,
 - Full implementation of its updated Sewer System Management Plan,
 - System operation, maintenance, and repair, and
 - Spill responses.

5.8. Designation of Data Submitters

The Legally Responsible Official may designate one or more individuals as a Data Submitter for reporting of spill data. The Legally Responsible Official shall authorize the designation of Data Submitter(s) through the online [CIWQS database](https://ciwqs.waterboards.ca.gov) (<https://ciwqs.waterboards.ca.gov>) prior to the individuals establishing a [CIWQS user account](https://ciwqs.waterboards.ca.gov/ciwqs/newUser.jsp) (<https://ciwqs.waterboards.ca.gov/ciwqs/newUser.jsp>) and entering spill data into the online CIWQS Sanitary Sewer System Database.

The Legally Responsible Official shall submit any change to its Data Submitter(s), and/or change in Data Submitter contact information, to the State Water Board within 30 calendar days of the change, by emailing ciwqs@waterboards.ca.gov and copying the appropriate Regional Water Board as provided in Attachment F (Regional Water Quality Control Board Contact Information) of this General Order.

5.9. Reporting Certification

The Legally Responsible Official shall electronically certify, on the Enrollee's behalf, all applications, reports, the Sewer System Management Plan(s) and corresponding updates, and other information submitted electronically into the online CIWQS Sanitary Sewer System Database, as follows:

"I certify under penalty of perjury under the laws of the State of California that the electronically submitted information was prepared under my direction or supervision. Based on my inquiry of the person(s) directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is true, accurate, and complete, and complies with the Statewide Sanitary Sewer Systems General Order. I am aware that there are significant penalties for submitting false information."

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Hardcopy submittals to the State Water Board must be accompanied by the above certification statement.

5.10. System Capacity

The Enrollee shall maintain the system capacity necessary to convey: (1) base flows during dry weather conditions, and (2) wet weather peak flows consistent with designated local historic storms. Design storms must take into account system-specific stormwater contributions via inflow and infiltration, and location-specific depth of groundwater and storm frequencies. The Enrollee shall implement capital improvements to provide adequate hydraulic capacity to:

- Meet or exceed the design criteria as defined in the Enrollee's System Evaluation and Capacity Assurance element of its Sewer System Management Plan; and
- Prevent system capacity-related spills, and adverse impacts to the treatment efficiency of downstream wastewater treatment facilities.

5.11. System Performance Analysis

The Enrollee shall include a running 10-year system performance analysis in its Annual Report. The analysis must include two CIWQS-generated graphs presenting the following information:

Graph 1 – Total Spill Volume per Year:

X axis: A 10-year period which includes the current calendar year and the nine previous calendar years;

Y axis: The total spill volume, per Spill Category, for each calendar year.

Graph 2 – Total Number of Spills per Year:

X axis: A 10-year period which includes the current calendar year and the nine previous calendar years;

Y axis: The total number of spills, per Spill Category, for each calendar year.

The current calendar year is the calendar year covered in the Annual Report.

The Enrollee shall generate the graphs in CIWQS, using the existing data in the online CIWQS Sanitary Sewer System Database at the following graph generation link: (https://ciwqs.waterboards.ca.gov/ciwqs/readOnly/PublicReportSSOServlet?reportAction=criteria&reportId=sso_operation_report).

5.12. Spill Emergency Response Plan and Remedial Actions

For Existing Enrollees (with regulatory coverage under Order 2006-0003-DWQ):

Within six (6) months of the Adoption Date of this General Order, the Enrollee shall update and implement its Spill Emergency Response Plan, per Attachment D, section 6 (Spill Emergency Response Plan) of this General Order.

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For New Enrollees:

Within six (6) months of the Application for Enrollment approval date, the Enrollee shall develop and implement a Spill Emergency Response Plan, per Attachment D, section 6 (Spill Emergency Response Plan) of this General Order.

The Enrollee shall certify, in its Annual Report, that its Spill Emergency Response Plan is up to date.

The Spill Emergency Response Plan shall include measures to protect public health and the environment. The Enrollee shall respond to spills from its system(s) in a timely manner that minimizes water quality impacts and nuisance by:

- Immediately stopping the spill and preventing/minimizing a discharge to waters of the State;
- Intercepting sewage flows to prevent/minimize spill volume discharged into waters of the State;
- Thoroughly recovering, cleaning up and disposing of sewage and wash down water; and
- Cleaning publicly accessible areas while preventing toxic discharges to waters of the State.

5.13. Notification, Monitoring, Reporting and Recordkeeping Requirements

The Enrollee shall comply with notification, monitoring, reporting, and recordkeeping requirements in Attachment E1 of this General Order.

5.13.1. Spill Categories

Individual spill notification, monitoring and reporting must be in accordance with the following spill categories:

- **Category 1 Spill**

A Category 1 spill is a spill of any volume of sewage from or caused by a sanitary sewer system regulated under this General Order that results in a discharge to:

- A surface water, including a surface water body that contains no flow or volume of water; or
- A drainage conveyance system that discharges to surface waters when the sewage is not fully captured and returned to the sanitary sewer system or disposed of properly.

Any spill volume not recovered from a drainage conveyance system is considered a discharge to surface water, unless the drainage conveyance system discharges to a dedicated stormwater infiltration basin or facility.

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A spill from an Enrollee-owned and/or operated lateral that discharges to a surface water is a Category 1 spill; the Enrollee shall report all Category 1 spills per section 3.1 of Attachment E1 (Notification, Monitoring, Reporting and Recordkeeping Requirements) of this General Order.

- **Category 2 Spill**

A Category 2 spill is a spill of 1,000 gallons or greater, from or caused by a sanitary sewer system regulated under this General Order that does not discharge to a surface water.

A spill of 1,000 gallons or greater that spills out of a lateral and is caused by a failure or blockage in the sanitary sewer system, is a Category 2 spill.

- **Category 3 Spill**

A Category 3 spill is a spill of equal to or greater than 50 gallons and less than 1,000 gallons, from or caused by a sanitary sewer system regulated under this General Order that does not discharge to a surface water.

A spill of equal to or greater than 50 gallons and less than 1,000 gallons, that spills out of a lateral and is caused by a failure or blockage in the sanitary sewer system is a Category 3 spill.

- **Category 4 Spill**

A Category 4 spill is a spill of less than 50 gallons, from or caused by a sanitary sewer system regulated under this General Order that does not discharge to a surface water.

A spill of less than 50 gallons that spills out of a lateral and is caused by a failure or blockage in the sanitary sewer system is a Category 4 spill.

5.13.2. Annual Report

The Enrollee shall submit an Annual Report (previously termed as Collection System Questionnaire in Order 2006-0003-DWQ) as specified in section 3.9 (Annual Report) of Attachment E1 (Notification, Monitoring, Reporting and Recordkeeping Requirements) of this General Order.

For new Enrollees: Within 30 days of obtaining a CIWQS account, a new Enrollee shall submit its initial Annual Report, as specified in section 3.9 (Annual Report) of Attachment E1 (Notification, Monitoring, Reporting and Recordkeeping Requirements) of this General Order.

5.14. Electronic Sanitary Sewer System Service Area Boundary Map

For continuing enrollees, starting on July 1, 2025, and no later than December 31, 2025:

For new enrollees – no earlier than July 1, 2025, or within 12 months of the Application for Enrollment approval date, whichever date is later:

The Legally Responsible Official shall submit, to the State Water Board, geospatial data detailing the locations of the Enrollee’s sanitary sewer system service area boundary, per the required content and specifications in section 3.8 (Electronic Sanitary Sewer System Service Area Boundary Map) of Attachment E1 of this General Order, for each system identified by a WDID number.

An Enrollee of a disadvantaged community that may need assistance developing an electronic map to comply with this requirement, may contact State Water Board staff for assistance at SanitarySewer@waterboards.ca.gov.

5.15. Voluntary Reporting of Spills from Privately-Owned Sewer Laterals and/or Private Sanitary Sewer Systems

Within 24 hours of becoming aware of a spill (as described below) from a private sewer lateral or private sanitary sewer system that is not owned/operated by the Enrollee, the Enrollee is encouraged to report the following observations to the online CIWQS Sanitary Sewer System Database at the following link:

<https://ciwqs.waterboards.ca.gov>:

- A spill equal or greater than 1,000 gallons that discharges (or has a potential to discharge) to a water of the State, or a drainage conveyance system that discharges to waters of the State; **or**
- Any volume of sewage that discharges (or has a potential to discharge) to surface waters.

In the CIWQS module, the Enrollee is encouraged to identify:

- Time of observation;
- Description of general spill location (for example, street name and cross street names);
- Estimated volume of spill;
- If known, general description of spill destination (for example, flowing into drainage channel, flowing directly into a creek, etc.); and
- If known, name of private system owner/operator.

The CIWQS database will make the name and contact information of the entity voluntarily reporting a private spill, accessible to State and Regional Water Board staff only. The CIWQS database will only make information regarding the actual spill, accessible to the public.

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5.16. Voluntary Notification of Spills from Privately-Owned Laterals and/or Systems to the California Office of Emergency Services

Upon observing or acquiring knowledge of any of the following from a private sewer lateral or private sanitary sewer system that is not owned/operated by the Enrollee, the Enrollee is encouraged to notify the California Office of Emergency Services (as provided by Health and Safety Code section 5410 et. seq. and Water Code section 13271), or inform the responsible party that State law requires such notification to the Office of Emergency Services by any person that causes or allows a sewage discharge to waters of the State:

- A spill equal to 1,000 gallons or more that discharges (or has a potential to discharge) to waters of the State, or a drainage conveyance system that discharges to waters of the State; or
- A spill of any volume to surface waters.

5.17. Unintended Failure to Report

If an Enrollee becomes aware that they unintentionally failed to submit relevant facts in any report required in this General Order, the Enrollee shall promptly notify Regional Water Board and State Water Board staff. Regional Water Board contact information is included in Attachment F of this Order. State Water Board staff shall be contacted by email at SanitarySewer@waterboards.ca.gov for assistance in formally amending the corresponding report(s) in the online CIWQS Sanitary Sewer System Database.

5.18. Duty to Report to Water Boards

In accordance with Water Code section 13267 and/or section 13383, upon request by the State Water Board Executive Director (or designee) or a Regional Water Board Executive Officer (or designee), the Enrollee shall provide the requested information which the State or Regional Water Board deems necessary to determine compliance with this General Order.

5.19. Operation and Maintenance

To prevent discharges to the environment, the Enrollee shall maintain in good working order, and operate as designed, any facility or treatment and control system designed to contain sewage and convey it to a treatment plant.

6. PROVISIONS

6.1. Enforcement Provisions

The following enforcement provisions are based on existing federal and state regulations, laws and policies, including the federal Clean Water Act, the state Water Code and the State Water Board Enforcement Policy.

6.1.1. Enforceability of Clean Water Act and Water Code Violations

Noncompliance with requirements of this General Order or discharging sewage without enrolling in this General Order constitutes a violation of the Water Code and a potential

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violation of the Clean Water Act and is grounds for an enforcement action by the State Water Board or the applicable Regional Water Board. Failure to comply with the notification, monitoring, inspection, entry, reporting, and recordkeeping requirements may subject the Enrollee to administrative civil liabilities of up to \$10,000 a day per violation pursuant to Water Code section 13385; up to \$1,000 a day per violation pursuant to Water Code section 13268; or referral to the Attorney General for judicial civil enforcement. Discharging waste not in compliance with the requirements of this General Order or the Clean Water Act may subject the Enrollee to administrative civil liabilities up to \$10,000 a day per violation and additional liability up to \$10 per gallon of discharge not cleaned up after the first 1,000 gallons of discharge; up to \$5,000 a day per violation pursuant to Water Code section 13350 or up to \$20 per gallon of waste discharged; or referral to the Attorney General for judicial civil enforcement.

6.1.2. Monetary Penalties

The Water Code provides the State and Regional Water Boards the authority to pursue formal enforcement actions, including imposing administrative liability and civil monetary penalties, for non-compliance with the requirements of this General Order and violations of the Clean Water Act.

6.1.3. Falsifying or Failure to Report

The Water Code provides that any person failing or refusing to furnish technical or monitoring program reports, as required under this General Order, or falsifying any information provided in the technical or monitoring reports is subject to administrative liability and civil monetary penalties. Any person who knowingly fails or refuses to furnish technical or monitoring program reports or falsifies any information provided in reports required by this General Order is subject to criminal penalties.

6.1.4. Severability of General Order

The provisions of this General Order are severable; if any provision of this Order, or the application of any provision of this Order to any circumstance, is held invalid, the application of such provision to other circumstances and the remainder of this Order shall not be affected thereby.

6.1.5. Indirect Discharges

In the event that a spill enters into a drainage conveyance system, the Enrollee shall take all feasible steps to prevent discharge of sewage into waters of the State by blocking or redirecting the flow in the drainage conveyance system, removing the sewage from the drainage conveyance system, and cleaning the system in a manner that does not inadvertently impact beneficial uses of the receiving water body.

6.1.6. Water Boards' Considerations for Discretionary Enforcement

Consistent with the State Water Board Enforcement Policy, when considering Water Code section 13327 factors, the State Water Board or a Regional Water Board may consider the Enrollee's efforts to contain, control, clean up, and mitigate spills. In assessing the factors, the State Water Board or the applicable Regional Water Board will consider:

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- The Enrollee's compliance with this General Order with a focus on compliance with reporting requirements;
- The Enrollee's provision of adequate funding to implement the requirements of this General Order;
- The Enrollee's compliance with providing a complete and updated Sewer System Management Plan;
- The Enrollee's compliance with implementing its Sewer System Management Plan;
- The overall effectiveness of the Enrollee's Sewer System Management Plan with respect to:
 - System management, operation, and maintenance,
 - Adequate treatment facilities, sanitary sewer system facilities, and/or components with an appropriate design capacity, to reasonably prevent spills (e.g. adequately enlarging treatment or collection facilities to accommodate growth, infiltration and inflow, etc.),
 - Preventive maintenance (including cleaning, root grinding, and fats, oils, and grease control) and source control measures,
 - Implementation of backup equipment,
 - Inflow and infiltration prevention and control,
 - Appropriate sanitary sewer system capacity to prevent spills, and
 - The Enrollee's responsiveness to stop and mitigate the impact of the discharge;
- The Enrollee's compliance with identifying the cause of the spill;
- The Enrollee's use of available information and observations to accurately estimate the spill volume and identify the affected or potentially affected receiving waters;
- The Enrollee's thoroughness of cleaning up sewage in drainage conveyance systems after the spill(s);
- The Enrollee's use of water quality and biological monitoring and assessment to determine the short-term and long-term impacts to beneficial uses and the environment;
- The Enrollee's follow up actions to improve system performance;
- The Enrollee's implementation of feasible alternatives to prevent spills, such as:
 - Use of temporary storage or waste retention,
 - Reduction of system inflow and infiltration,
 - Collection and hauling of waste to a treatment facility,
 - Prevention of and/ or containment of spills due to a design storm event identified in the Enrollee's Sewer System Management Plan,

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- Implementation of available equipment, technologies, strategies, and recommended industry practices for maintaining and managing sewer systems to prevent spills, and contain and eliminate discharges to waters of the State; and
- The spill duration and factors beyond the reasonable control of the Enrollee causing the event.

6.1.7. Enforcement Discretion Based on Reporting Compliance

Consistent with the State Water Board Enforcement Policy, the State Water Board or a Regional Water Board may consider the Enrollee's efforts to comply with spill reporting requirements when determining compliance with Water Code section 13267 and section 13383. When assessing Water Code section 13227 factors, the State Water Board or the applicable Regional Water Board will consider:

- The Enrollee's diligence to comply with all reporting requirements in this General Order;
- The use of best available information for the Enrollee's reporting of spill start date and start time in which the release of sewage from the sanitary sewer system initiated;
- The Enrollee's reporting of spill end date, and end time to be the date and time in which the release of sewage from the sanitary sewer system was stopped;
- The Enrollee's diligence to accurately estimate and report spill volumes;
- The Enrollee's subsequent verification and/or updates to initial Draft Spill Reports in accordance with this General Order; and
- The Enrollee's timely certification of required spill reports.

Consistent with Water Code section 13267 and section 13383, the State Water Board or a Regional Water Board may require an Enrollee to report the results of a condition assessment of a specified portion of the Enrollee's sanitary sewer system.

6.2. Other Regional Water Board Orders

It is the intent of the State Water Board that sanitary sewer systems be regulated in a manner consistent with federal and state regulations. This Order will not be interpreted or applied:

- In a manner inconsistent with the federal Clean Water Act;
- To authorize a spill or discharge that is illegal under either the Clean Water Act, the Water Code, and/or an applicable Basin Plan prohibition or water quality standard;
- To prohibit a Regional Water Board from issuing an individual National Pollutant Discharge Elimination System (NPDES) permit or individual waste discharge requirements superseding an Enrollee's regulatory coverage under this General Order for a sanitary sewer system authorized under the Clean Water Act or Water Code;

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- To supersede any more specific or more stringent waste discharge requirements or enforcement orders issued by a Regional Water Board; or
- To supersede any more specific or more stringent state or federal requirements in existing regulation, an administrative/judicial order, or Consent Decree.

6.3. Sewer System Management Plan Availability

The Enrollee's updated Sewer System Management Plan must be maintained for public inspection at the Enrollee's offices and facilities and must be available to the public through CIWQS and/or on the Enrollee's website, in accordance with section 3.8 (Sewer System Management Plan Reporting Requirements) of Attachment E1 (Notification, Monitoring, Reporting and Recordkeeping Requirements) of this General Order.

6.4. Entry and Inspection

6.4.1. Entry and Availability of Information

The Enrollee shall allow State and Regional Water Board staff, upon presentation of credentials and other documents as may be required by law, to:

- Enter upon the Enrollee's premises where a regulated facility or activity is located or conducted, or where records are kept under the requirements of this General Order;
- Have access to and reproduce any records required to be maintained by this General Order;
- Inspect any facility and/or equipment (including monitoring and control equipment), practices, or operations required in this General Order; and
- Sample or monitor substances or parameters for assuring compliance with this General Order, or as otherwise authorized by the Water Code.

6.4.2. Pre-Inspection Questionnaire

The Enrollee shall provide pre-inspection information to State and Regional Water Board staff through the completion of a Pre-Inspection Questionnaire provided by Water Board staff.

ATTACHMENT A - DEFINITIONS

Annual Report

An Annual Report (previously termed as Collection System Questionnaire in Order 2006-0003-DWQ) is a mandatory report in which the Enrollee provides a calendar-year update of its efforts to prevent spills.

Basin Plan

A Basin Plan is a water quality control plan specific to a Regional Water Quality Control Board (Regional Water Board), that serves as regulations to: (1) define and designate beneficial uses of surface and groundwaters, (2) establish water quality objectives for protection of beneficial uses, and (3) provide implementation measures.

Beneficial Uses

The term “Beneficial Uses” is a Water Code term, defined as the uses of the waters of the State that may be protected against water quality degradation. Examples of beneficial uses include but are not limited to, municipal, domestic, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves.

California Integrated Water Quality System (CIWQS)

CIWQS is the statewide database that provides for mandatory electronic reporting as required in State and Regional Water Board-issued waste discharge requirements.

Data Submitter

A Data Submitter is an individual designated and authorized by the Enrollee’s Legally Responsible Official to enter spill data into the online CIWQS Sanitary Sewer System Database. A Data Submitter does not have the authority of a Legally Responsible Official to certify reporting entered into the online CIWQS Sanitary Sewer System Database.

Disadvantaged Community

A disadvantaged community is a community with a median household income of less than eighty percent (80%) of the statewide annual median household income.

For the purpose of this General Order, there is no differentiation between a small and large disadvantaged community.

Drainage Conveyance System

A drainage conveyance system is a publicly- or privately-owned separate storm sewer system, including but not limited to drainage canals, channels, pipelines, pump stations, detention basins, infiltration basins/facilities, or other facilities constructed to transport stormwater and non-stormwater flows.

Enrollee

An Enrollee is a public, private, or other non-governmental entity that has obtained approval for regulatory coverage under this General Order, including:

- A state agency, municipality, special district, or other public entity that owns and/or operates one or more sanitary sewer systems:
 - greater than one (1) mile in length (each individual sanitary sewer system);
 - one mile or less in length where the State Water Resources Control Board or a Regional Water Quality Control Board requires regulatory coverage under this Order, or
- A federal agency, private company, or other non-governmental entity that owns and/or operates a sanitary sewer system of any size where the State Water Resources Control Board or a Regional Water Quality Control Board requires regulatory coverage under this Order in response to a history of spills, proximity to surface water, or other factors supporting regulatory coverage.

Environmentally Sensitive Area

An environmentally sensitive area is a designated agricultural and/or wildlife area identified to need special natural landscape protection due to its wildlife or historical value.

Exfiltration

Exfiltration is the underground exiting of sewage from a sanitary sewer system through cracks, offset or separated joints, or failed infrastructure due to corrosion or other factors.

Flood Control Channel

A flood control channel is a channel used to convey stormwater and non-stormwater flows through and from areas for flood management purposes.

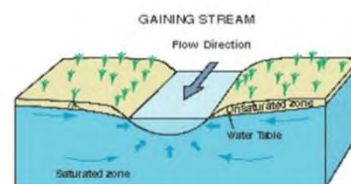
Governing Entity

A governing entity includes but is not limited to the following:

- A publicly elected governing board, council, or commission of a municipal agency;
- A Department or Division director of a federal or state agency that is not governed by a board;
- A governing board or commission of an organization or association; and
- A private system owner/manager that is not governed by a board.

Hydrologically Connected

Two waterbodies are hydrologically connected when one waterbody flows, or has the potential to flow, into the other waterbody. For the purpose of this General Order, groundwater is hydrologically connected to a surface water when the groundwater feeds into the surface water. (The surface waterbody in this example is termed a gaining stream as it gains flow from surrounding groundwater.)



Lateral (including Lower and Upper Lateral)

A lateral is an underground segment of smaller diameter pipe that transports sewage from a customer's building or property (residential, commercial, or industrial) to the Enrollee's main sewer line in a street or easement. Upper and lower lateral boundary definitions are subject to local jurisdictional codes and ordinances, or private system ownership.

A lower lateral is the portion of the lateral located between the sanitary sewer system main, and either the property line, sewer clean out, curb line, established utility easement boundary, or other jurisdictional locations.

An upper lateral is the portion of the lateral from the property line, sewer clean out, curb line, established utility easement boundary, or other jurisdictional locations, to the building or property.

Legally Responsible Official

A Legally Responsible Official is an official representative, designated by the Enrollee, with authority to sign and certify submitted information and documents required by this General Order.

Nuisance

For the purpose of this General Order, a nuisance, as defined in Water Code section 13050(m), is anything that meets all of the following requirements:

- Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property;
- Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal; and
- Occurs during, or as a result of, the treatment or disposal of wastes.

Private Sewer Lateral

A private sewer lateral is the privately-owned lateral that transports sewage from private property(ies) into a sanitary sewer system.

Private Sanitary Sewer System

A private sanitary sewer system is a sanitary sewer system of any size that is owned and/or operated by a private individual, company, corporation, or organization. A private sanitary sewer system may or may not connect into a publicly owned sanitary sewer system.

Potential to Discharge, Potential Discharge

Potential to Discharge, or Potential Discharge, means any exiting of sewage from a sanitary sewer system which can reasonably be expected to discharge into a water of the State based on the size of the sewage spill, proximity to a drainage conveyance system, and the nature of the surrounding environment.

Receiving Water

A receiving water is a water of the State that receives a discharge of waste.

Resilience

Resilience is the ability to recover from or adjust to adversity or change, and grow from disruptions. Resilience can be built through planning, preparing for, mitigating, and adapting to changing conditions.

Sanitary Sewer System

A sanitary sewer system is a system that is designed to convey sewage, including but not limited to, pipes, manholes, pump stations, siphons, wet wells, diversion structures and/or other pertinent infrastructure, upstream of a wastewater treatment plant headworks, including:

- Laterals owned and/or operated by the Enrollee;
- Satellite sewer systems; and/or
- Temporary conveyance and storage facilities, including but not limited to temporary piping, vaults, construction trenches, wet wells, impoundments, tanks and diversion structures.

For purpose of this Order, sanitary sewer systems include only systems owned and/or operated by the Enrollee.

Satellite Sewer System

A satellite sewer system is a portion of a sanitary sewer system owned or operated by a different owner than the owner of the downstream wastewater treatment facility ultimately treating the sewage.

Sewer System Management Plan

A sewer system management plan is a living document an Enrollee develops and implements to effectively manage its sanitary sewer system(s) in accordance with this General Order.

Sewage

Sewage, and its associated wastewater, is untreated or partially treated domestic, municipal, commercial and/or industrial waste (including sewage sludge), and any mixture of these wastes with inflow or infiltration of stormwater or groundwater, conveyed in a sanitary sewer system.

Spill

A spill is a discharge of sewage from any portion of a sanitary sewer system due to a sanitary sewer system overflow, operational failure, and/or infrastructure failure. Exfiltration of sewage is not considered to be a spill under this General Order if the exfiltrated sewage remains in the subsurface and does not reach a surface water of the State.

Training

Training is in-house or external education and guidance needed that provides the knowledge, skills, and abilities to comply with this General Order.

Wash Down Water

Wash down water is water used to clean a spill area.

Waste

Waste, as defined in Water Code section 13050(d), includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal.

Waste Discharge Identification Number (WDID)

A waste discharge identification number (WDID) identifies each individual sanitary sewer system enrolled under this General Order. A WDID number is assigned to each enrolled system upon an Enrollee's approved regulatory coverage.

Waters of the State

Waters of the State are surface waters or groundwater within boundaries of the state as defined in Water Code section 13050(e), in which the State and Regional Water Boards have authority to protect beneficial uses. Waters of the State include, but are not limited to, groundwater aquifers, surface waters, saline waters, natural washes and pools, wetlands, sloughs, and estuaries, regardless of flow or whether water exists during dry conditions. Waters of the State include waters of the United States.

Waters of the United States

Waters of the United States are surface waters or waterbodies that are subject to federal jurisdiction in accordance with the Clean Water Act.

Water Quality Objective

A water quality objective is the limit or maximum amount of pollutant, waste constituent or characteristic, or parameter level established in statewide water quality control plans and Regional Water Boards' Basin Plans, for the reasonable protection of beneficial uses of surface waters and groundwater and the prevention of nuisance.

ATTACHMENT B – APPLICATION FOR ENROLLMENT

1. Enrollment Status: (Mark only one item)

- New Enrollee
- New Enrollee with previous regulatory coverage under Order 2006-0003-DWQ
(that failed to certify continuation of coverage in CIWQS per Order 2022-XXXX-DWQ)
Existing WDID Number: _____

2. Applicant Information:

Legally Responsible Official Submitting Application

First and Last Name: _____

Title: _____

Phone: _____

Email: _____

System Owner/Operator Name: _____

Mailing Address: _____

City, State, Zip: _____

County: _____

Sanitary Sewer System Name: _____

Regional Water Quality Control Board(s): _____

Signature and Date: _____

3. Applicant Type (Check one):

- City County State Federal Special District
- Government Combination Private Other Non-governmental Entity

4. Wastewater Treatment Plant Receiving Sanitary Sewer System Waste:

Wastewater Treatment Plant Permittee: _____

WDID No.: _____

5. Billing Information

Billing Address: _____

City, State, Zip: _____

Billing Contact Person and Title: _____

Phone and Email Address: _____

6. Application Fee:

The application fee, as required by Water Code section 13260, is based on the daily population served by the sanitary sewer system. See updated [Fee Schedule](https://www.waterboards.ca.gov/resources/fees/water_quality/).
(https://www.waterboards.ca.gov/resources/fees/water_quality/)

Check one of the following and enter fee amount:

Population Served < 50,000 – Total Fee submitted: \$ _____

Population Served ≥ 50,000 – Total Fee submitted: \$ _____

Make the fee payment payable to the State Water Resources Control Board and mail the complete application package to:

State Water Resources Control Board, Accounting Office
P. O. Box 1888
Sacramento, CA 95812-1888

Attention: Statewide Sanitary Sewer System Program

7. Application Submittal Certification

I certify under penalty of perjury under the laws of the State of California that to the best of my knowledge and belief, the information in the submitted application package is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

Print Name: _____

Title: _____

Signature: _____ Date: _____

ATTACHMENT C - NOTICE OF TERMINATION

1. Enrollee Information

Enrollee Name: _____

WDID No: _____

Legally Responsible Official Requesting Termination of Coverage: _____

 First and Last Name: _____

 Title: _____

 Phone: _____

 Email: _____

Mailing Address: _____

City, State, Zip: _____

County: _____

Sanitary Sewer System Name(s) or Unique Identifier(s): _____

Regional Water Quality Control Board(s): _____

Signature and Date: _____

2. Basis of Termination

Explanation of termination, including subsequent regulatory coverage and subsequent owner/operator of enrolled sanitary sewer system, as applicable:

3. Regulatory Coverage Termination Certification

I certify under penalty of perjury under the laws of the State of California that to the best of my knowledge: 1) the sanitary sewer system I officially represent is not required to be regulated under the Statewide Waste Discharge Requirements for Sanitary Sewer Systems Order 2022-XXXX-DWQ, and 2) the information submitted in this Notice of Termination is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment. Additionally, I understand that the submittal of this Notice of Termination does not release sanitary sewer system agencies from liability for any violations of the Clean Water Act.

Print Name: _____

Title: _____

Signature: _____ Date: _____

For State Water Board Use Only

Approved for Termination

Denied and Returned to Enrollee

Deputy Director of Water Quality Signature: _____

Date: _____ Notice of Termination Effective Date: _____

ATTACHMENT D – SEWER SYSTEM MANAGEMENT PLAN – REQUIRED ELEMENTS

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ATTACHMENT D – SEWER SYSTEM MANAGEMENT PLAN – REQUIRED ELEMENTS

A Sewer System Management Plan (Plan) is a living planning document that documents ongoing local sewer system management program activities, procedures, and decision-making – at the scale necessary to address the size and complexity of the subject sanitary sewer system(s). This Plan may incorporate other programs and other plans by reference, to address short-term and long-term system resilience through:

- Proactive planning and decision-making;
- Local government ordinances;
- Updated operations and maintenance activities and procedures;
- Implementation of capital improvements;
- Sufficient local budget to support staff resources, contractors, equipment, and training; and
- Updated training of staff and contractors.

The Enrollee’s development, update, and implementation of a Sewer System Management Plan addressing the requirements of this Attachment is an enforceable component of this General Order. As specified in Provision 6.1 (Enforcement Provisions) of this General Order, consistent with the Water Code and the State Water Board Enforcement Policy, the State Water Board or a Regional Water Board may consider the Enrollee’s efforts in implementing an effective Sewer System Management Plan to prevent, contain, control, and mitigate spills when considering Water Code section 13327 factors to determine necessary enforcement of this General Order.

This Attachment includes the following required elements that the Enrollee shall address in its Plan and subsequent updates. The Enrollee shall identify any requirement in this Attachment that is not applicable to the Enrollee’s sewer system and shall explain in its Plan why the requirement is not applicable.

1. SEWER SYSTEM MANAGEMENT PLAN GOAL AND INTRODUCTION

The goal of the Sewer System Management Plan (Plan) is to provide a plan and schedule to: (1) properly manage, operate, and maintain all parts of the Enrollee’s sanitary sewer system(s), (2) reduce and prevent spills, and (3) contain and mitigate spills that do occur.

The Plan must include a narrative Introduction section that discusses the following items:

1.1. Regulatory Context

The Plan Introduction section must provide a general description of the local sewer system management program and discuss Plan implementation and updates.

1.2. Sewer System Management Plan Update Schedule

The Plan Introduction section must include a schedule for the Enrollee to update the Plan, including the schedule for conducting internal audits. The schedule must include milestones for incorporation of activities addressing prevention of sewer spills.

1.3. Sewer System Asset Overview

The Plan Introduction section must provide a description of the Enrollee-owned assets and service area, including but not limited to:

- Location, including county(ies);
- Service area boundary;
- Population and community served;
- System size, including total length in miles, length of gravity mainlines, length of pressurized (force) mains, and number of pump stations and siphons;
- Structures diverting stormwater to the sewer system;
- Data management systems;
- Sewer system ownership and operation responsibilities between Enrollee and private entities for upper and lower sewer laterals;
- Estimated number or percent of residential, commercial, and industrial service connections; and
- Unique service boundary conditions and challenge(s).

Additionally, the Plan Introduction section must provide reference to the Enrollee's up-to-date map of its sanitary sewer system, as required in section 4.1 (Updated Map of Sanitary Sewer System) of this Attachment.

2. ORGANIZATION

The Plan must identify organizational staffing responsible and integral for implementing the local Sewer System Management Plan through an organization chart or similar narrative documentation that includes:

- The name of the Legally Responsible Official as required in section 5.1 (Designation of a Legally Responsible Official) of this General Order;
- The position titles, telephone numbers, and email addresses for management, administrative, and maintenance positions responsible for implementing specific Sewer System Management Plan elements;
- Organizational lines of authority; and
- Chain of communication for reporting spills from receipt of complaint or other information, including the person responsible for reporting spills to the State and Regional Water Boards and other agencies, as applicable. (For example, county

health officer, county environmental health agency, and State Office of Emergency Services.)

3. LEGAL AUTHORITY

The Plan must include copies or an electronic link to the Enrollee's current sewer system use ordinances, service agreements and/or other legally binding procedures to demonstrate the Enrollee possesses the necessary legal authority to:

- Prevent illicit discharges into its sanitary sewer system from inflow and infiltration (I&I); unauthorized stormwater; chemical dumping; unauthorized debris; roots; fats, oils, and grease; and trash, including rags and other debris that may cause blockages;
- Collaborate with storm sewer agencies to coordinate emergency spill responses, ensure access to storm sewer systems during spill events, and prevent unintentional cross connections of sanitary sewer infrastructure to storm sewer infrastructure;
- Require that sewer system components and connections be properly designed and constructed;
- Ensure access for maintenance, inspection, and/or repairs for portions of the service lateral owned and/or operated by the Enrollee;
- Enforce any violation of its sewer ordinances, service agreements, or other legally binding procedures; and
- Obtain easement accessibility agreements for locations requiring sewer system operations and maintenance, as applicable.

4. OPERATION AND MAINTENANCE PROGRAM

The Plan must include the items listed below that are appropriate and applicable to the Enrollee's system.

4.1. Updated Map of Sanitary Sewer System

An up-to-date map(s) of the sanitary sewer system, and procedures for maintaining and providing State and Regional Water Board staff access to the map(s). The map(s) must show gravity line segments and manholes, pumping facilities, pressure pipes and valves, and applicable stormwater conveyance facilities within the sewer system service area boundaries.

4.2. Preventive Operation and Maintenance Activities

A scheduling system and a data collection system for preventive operation and maintenance activities conducted by staff and contractors.

The scheduling system must include:

- Inspection and maintenance activities;

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- Higher-frequency inspections and maintenance of known problem areas, including areas with tree root problems;
- Regular visual and closed-circuit television (CCTV) inspections of manholes and sewer pipes.

The data collection system must document data from system inspection and maintenance activities, including system areas/components prone to root-intrusion potentially resulting in system backup and/or failure.

4.3. Training

In-house and external training provided on a regular basis for sanitary sewer system operations and maintenance staff and contractors. The training must cover:

- The requirements of this General Order;
- The Enrollee's Spill Emergency Response Plan procedures and practice drills;
- Skilled estimation of spill volume for field operators; and
- Electronic CIWQS reporting procedures for staff submitting data.

4.4. Equipment Inventory

An inventory of sewer system equipment, including the identification of critical replacement and spare parts.

5. DESIGN AND PERFORMANCE PROVISIONS

The Plan must include the following items as appropriate and applicable to the Enrollee's system:

5.1. Updated Design Criteria and Construction Standards and Specifications

Updated design criteria, and construction standards and specifications, for the construction, installation, repair, and rehabilitation of existing and proposed system infrastructure components, including but not limited to pipelines, pump stations, and other system appurtenances. If existing design criteria and construction standards are deficient to address the necessary component-specific hydraulic capacity as specified in section 8 (System Evaluation, Capacity Assurance and Capital Improvements) of this Attachment, the procedures must include component-specific evaluation of the design criteria.

5.2. Procedures and Standards

Procedures, and standards for the inspection and testing of newly constructed, newly installed, repaired, and rehabilitated system pipelines, pumps, and other equipment and appurtenances.

6. SPILL EMERGENCY RESPONSE PLAN

The Plan must include an up to date Spill Emergency Response Plan to ensure prompt detection and response to spills to reduce spill volumes and collect information for prevention of future spills. The Spill Emergency Response Plan must include procedures to:

- Notify primary responders, appropriate local officials, and appropriate regulatory agencies of a spill in a timely manner;
- Notify other potentially affected entities (for example, health agencies, water suppliers, etc.) of spills that potentially affect public health or reach waters of the State;
- Comply with the notification, monitoring and reporting requirements of this General Order, State law and regulations, and applicable Regional Water Board Orders;
- Ensure that appropriate staff and contractors implement the Spill Emergency Response Plan and are appropriately trained;
- Address emergency system operations, traffic control and other necessary response activities;
- Contain a spill and prevent/minimize discharge to waters of the State or any drainage conveyance system;
- Minimize and remediate public health impacts and adverse impacts on beneficial uses of waters of the State;
- Remove sewage from the drainage conveyance system;
- Clean the spill area and drainage conveyance system in a manner that does not inadvertently impact beneficial uses in the receiving waters;
- Implement technologies, practices, equipment, and interagency coordination to expedite spill containment and recovery;
- Implement pre-planned coordination and collaboration with storm drain agencies and other utility agencies/departments prior, during, and after a spill event;
- Conduct post-spill assessments of spill response activities;
- Document and report spill events as required in this General Order; and
- Annually, review and assess effectiveness of the Spill Emergency Response Plan, and update the Plan as needed.

7. SEWER PIPE BLOCKAGE CONTROL PROGRAM

The Sewer System Management Plan must include procedures for the evaluation of the Enrollee’s service area to determine whether a sewer pipe blockage control program is needed to control fats, oils, grease, rags and debris. If the Enrollee determines that a program is not needed, the Enrollee shall provide justification in its Plan for why a program is not needed.

The procedures must include, at minimum:

- An implementation plan and schedule for a public education and outreach program that promotes proper disposal of pipe-blocking substances;
- A plan and schedule for the disposal of pipe-blocking substances generated within the sanitary sewer system service area. This may include a list of acceptable disposal facilities and/or additional facilities needed to adequately dispose of substances generated within a sanitary sewer system service area;
- The legal authority to prohibit discharges to the system and identify measures to prevent spills and blockages;
- Requirements to install grease removal devices (such as traps or interceptors), design standards for the removal devices, maintenance requirements, best management practices requirements, recordkeeping and reporting requirements;
- Authority to inspect grease producing facilities, enforcement authorities, and whether the Enrollee has sufficient staff to inspect and enforce the fats, oils, and grease ordinance;
- An identification of sanitary sewer system sections subject to fats, oils, and grease blockages and establishment of a cleaning schedule for each section; and
- Implementation of source control measures for all sources of fats, oils, and grease reaching the sanitary sewer system for each section identified above.

8. SYSTEM EVALUATION, CAPACITY ASSURANCE AND CAPITAL IMPROVEMENTS

The Plan must include procedures and activities for:

- Routine evaluation and assessment of system conditions;
- Capacity assessment and design criteria;
- Prioritization of corrective actions; and
- A capital improvement plan.

8.1 System Evaluation and Condition Assessment

The Plan must include procedures to:

- Evaluate the sanitary sewer system assets utilizing the best practices and technologies available;

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- Identify and justify the amount (percentage) of its system for its condition to be assessed each year;
- Prioritize the condition assessment of system areas that:
 - Hold a high level of environmental consequences if vulnerable to collapse, failure, blockage, capacity issues, or other system deficiencies;
 - Are located in or within the vicinity of surface waters, steep terrain, high groundwater elevations, and environmentally sensitive areas;
 - Are within the vicinity of a receiving water with a bacterial-related impairment on the most current Clean Water Act section 303(d) List;
- Assess the system conditions using visual observations, video surveillance and/or other comparable system inspection methods;
- Utilize observations/evidence of system conditions that may contribute to exiting of sewage from the system which can reasonably be expected to discharge into a water of the State;
- Maintain documents and recordkeeping of system evaluation and condition assessment inspections and activities; and
- Identify system assets vulnerable to direct and indirect impacts of climate change, including but not limited to: sea level rise; flooding and/or erosion due to increased storm volumes, frequency, and/or intensity; wildfires; and increased power disruptions.

8.2. Capacity Assessment and Design Criteria

The Plan must include procedures to identify system components that are experiencing or contributing to spills caused by hydraulic deficiency and/or limited capacity, including procedures to identify the appropriate hydraulic capacity of key system elements for:

- Dry-weather peak flow conditions that cause or contributes to spill events;
- The appropriate design storm(s) or wet weather events that causes or contributes to spill events;
- The capacity of key system components; and
- Identify the major sources that contribute to the peak flows associated with sewer spills.

The capacity assessment must consider:

- Data from existing system condition assessments, system inspections, system audits, spill history, and other available information;
- Capacity of flood-prone systems subject to increased infiltration and inflow, under normal local and regional storm conditions;

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- Capacity of systems subject to increased infiltration and inflow due to larger and/or higher-intensity storm events as a result of climate change;
- Increases of erosive forces in canyons and streams near underground and above-ground system components due to larger and/or higher-intensity storm events;
- Capacity of major system elements to accommodate dry weather peak flow conditions, and updated design storm and wet weather events; and
- Necessary redundancy in pumping and storage capacities.

8.3. Prioritization of Corrective Action

The findings of the condition assessments and capacity assessments must be used to prioritize corrective actions. Prioritization must consider the severity of the consequences of potential spills.

8.4. Capital Improvement Plan

The capital improvement plan must include the following items:

- Project schedules including completion dates for all portions of the capital improvement program;
- Internal and external project funding sources for each project; and
- Joint coordination between operation and maintenance staff, and engineering staff/consultants during planning, design, and construction of capital improvement projects; and Interagency coordination with other impacted utility agencies.

9. MONITORING, MEASUREMENT AND PROGRAM MODIFICATIONS

The Plan must include an Adaptive Management section that addresses Plan-implementation effectiveness and the steps for necessary Plan improvement, including:

- Maintaining relevant information, including audit findings, to establish and prioritize appropriate Plan activities;
- Monitoring the implementation and measuring the effectiveness of each Plan Element;
- Assessing the success of the preventive operation and maintenance activities;
- Updating Plan procedures and activities, as appropriate, based on results of monitoring and performance evaluations; and
- Identifying and illustrating spill trends, including spill frequency, locations and estimated volumes.

10. INTERNAL AUDITS

The Plan shall include internal audit procedures, appropriate to the size and performance of the system, for the Enrollee to comply with section 5.4 (Sewer System Management Plan Audits) of this General Order.

11. COMMUNICATION PROGRAM

The Plan must include procedures for the Enrollee to communicate with:

- The public for:
 - Spills and discharges resulting in closures of public areas, or that enter a source of drinking water, and
 - The development, implementation, and update of its Plan, including opportunities for public input to Plan implementation and updates.
- Owners/operators of systems that connect into the Enrollee’s system, including satellite systems, for:
 - System operation, maintenance, and capital improvement-related activities.

ATTACHMENT E1 – NOTIFICATION, MONITORING, REPORTING AND RECORDKEEPING REQUIREMENTS

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ATTACHMENT E1– NOTIFICATION, MONITORING, REPORTING AND RECORDKEEPING REQUIREMENTS

The Notification Requirements (section 1), Spill-specific Monitoring Requirements (section 2), Reporting Requirements (section 3) and Recordkeeping Requirements (section 4) in this Attachment are pursuant to Water Code section 13267 and section 13383, and are an enforceable component of this General Order. For the purpose of this General Order, the term:

- Notification means the notifying of appropriate parties of a spill event or other activity.
- Spill-specific Monitoring means the gathering of information and data for a specific spill event to be reported or kept as records.
- Reporting means the reporting of information and data into the online California Integrated Water Quality System (CIWQS) Sanitary Sewer System Database.
- Recordkeeping means the maintaining of information and data in an official records storage system.

Failure to comply with the notification, monitoring, reporting and recordkeeping requirements in this General Order may subject the Enrollee to civil liabilities of up to \$10,000 a day per violation pursuant to Water Code section 13385; up to \$1,000 a day per violation pursuant to Water Code section 13268; or referral to the Attorney General for judicial civil enforcement.

Water Code section 13193 et seq. requires the Regional Water Quality Control Boards (Regional Water Boards) and the State Water Resources Control Board (State Water Board) to collect sanitary sewer spill information for each spill event and make this information available to the public. Sanitary sewer spill information for each spill event includes but is not limited to: Enrollee contact information for each spill event, spill cause, estimated spill volume and factors used for estimation, location, date, time, duration, amount discharged to waters of the State, response and corrective action(s) taken.

1. NOTIFICATION REQUIREMENTS

1.1. Notification of Spills of 1,000 Gallons or Greater to the California Office of Emergency Services

Per Water Code section 13271, for a spill that discharges in or on any waters of the State, or discharges or is deposited where it is, or probably will be, discharged in or on any waters of the State, the Enrollee shall notify the California Office of Emergency Services and obtain a California Office of Emergency Services Control Number as soon as possible **but no later than two (2) hours** after:

- The Enrollee has knowledge of the spill; and
- Notification can be provided without substantially impeding cleanup or other emergency measures.

The notification requirements in this section apply to individual spills of 1,000 gallons or greater, from an Enrollee-owned and/or operated laterals, to a water of the State.

1.2. Spill Notification Information

The Enrollee shall provide the following spill information to the California Office of Emergency Services before receiving a Control Number, as applicable:

- Name and phone number of the person notifying the California Office of Emergency Services;
- Estimated spill volume (gallons);
- Estimated spill rate from the system (gallons per minute);
- Estimated discharge rate (gallons per minute) directly into waters of the State or indirectly into a drainage conveyance system;
- Spill incident description:
 - Brief narrative of the spill event, and
 - Spill incident location (address, city, and zip code) and closest cross streets and/or landmarks;
- Name and phone number of contact person on-scene;
- Date and time the Enrollee was informed of the spill event;
- Name of sanitary sewer system causing the spill;
- Spill cause or suspected cause (if known);
- Amount of spill contained;
- Name of receiving water body receiving or potentially receiving discharge; and
- Description of water body impact and/ or potential impact to beneficial uses.

1.3. Notification of Spill Report Updates

Following the initial notification to the California Office of Emergency Services and until such time that the Enrollee certifies the spill report in the online CIWQS Sanitary Sewer System Database, the Enrollee shall provide updates to the California Office of Emergency Services regarding substantial changes to:

- Estimated spill volume (increase or decrease in gallons initially estimated);
- Estimated discharge volume discharged directly into waters of the State or indirectly into a drainage conveyance system (increase or decrease in gallons initially estimated); and
- Additional impact(s) to the receiving water(s) and beneficial uses.

2. SPILL-SPECIFIC MONITORING REQUIREMENTS

2.1 Spill Location and Spread

The Enrollee shall visually assess the spill location(s) and spread using photography, global positioning system (GPS), and other best available tools. The Enrollee shall document the critical spill locations, including:

- Photography and GPS coordinates for:
 - The system location where spill originated.
For multiple appearance points of a single spill event, the points closest to the spill origin.
- Photography for:
 - Drainage conveyance system entry locations,
 - The location(s) of discharge into surface waters, as applicable,
 - Extent of spill spread, and
 - The location(s) of clean up.

2.2 Spill Volume Estimation

To assess the approximate spill magnitude and spread, the Enrollee shall estimate the total spill volume using updated volume estimation techniques, calculations, and documentation for electronic reporting. The Enrollee shall update its notification and reporting of estimated spill volume (which includes spill volume recovered) as further information is gathered during and after a spill event.

2.3. Receiving Water Monitoring

2.3.1. Receiving Water Visual Observations

Through visual observations and use of best available spill volume-estimating techniques and field calculation techniques, the Enrollee shall gather and document the following information for spills discharging to surface waters:

- Estimated spill travel time to the receiving water;
- For spills entering a drainage conveyance system, estimated spill travel time from the point of entry into the drainage conveyance system to the point of discharge into the receiving water;
- Estimated spill volume entering the receiving water; and
- Photography of:
 - Waterbody bank erosion,
 - Floating matter,
 - Water surface sheen (potentially from oil and grease),

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- Discoloration of receiving water, and
- Impact to the receiving water.

2.3.2. Receiving Water – Water Quality Sampling and Analysis

For sewage spills in which an estimated 50,000 gallons or greater are discharged into a surface water, the Enrollee shall conduct the following water quality sampling no later than **18 hours** after the Enrollee's knowledge of a potential discharge to a surface water:

- Collect one water sample, each day of the duration of the spill, at:
 - The DCS-001 location as described in section 2.3.4 (Receiving Water Sampling Locations) of this Attachment, if sewage discharges to a surface water via a drainage conveyance system; and/or
 - Each of the three receiving water sampling locations in section 2.3.4 (Receiving Water Sampling Locations) of this Attachment;

If the receiving water has no flow during the duration of the spill, the Enrollee must report "No Sampling Due To No Flow" for its receiving water sampling locations.

The Enrollee shall analyze the collected receiving water samples for the following constituents per section 2.3.3 (Water Quality Analysis Specifications) of this Attachment:

- Ammonia, and
- Appropriate bacterial indicator(s) per the applicable Basin Plan water quality objectives, including one or more of the following, unless directed otherwise by the Regional Water Board:
 - Total Coliform Bacteria
 - Fecal Coliform Bacteria
 - *E-coli*
 - Enterococcus

Dependent on the receiving water(s), sampling of bacterial indicators shall be sufficient to determine post-spill (after the spill) compliance with the water quality objectives and bacterial standards of the California Ocean Plan or the California Inland Surface Water Enclosed Bays, and Estuaries Plan, including the frequency and/or number of post-spill receiving water samples as may be specified in the applicable plans.

The Enrollee shall collect and analyze additional samples as required by the applicable Regional Water Board Executive Officer or designee.

2.3.3. Water Quality Analysis Specifications

Spill monitoring must be representative of the monitored activity (40 Code of Federal Regulations section 122.41(j)(1)).

Sufficiently Sensitive Methods

Sample analysis must be conducted according to sufficiently sensitive test methods approved under 40 Code of Federal Regulations Part 136 for the sample analysis of pollutants. For the purposes of this General Order, a method is sufficiently sensitive when the minimum level of the analytical method approved under 40 Code of Federal Regulations Part 136 is at or below the receiving water pollutant criteria.

Environmental Laboratory Accreditation Program-Accredited Laboratories

The analysis of water quality samples required per this General Order must be performed by a laboratory that has accreditation pursuant to Article 3 (commencing with section 100825) of Chapter 4 of Part 1 of Division 101 of the Health and Safety Code. (Water Code section 13176(a).) The State Water Board accredits laboratories through its Environmental Laboratory Accreditation Program (ELAP).

2.3.4. Receiving Water Sampling Locations

The Enrollee shall collect receiving water samples at the following locations.

Sampling of Flow in Drainage Conveyance System (DCS) Prior to Discharge

Sampling Location	Sampling Location Description
DCS-001	A point in a drainage conveyance system before the drainage conveyance system flow discharges into a receiving water.

Receiving Surface Water Sampling (RSW)¹

Sampling Location	Sampling Location Description
RSW-001 Point of Discharge	A point in the receiving water where sewage initially enters the receiving water.
RSW-001U: Upstream of Point of Discharge	A point in the receiving water, upstream of the point of sewage discharge, to capture ambient conditions absent of sewage discharge impacts.

Sampling Location	Sampling Location Description
RSW-001D: Downstream of Point of Discharge	A point in the receiving water, downstream of the point of sewage discharge, where the spill material is fully mixed with the receiving water.

¹ The Enrollee must use its best professional judgment to determine the upstream and downstream distances based on receiving water flow, accessibility to upstream/downstream waterbody banks, and size of visible sewage plume.

2.4. Safety and Access Exceptions

If the Enrollee encounters access restrictions or unsafe conditions that prevents its compliance with spill response requirements or monitoring requirements in this General Order, the Enrollee shall provide documentation of access restrictions and/or safety hazards in the corresponding required report.

3. REPORTING REQUIREMENTS

All reporting required in this General Order must be submitted electronically to the online [CIWQS Sanitary Sewer System Database](https://ciwqs.waterboards.ca.gov) (https://ciwqs.waterboards.ca.gov), unless specified otherwise in this General Order. Electronic reporting may solely be conducted by a Legally Responsible Official or Data Submitter(s) previously designated by the Legally Responsible Official, as required in section 5.8 (Designation of Data Submitters) of this General Order.

The Enrollee shall report any information that is protected by the Homeland Security Act, by email to SanitarySewer@waterboards.ca.gov, with a brief explanation of the protection provided by the Homeland Security Act for the subject report to be protected from unauthorized disclosure and/or public access, and for official Water Board regulatory purposes only.

3.1. Reporting Requirements for Individual Category 1 Spill Reporting

3.1.1. Draft Spill Report for Category 1 Spills

Within three (3) business days of the Enrollee’s knowledge of a Category 1 spill, the Enrollee shall submit a Draft Spill Report to the online CIWQS Sanitary Sewer System Database.

The Draft Spill Report must, at minimum, include the following items:

1. Contact information: Name and telephone number of Enrollee contact person to respond to spill-specific questions;
2. Spill location name;
3. Date and time the Enrollee was notified of, or self-discovered, the spill;
4. Operator arrival time;

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5. Estimated spill start date and time;
6. Date and time the Enrollee notified the California Office of Emergency Services, and the assigned control number;
7. Description, photographs, and GPS coordinates of the system location where the spill originated;
 - o If a single spill event results in multiple appearance points, provide GPS coordinates for the appearance point closest to the failure point and describe each additional appearance point in the spill appearance point explanation field;
8. Estimated total spill volume exiting the system;
9. Description and photographs of the extent of the spill and spill boundaries;
10. Did the spill reach a drainage conveyance system? If Yes:
 - o Description of the drainage conveyance system transporting the spill;
 - o Photographs of the drainage conveyance system entry location(s);
 - o Estimated spill volume fully recovered from the drainage conveyance system;
 - o Estimated spill volume remaining within the drainage conveyance system;
11. Description and photographs of all discharge point(s) into the surface water;
12. Estimated spill volume that discharged to surface waters; and
13. Estimated total spill volume recovered.

3.1.2. Certified Spill Report for Category 1 Spills

Within 15 calendar days of the spill end date, the Enrollee shall submit a Certified Spill Report for Category 1 spills, to the online CIWQS Sanitary Sewer System Database. Upon completion of the Certified Spill Report, the online CIWQS Sanitary Sewer System Database will issue a final spill event identification number.

The Certified Spill Report must, at minimum, include the following mandatory information in addition to all information in the Draft Spill Report per section 3.1.1 (Draft Spill Report for Category 1 Spills) above:

1. Description of the spill event destination(s), including GPS coordinates if available, that represent the full spread and reach of the spill;
2. Spill end date and time;
3. Description of how the spill volume estimations were calculated, including at a minimum:
 - o The methodology, assumptions and type of data relied upon, such as supervisory control and data acquisition (SCADA) records, flow monitoring or other telemetry information used to estimate the volume of the spill discharged, and the volume of the spill recovered (if any volume of the spill was recovered), and
 - o The methodology(ies), assumptions and type of data relied upon for estimations of the spill start time and the spill end time;

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4. Spill cause(s) (for example, root intrusion, grease deposition, etc.);
5. System failure location (for example, main, lateral, pump station, etc.);
6. Description of the pipe material, and estimated age of the pipe material, at the failure location;
7. Description of the impact of the spill;
8. Whether or not the spill was associated with a storm event;
9. Description of spill response activities including description of immediate spill containment and cleanup efforts;
10. Description of spill corrective action, including steps planned or taken to reduce, eliminate, and prevent reoccurrence of the spill, and a schedule of major milestones for those steps;
11. Spill response completion date;
12. Detailed narrative of investigation and investigation findings of cause of spill;
13. Reasons for an ongoing investigation (as applicable) and the expected date of completion;
14. Name and type of receiving water body(s);
15. Description of the water body(s), including but not limited to:
 - o Observed impacts on aquatic life,
 - o Public closure, restricted public access, temporary restricted use, and/or posted health warnings due to spill,
 - o Responsible entity for closing/restricting use of water body, and
 - o Number of days closed/restricted as a result of the spill.
16. Whether or not the spill was located within 1,000 feet of a municipal surface water intake; and
17. If water quality samples were collected, identify sample locations and the parameters the water quality samples were analyzed for. If no samples were taken, Not Applicable shall be selected.

3.1.3. Spill Technical Report for Individual Category 1 Spill in which 50,000 Gallons or Greater Discharged into a Surface Water

For any spill in which 50,000 gallons or greater discharged into a surface water, **within 45 calendar days** of the spill end date, the Enrollee shall submit a Spill Technical Report to the online CIWQS Sanitary Sewer System Database. The Spill Technical Report, at minimum, must include the following information:

1. Spill causes and circumstances, including at minimum:
 - o Complete and detailed explanation of how and when the spill was discovered;

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- Photographs illustrating the spill origin, the extent and reach of the spill, drainage conveyance system entrance and exit, receiving water, and post-cleanup site conditions;
 - Diagram showing the spill failure point, appearance point(s), the spill flow path, and ultimate destinations;
 - Detailed description of the methodology employed, and available data used to calculate the discharge volume and, if applicable, the recovered spill volume;
 - Detailed description of the spill cause(s);
 - Description of the pipe material, and estimated age of the pipe material, at the failure location;
 - Description of the impact of the spill;
 - Copy of original field crew records used to document the spill; and
 - Historical maintenance records for the failure location.
2. Enrollee's response to the spill:
- Chronological narrative description of all actions taken by the Enrollee to terminate the spill;
 - Explanation of how the Sewer System Management Plan Spill Emergency Response Plan was implemented to respond to and mitigate the spill; and
 - Final corrective action(s) completed and a schedule for planned corrective actions, including:
 - Local regulatory enforcement action taken against an illicit discharge in response to this spill, as applicable,
 - Identifiable system modifications, and operation and maintenance program modifications needed to prevent repeated spill occurrences, and
 - Necessary modifications to the Emergency Spill Response Plan to incorporate lessons learned in responding to and mitigating the spill.
3. Water Quality Monitoring, including at minimum:
- Description of all water quality sampling activities conducted;
 - List of pollutant and parameters monitored, sampled and analyzed; as required in section 2.3 (Receiving Water Monitoring) of this Attachment;
 - Laboratory results, including laboratory reports;
 - Detailed location map illustrating all water quality sampling points; and
 - Other regulatory agencies receiving sample results (if applicable).
4. Evaluation of spill impact(s), including a description of short-term and long-term impact(s) to beneficial uses of the surface water.

3.1.4. Amended Certified Spill Reports for Individual Category 1 Spills

The Enrollee shall update or add additional information to a Certified Spill Report within **90 calendar days** of the spill end date by amending the report or by adding an attachment to the Spill Report in the online CIWQS Sanitary Sewer System Database. The Enrollee shall certify the amended report.

After **90 calendar days**, the Enrollee shall contact the State Water Board at SanitarySewer@waterboards.ca.gov to request to amend a Spill Report. The Legally Responsible Official shall submit justification for why the additional information was not reported within the Amended Spill Report due date.

3.2. Reporting Requirements for Individual Category 2 Spill Reporting

3.2.1. Draft Spill Report for Category 2 Spills

Within three (3) business days of the Enrollee's knowledge of a Category 2 spill, the Enrollee shall submit a Draft Spill Report to the online CIWQS Sanitary Sewer System Database.

The Draft Spill Report must, at minimum, include the following items:

1. Contact information: Name and telephone number of Enrollee contact person to respond to spill-specific questions;
2. Spill location name;
3. Date and time the Enrollee was notified of, or self-discovered, the spill;
4. Operator arrival time;
5. Estimated spill start date and time;
6. Date and time the Enrollee notified the California Office of Emergency Services, and the assigned control number;
7. Description, photographs, and GPS coordinates of the system location where the spill originated;

If a single spill event results in multiple appearance points, provide GPS coordinates for the appearance point closest to the failure point and describe each additional appearance point in the spill appearance point explanation field;

8. Estimated total spill volume exiting the system;
9. Description and photographs of the extent of the spill and spill boundaries;
10. Did the spill reach a drainage conveyance system? If Yes:
 - o Description of the drainage conveyance system transporting the spill;
 - o Photographs of the drainage conveyance system entry location(s);
 - o Estimated spill volume fully recovered from the drainage conveyance system;
 - o Estimated spill volume remaining within the drainage conveyance system;

- Estimated spill volume discharged to a groundwater infiltration basin or facility, if applicable; and

11. Estimated total spill volume recovered.

3.2.2. Certified Spill Report for Category 2 Spills

Within 15 calendar days of the spill end date, the Enrollee shall submit a Certified Spill Report for the Category 2 spill, to the online [CIWQS Sanitary Sewer System Database](https://ciwqs.waterboards.ca.gov) (<https://ciwqs.waterboards.ca.gov>). Upon completion of the Certified Spill Report, the online CIWQS Sanitary Sewer System Database will issue a final spill event identification number.

The Certified Spill Report must, at minimum, include the following mandatory information in addition to all information in the Draft Spill Report per section 3.2.1 (Draft Spill Report for Category 2 Spills) above:

1. Description of the spill event destination(s), including GPS coordinates if available, that represent the full spread and reach of the spill;
2. Spill end date and time;
3. Description of how the spill volume estimations were calculated, including at a minimum:
 - The methodology, assumptions and type of data relied upon, such as supervisory control and data acquisition (SCADA) records, flow monitoring or other telemetry information used to estimate the volume of the spill discharged, and the volume of the spill recovered (if any volume of the spill was recovered), and
 - The methodology(ies), assumptions and type of data relied upon for estimations of the spill start time and the spill end time;
4. Spill cause(s) (for example, root intrusion, grease deposition, etc.);
5. System failure location (for example, main, pump station, etc.);
6. Description of the pipe/infrastructure material, and estimated age of the pipe material, at the failure location;
7. Description of the impact of the spill;
8. Whether or not the spill was associated with a storm event;
9. Description of spill response activities including description of immediate spill containment and cleanup efforts;
10. Description of spill corrective action, including steps planned or taken to reduce, eliminate, and prevent reoccurrence of the spill, and a schedule of major milestones for those steps;
11. Spill response completion date;
12. Detailed narrative of investigation and investigation findings of cause of spill;
13. Reasons for an ongoing investigation (as applicable) and the expected date of completion; and

14. Whether or not the spill was located within 1,000 feet of a municipal surface water intake.

3.2.3. Amended Certified Spill Reports for Individual Category 2 Spills

The Enrollee shall update or add additional information to a Certified Spill Report within **90 calendar days** of the spill end date by amending the report or by adding an attachment to the Spill Report in the online CIWQS Sanitary Sewer System Database. The Enrollee shall certify the amended report.

After **90 calendar days**, the Enrollee shall contact the State Water Board at SanitarySewer@waterboards.ca.gov to request to amend a Spill Report. The Legally Responsible Official shall submit justification for why the additional information was not reported within the Amended Spill Report due date.

3.3. Monthly Certified Spill Reporting for Category 3 Spills

The Enrollee shall report and certify all Category 3 spills to the online CIWQS Sanitary Sewer System Database within 30 calendar days after the end of the month in which the spills occurred. (For example, all Category 3 spills occurring in the month of February shall be reported and certified by March 30th). After the Legally Responsible Official certifies the spills, the online CIWQS Sanitary Sewer System Database will issue a spill event identification number for each spill.

The monthly reporting of all Category 3 spills must include the following items for each spill:

1. Contact information: Name and telephone number of Enrollee contact person to respond to spill-specific questions;
2. Spill location name;
3. Date and time the Enrollee was notified of, or self-discovered, the spill;
4. Operator arrival time;
5. Estimated spill start date and time;
6. Description, photographs, and GPS coordinates where the spill originated:
 - o If a single spill event results in multiple appearance points, provide GPS coordinates for the appearance point closest to the failure point and describe each additional appearance point in the spill appearance point explanation field;
7. Estimated total spill volume exiting the system;
8. Description and photographs of the extent of the spill and spill boundaries;
9. Did the spill reach a drainage conveyance system? If Yes:
 - o Description of the drainage conveyance system transporting the spill;
 - o Photographs of the drainage conveyance system entry locations(s);
 - o Estimated spill volume fully recovered from the drainage conveyance system; and

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- Estimated spill volume discharged to a groundwater infiltration basis or facility, if applicable.
- 10. Estimated total spill volume recovered;
- 11. Description of the spill event destination(s), including GPS coordinates, if available, that represent the full spread and reaches of the spill;
- 12. Spill end date and time;
- 13. Description of how the spill volume estimations were calculated, including, at minimum:
 - The methodology and type of data relied upon, including supervisory control and data acquisition (SCADA) records, flow monitoring or other telemetry information used to estimate the volume of the spill discharged, and the volume of the spill recovered (if any volume of the spill was recovered), and
 - The methodology and type of data relied upon to estimate the spill start time, on-going spill rate at time of arrival (if applicable), and the spill end time;
- 14. Spill cause(s) (for example, root intrusion, grease deposition, etc.);
- 15. System failure location (for example, main, pump station, etc.);
- 16. Description of the pipe/infrastructure material, and estimated age of the pipe/infrastructure material, at the failure location;
- 17. Description of the impact of the spill;
- 18. Whether or not the spill was associated with a storm event;
- 19. Description of spill response activities including description of immediate spill containment and cleanup efforts;
- 20. Description of spill corrective actions, including steps planned or taken to reduce, eliminate, and prevent reoccurrence of the spill, and a schedule of the major milestones for those steps; including, at minimum:
 - Local regulatory enforcement action taken against an illicit discharge in response to this spill, as applicable, and
 - Identifiable system modifications, and operation and maintenance program modifications needed to prevent repeated spill occurrences at the same spill event location, including:
 - Adjusted schedule/method of preventive maintenance,
 - Planned rehabilitation or replacement of sanitary sewer asset,
 - Inspected, repaired asset(s), or replaced defective asset(s),
 - Capital improvements,
 - Documentation verifying immediately implemented system modifications and operating/maintenance modifications,
 - Description of spill response activities,

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- Spill response completion date, and
- Ongoing investigation efforts, and expected completion date of investigation to determine the full cause of spill;

21. Detailed narrative of investigation and investigation findings of cause of spill.

3.4. Monthly Certified Spill Reporting for Category 4 Spills

The Enrollee shall report and certify the estimated total spill volume exiting the sanitary sewer system, and the total number of all Category 4 spills to the online CIWQS Sanitary Sewer System Database, within 30 calendar days after the end of the month in which the spills occurred.

3.5. Amended Certified Spill Reports for Category 3 Spills

Within 90 calendar days of the certified Spill Report due date, the Enrollee may update or add additional information to a certified Spill Report by amending the report or by adding an attachment to the Spill Report in the online CIWQS Sanitary Sewer System Database. The Enrollee shall certify the amended report.

After 90 calendar days, the Legally Responsible Official shall contact the State Water Board at SanitarySewer@waterboards.ca.gov to request to amend a certified Spill Report. The Legally Responsible Official shall submit justification for why the additional information was not reported within the 90-day timeframe for amending the certified Spill Report, as provided above.

3.6. Annual Certified Spill Reporting of Category 4 and/or Lateral Spills

For all Category 4 spills and spills from its owned and/or operated laterals that are caused by a failure or blockage in the lateral and that do not discharge to a surface water, the Enrollee shall:

- Maintain records per section 4.4. of this Attachment;
The Enrollee shall provide records upon request by State Water Board or Regional Water Board staff.
- Annually upload and certify a report, in an appropriate digital format, of all recordkeeping of spills to the online CIWQS Sanitary Sewer System Database, by February 1st after the end of the calendar year in which the spills occurred.

A spill from an Enrollee-owned and/or operated lateral that discharges to a surface water is a Category 1 spill; the Enrollee shall report all Category 1 spills per section 3.1 of Attachment E1 (Notification, Monitoring, Reporting and Recordkeeping Requirements) of this General Order.

3.7. Monthly Certification of “No-Spills” or “Category 4 Spills” and/or “Non-Category 1 Lateral Spills”

If either (1) no spills occur during a calendar month or (2) only Category 4, and/or Enrollee-owned and/or operated lateral spills (that do not discharge to a surface water) occur during a calendar month, the Enrollee shall certify, within 30 calendar days after

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the end of each calendar month, either a “No-Spill” certification statement, or a “Category 4 Spills” and/or “Non-Category 1 Lateral Spills” certification statement, in the online CIWQS Sanitary Sewer System Database, certifying that there were either no spills, or Category 4 and/or Non-Category 1 Lateral Spills that will be reported annually (per section 3.6 of this Attachment) for the designated month.

If a spill starts in one calendar month and ends in a subsequent calendar month, and the Enrollee has no further spills of any category, in the subsequent calendar month, the Enrollee shall certify “no-spills” for the subsequent calendar month.

If the Enrollee has no spills from its systems during a calendar month, but the Enrollee voluntarily reported a spill from a private lateral or a private system, the Enrollee shall certify “no-spills” for that calendar month.

If the Enrollee has spills from its owned and/or operated laterals during a calendar month, the Enrollee shall not certify “no spills” for that calendar month.

3.8. **Electronic Sanitary Sewer System Service Area Boundary Map**

The Legally Responsible Official shall submit, to the State Water Board, an up-to-date electronic spatial map of its sewer system service area boundaries. The map must be in accordance with section 5.14 (Electronic Sanitary Sewer System Service Area Boundary Map) of this General Order and the specification provided on the statewide Sanitary Sewer Systems program website. The map must include the location of wastewater treatment facility(ies) that treats the sewer system waste, if in the same sewer service boundary.

By the Effective Date of this General Order, specifications for the electronic sanitary sewer service area boundary map format will be provided on the statewide Sanitary Sewer Systems Order program website.

3.9. **Annual Report (Previously termed as Collection System Questionnaire in General Order 2006-0003-DWQ)**

A new Enrollee shall complete and submit its first certified Annual Report into the online CIWQS Sanitary Sewer System Database, **within 30 days of obtaining a CIWQS account**; Subsequent Annual Reports are due by April 1 of each year.

All enrollees shall update their previous year’s Annual Report, **by April 1 of each year after the Effective Date of this General Order**, for each calendar year (January 1 through December 31).

The Annual Report must be entered directly into the online CIWQS Sanitary Sewer System Database. The Enrollee’s Legally Responsible Official shall certify the Annual Report as instructed in CIWQS;

The Annual Report must address, and update as applicable, the following items:

- Population served;

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- Updated sewer system service area boundary map, if service area boundary has changed from original map submitted per section 5.14 (Electronic Sanitary Sewer System Service Area Boundary Map) of this General Order;
- Number of system operation and maintenance staff:
 - Entry level (less than two years of experience),
 - Journey level (greater than two years of experience),
 - Supervisory level, and
 - Managerial level;
- Number of operation and maintenance staff certified as a certified collection system operator by the California Water Environmental Association (CWEA), with:
 - Corresponding number of certified collection system operator grade levels (Grade I, II, III, IV, and V);
- System information:
 - Miles of system gravity and force mains,
 - Number of upper and lower service laterals connected to system,
 - Estimated number of upper and lower laterals owned and/or operated by the Enrollee,
 - Portion of laterals that is Enrollee's responsibility,
 - Average age the major components of system infrastructure,
 - Number and age of pump stations, and
 - Estimated total miles of the system pipeline not accessible for maintenance;
- Name and location of the treatment plant(s) receiving sanitary sewer system's waste;
- Name of satellite sewer system tributaries;
- Number of system's gravity sewer above or underground crossings of water bodies throughout system;
- Number of force main (pressurized pipe) above or underground crossings of water bodies throughout system;
- Number of siphons used to convey waste throughout the sewer system;
- Miles of sewer system cleaned;
- Miles of sewer system video inspected, or comparable (i.e., video closed-circuit television or alternative inspection methods);
- System Performance Evaluation as specified in section 5.11 (System Performance Analysis) of this General Order;
- Major spill causes (for example, root intrusion, grease deposition);

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- System infrastructure failure points (for example, main, pump station, lateral, etc.);
- Ongoing spill investigations; and
- Actions taken to address system deficiencies.

3.10. Sewer System Management Plan Audit Reporting Requirements

The Enrollee shall submit its Sewer System Management Plan Audit and other pertinent audit information, in accordance with section 5.4 (Sewer System Management Plan Audits) of this General Order, to the online CIWQS Sanitary Sewer System Database **by six (6) months after the end of the 3-year audit period.**

If a Sewer System Management Plan Audit is not conducted as required: the Enrollee shall:

- Update the online CIWQS Sanitary Sewer System Database and select the justification for not conducting the Audit; and
- Notify its corresponding Regional Water Board (see Attachment F (Regional Water Quality Control Board Contact Information)) of the justification for the lapsed requirements.

The Enrollee's reporting of a justification for not conducting a timely Audit does not justify non-compliance with this General Order. The Enrollee shall:

- Submit the late Audit as required in this General Order; and
- Comply with subsequent Audit requirements and due dates corresponding with the original audit cycle.

3.11. Sewer System Management Plan Reporting Requirements

For an Existing Enrollee previously regulated by Order 2006-0003-DWQ: **Within every six (6) years after the required due date of its last Plan Update**, the Legally Responsible Official shall upload and certify a local governing entity-approved Sewer System Management Plan Update to the online CIWQS Sanitary Sewer System Database. If the electronic document format or size capacity prevents the electronic upload of the Plan, the Legally Responsible Official shall report an electronic link to its updated Sewer System Management Plan posted on its own website.

Order 2006-0003-DWQ required each enrollee to develop its initial Sewer System Management Plan per the following schedule, with required Plan updates at a frequency of 5-years thereafter:

Systems serving populations: Greater than 100,000: May 2, 2009

Between 100,000 and 10,000: August 2, 2009

Between 10,000 and 2,500: May 2, 2010

Less than 2,500: August 2, 2010

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This Order carries forth the previously-required Plan Update schedule per Order 2006-0003-DWQ. Per the six-year Plan Update frequency required in this Order, the Enrollee shall upload and certify its first Plan Update, to the online CIWQS Sanitary Sewer System Database by the following due dates, with subsequent Plan Updates at the frequency of six years thereafter:

Systems serving populations: Greater than 100,000: May 2, 2025

Between 100,000 and 10,000: August 2, 2025

Between 10,000 and 2,500: May 2, 2026

Less than 2,500: August 2, 2026

For a New Enrollee: **Within twelve (12) months of its Application for Enrollment Approval date**, the Legally Responsible Official of a new Enrollee shall upload and certify a local governing entity-approved Sewer System Management Plan to the online CIWQS Sanitary Sewer System Database. If electronic document format or size capacity prevents the electronic upload of the Plan, the Legally Responsible Official shall report an electronic link to its Sewer System Management Plan posted on its own website. The due date for subsequent 6-year Plan updates, is six (6) years from the submittal due date of the new Enrollee's first Sewer System Management Plan.

4. RECORDKEEPING REQUIREMENTS

The Enrollee shall maintain records to document compliance with the provisions of this General Order, and previous General Order 2006-0003-DWQ as applicable, for each sanitary sewer system owned, including any required records generated by an Enrollee's contractor(s).

4.1. Recordkeeping Time Period

The Enrollee shall maintain records of documents required in this Attachment, including records collected for compliance with this General Order, and records collected in accordance with previous General Order 2006-0003-DWQ, for five (5) years.

4.2. Availability of Documents

The Enrollee shall make the records required in this General Order readily available, either electronic or hard copies, for review by Water Board staff during onsite inspections or through an information request.

4.3. Spill Reports

The Enrollee shall maintain records for each of the following spill-related events and activities:

- Spill event complaint, including but not limited to records documenting how the Enrollee responded to notifications of spills. Each complaint record must, at a minimum, include the following information:
 - Date, time, and method of notification,

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- Date and time the complainant first noticed the spill, if available,
- Narrative description of the complaint, including any information the caller provided regarding whether the spill has reached surface waters or a drainage conveyance system, if available,
- Complainant's contact information, if available, and
- Final resolution of the complaint;
- Records documenting the steps and/or remedial action(s) undertaken by the Enrollee, using all available information, to comply with this General Order, and previous General Order 2006-0003-DWQ as applicable;
- Records documenting how estimate(s) of volume(s) and, if applicable, volume(s) of spill recovered were calculated;
- All California Office of Emergency Services notification records, as applicable; and
- Records, in accordance with the Monitoring Requirements in this Attachment.

4.4. Recordkeeping of Category 4 Spills and Non-Category 1 Lateral Spills

An Enrollee must maintain the following records for each individual Category 4 spill and for each individual non-Category 1 Enrollee-owned and/or operated lateral spill, and report in accordance to section 3.6 (Annual Certified Spill Reporting of Category 4 and/or Lateral Spills) of this Attachment.

Recordkeeping of Individual Category 4 Spill Information:

1. Contact information: Name and telephone number of Enrollee contact person to respond to spill-specific questions;
2. Spill location name;
3. Description and GPS coordinates for the system location where the spill originated;
4. Did the spill reach a drainage conveyance system? If Yes:
 - Description of drainage conveyance system location,
 - Estimated spill volume fully recovered within the drainage conveyance system, and
 - Estimated spill volume remaining within the drainage conveyance system;
5. Estimated total spill volume exiting the sanitary sewer system;
6. Spill date and start time;
7. Spill cause(s) (for example, root intrusion, grease deposition, etc.);
8. System failure location (for example, main, pump station, etc.);
9. Description of spill response activities including description of immediate spill containment and cleanup efforts;
10. Description of how the volume estimation was calculated, including, at minimum:

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- The methodology and type of data relied upon, including supervisory control and data acquisition (SCADA) records, flow monitoring or other telemetry information used to estimate the volume of the spill discharged, and the volume of the spill recovered (if any volume of the spill was recovered), and
 - The methodology and type of data relied upon to estimate the spill start time, on-going spill rate at time of arrival (if applicable), and the spill end time;
11. Description of implemented system modifications and operating/maintenance modifications.

Recordkeeping of Individual Lateral Spill Information:

1. Date and time the Enrollee was notified of, or self-discovered, the spill;
2. Location of individual spill;
3. Estimated individual spill volume;
4. Spill cause(s) (for example, root intrusion, grease deposition, etc.); and
5. Description of how the volume estimations were calculated.

Total Annual Spill Information:

1. Estimated total annual spill volume;
2. Description of spill corrective actions, including at minimum:
 - Local regulatory enforcement action taken against the sewer lateral owner in response to a spill, as applicable, and
 - System operation, maintenance and program modifications implemented to prevent repeated spill occurrences at the same spill location.

4.5. Sewer System Telemetry Records

The Enrollee shall maintain the following sewer system telemetry records if used to document compliance with this General Order, and previous General Order 2006-0003-DWQ as applicable, including spill volume estimates:

- Supervisory control and data acquisition (SCADA) system(s);
- Alarm system(s);
- Flow monitoring device(s) or other instrument(s) used to estimate sewage flow rates, and/or volumes;
- Computerized maintenance management system records; and
- Asset management-related records.

4.6. Sewer System Management Plan Implementation Records

The Enrollee shall maintain records documenting the Enrollee's implementation of its Sewer System Management Plan, including documents supporting its Sewer System Management Plan audits, corrections, modifications, and updates to the Sewer System Management Plan.

4.7. Audit Records

The Enrollee shall maintain, at minimum, the following records pertaining to its Sewer System Management Plan audits, and other internal audits:

- Completed audit documents and findings;
- Name and contact information of staff and/or consultants that conducted or involved in the audit; and
- Follow-up actions based on audit findings.

4.8. Equipment Records

The Enrollee shall maintain a log of all owned and leased sewer system cleaning, operational, maintenance, construction, and rehabilitation equipment.

4.9. Work Orders

The Enrollee shall maintain record of work orders for operations and maintenance projects.

ATTACHMENT E2 – SUMMARY OF NOTIFICATION, MONITORING AND REPORTING REQUIREMENTS

This Attachment provides a summary of notification, monitoring and reporting requirements, by spill category, and for Enrollee-owned and/or operated laterals as required in Attachment E1 of this General Order, for quick reference purposes only.

Table E2-1

Spill Category 1: Spills to Surface Waters

Spill Requirement	Due	Method
Notification	<p>Within two (2) hours of the Enrollee’s knowledge of a Category 1 spill of 1,000 gallons or greater, discharging or threatening to discharge to surface waters:</p> <p>Notify the California Office of Emergency Services and obtain a notification control number.</p>	<p>California Office of Emergency Services at: (800) 852-7550 (Section 1 of Attachment E1)</p>
Monitoring	<ul style="list-style-type: none"> • Conduct spill-specific monitoring; • Conduct water quality sampling of the receiving water within 18 hours of initial knowledge of spill of 50,000 gallons or greater to surface waters. 	<p>(Section 2 of Attachment E1)</p>
Reporting	<ul style="list-style-type: none"> • Submit Draft Spill Report within three (3) business days of the Enrollee’s knowledge of the spill; • Submit Certified Spill Report within 15 calendar days of the spill end date; • Submit Technical Report within 45 calendar days after the spill end date for a Category 1 spill in which 50,000 gallons or greater discharged to surface waters; and • Submit Amended Spill Report within 90 calendar days after the spill end date. 	<p>(Section 3.1 of Attachment E1)</p>

Table E2-2

Spill Category 2: Spills of 1,000 Gallons or Greater That Do Not Discharge to Surface Waters

Spill Requirements	Due	Method
Notification	<p>Within two (2) hours of the Enrollee’s knowledge of a Category 2 spill of 1,000 gallons or greater, discharging or threatening to discharge to waters of the State:</p> <p>Notify California Office of Emergency Services and obtain a notification control number.</p>	<p>California Office of Emergency Services at: (800) 852-7550</p> <p>(Section 1 of Attachment E1)</p>
Monitoring	Conduct spill-specific monitoring.	(Section 2 of Attachment E1)
Reporting	<ul style="list-style-type: none"> • Submit Draft Spill Report within three (3) business days of the Enrollee’s knowledge of the spill; • Submit Certified Spill Report within 15 calendar days of the spill end date; and • Submit Amended Spill Report within 90 calendar days after the spill end date. 	(Section 3.2 of Attachment E1)

Table E2-3

Spill Category 3: Spills of Equal or Greater than 50 Gallons and Less than 1,000 Gallons That Does Not Discharge to Surface Waters

Spill Requirements	Due	Method
Notification	Not Applicable	Not Applicable
Monitoring	Conduct spill-specific monitoring.	(Section 2 of Attachment E1)
Reporting	<ul style="list-style-type: none"> Submit monthly Certified Spill Report to the online CIWQS Sanitary Sewer System Database within 30 calendars days after the end of the month in which the spills occur; and Submit Amended Spill Reports within 90 calendar days after the Certified Spill Report due date. 	(Section 3.3 and 3.5 of Attachment E1)

Table E2-4

Spill Category 4: Spills Less Than 50 Gallons That Do Not Discharge to Surface Waters

Spill Requirements	Due	Method
Notification	Not Applicable	Not Applicable
Monitoring	Conduct spill-specific monitoring.	(Section 2 of Attachment E1)
Reporting	<ul style="list-style-type: none"> If, during any calendar month, Category 4 spills occur, certify monthly, the estimated total spill volume exiting the sanitary sewer system, and the total number of all Category 4 spills into the online CIWQS Sanitary Sewer System Database, within 30 days after the end of the calendar month in which the spills occurred. Upload and certify a report, in an acceptable digital format, of all Category 4 spills to the online CIWQS Sanitary Sewer System Database, by February 1st after the end of the calendar year in which the spills occur. 	(Section 3.4, 3.6, 3.7 and 4.4 of Attachment E1)

**Table E2-5
Enrollee Owned and/or Operated Lateral Spills That Do Not Discharge to Surface Waters**

Spill Requirements	Due	Method
Notification	<p>Within two (2) hours of the Enrollee’s knowledge of a spill of 1,000 gallons or greater, from an enrollee-owned and/or operated lateral, discharging or threatening to discharge to waters of the State:</p> <p>Notify California Office of Emergency Services and obtain a notification control number.</p> <p>Not applicable to a spill of less than 1,000 gallons.</p>	<p>California Office of Emergency Services at: (800) 852-7550</p> <p>(Section 1 of Attachment E1)</p>
Monitoring	Conduct visual monitoring.	(Section 2 of Attachment E1)
Reporting	<ul style="list-style-type: none"> • Upload and certify a report, in an acceptable digital format, of all lateral spills (that do not discharge to a surface water) to the online CIWQS Sanitary Sewer System Database, by February 1st after the end of the calendar year in which the spills occur. • Report a lateral spill of any volume that discharges to a surface water as a Category 1 spill. 	(Sections 3.6, 3.7 and 4.4 of Attachment E1)

ATTACHMENT F – REGIONAL WATER QUALITY CONTROL BOARD CONTACT INFORMATION

This Attachment provides a map, list of counties, and contact information to assist the Enrollee in identifying the corresponding Regional Water Quality Control Board office, for all Regional Water Board notification requirements in this General Order.



Region 1 -- North Coast Regional Water Quality Control Board:

Del Norte, Glenn, Humboldt, Lake, Marin, Mendocino, Modoc, Siskiyou, Sonoma, and Trinity counties.

RB1SpillReporting@waterboards.ca.gov or (707) 576-2220

Region 2 -- San Francisco Bay Regional Water Quality Control Board:

Alameda, Contra Costa, San Francisco, Santa Clara (Northern most part of Morgan Hill), San Mateo, Marin, Sonoma, Napa, Solano counties.

RB2SpillReports@waterboards.ca.gov or (510) 622-2369

Region 3 -- Central Coast Regional Water Quality Control Board:

Santa Clara (most of Morgan Hill), San Mateo (Southern portion), Santa Cruz, San Benito, Monterey, Kern (small portions), San Luis Obispo, Santa Barbara, Ventura (Northern portion) counties.

CentralCoast@waterboards.ca.gov or (805) 549-3147

Region 4 -- Los Angeles Regional Water Quality Control Board:

Los Angeles, Ventura counties (small portions of Kern and Santa Barbara counties).

rb4-ssswdr@waterboards.ca.gov or (213) 576-6600

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Region 5 -- Central Valley Regional Water Quality Control Board:

Rancho Cordova (Sacramento) Office: Colusa, Lake, Sutter, Yuba, Sierra, Nevada, Placer, Yolo, Napa, (North East), Solano (West), Sacramento, El Dorado, Amador, Calaveras, San Joaquin, Contra Costa (East), Stanislaus, Tuolumne counties.

RB5sSpillReporting@waterboards.ca.gov or (916) 464-3291

Fresno Office: Fresno, Kern, Kings, Madera, Mariposa, Merced, and Tulare counties, and small portions of San Benito and San Luis Obispo counties.

RB5fSpillReporting@waterboards.ca.gov or (559) 445-5116

Redding Office: Butte, Glen, Lassen, Modoc, Plumas, Shasta, Siskiyou, and Tehama counties.

RB5rSpillReporting@waterboards.ca.gov or (530) 224-4845

Region 6 -- Lahontan Regional Water Quality Control Board:

Lake Tahoe Office: Alpine, Modoc (East), Lassen (East side and Eagle Lake), Sierra, Nevada, Placer, El Dorado counties.

RB6sSpillReporting@waterboards.ca.gov or (530) 542-5400

Victorville Office: Mono, Inyo, Kern (East), San Bernardino, Los Angeles (North East corner) counties.

RB6vSpillReporting@waterboards.ca.gov or (760) 241-6583

Region 7 -- Colorado River Basin Regional Water Quality Control Board:

Imperial county and portions of San Bernardino, Riverside, San Diego counties.

RB7SpillReporting@waterboards.ca.gov or (760) 346-7491

Region 8 -- Santa Ana Regional Water Quality Control Board:

Orange, Riverside, San Bernardino counties.

RB8SpillReporting@waterboards.ca.gov or (951) 782-4130

Region 9 -- San Diego Regional Water Quality Control Board:

San Diego county and portions of Orange and Riverside counties.

RB9Spill_Report@waterboards.ca.gov or (619) 516-1990

End of Order 2022-0103-DWQ

**STATE WATER RESOURCES CONTROL BOARD
ORDER NO. 2006-0003-DWQ**

**STATEWIDE GENERAL WASTE DISCHARGE REQUIREMENTS
FOR
SANITARY SEWER SYSTEMS**

The State Water Resources Control Board, hereinafter referred to as "State Water Board", finds that:

1. All federal and state agencies, municipalities, counties, districts, and other public entities that own or operate sanitary sewer systems greater than one mile in length that collect and/or convey untreated or partially treated wastewater to a publicly owned treatment facility in the State of California are required to comply with the terms of this Order. Such entities are hereinafter referred to as "Enrollees".
2. Sanitary sewer overflows (SSOs) are overflows from sanitary sewer systems of domestic wastewater, as well as industrial and commercial wastewater, depending on the pattern of land uses in the area served by the sanitary sewer system. SSOs often contain high levels of suspended solids, pathogenic organisms, toxic pollutants, nutrients, oxygen-demanding organic compounds, oil and grease and other pollutants. SSOs may cause a public nuisance, particularly when raw untreated wastewater is discharged to areas with high public exposure, such as streets or surface waters used for drinking, fishing, or body contact recreation. SSOs may pollute surface or ground waters, threaten public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters.
3. Sanitary sewer systems experience periodic failures resulting in discharges that may affect waters of the state. There are many factors (including factors related to geology, design, construction methods and materials, age of the system, population growth, and system operation and maintenance), which affect the likelihood of an SSO. A proactive approach that requires Enrollees to ensure a system-wide operation, maintenance, and management plan is in place will reduce the number and frequency of SSOs within the state. This approach will in turn decrease the risk to human health and the environment caused by SSOs.
4. Major causes of SSOs include: grease blockages, root blockages, sewer line flood damage, manhole structure failures, vandalism, pump station mechanical failures, power outages, excessive storm or ground water inflow/infiltration, debris blockages, sanitary sewer system age and construction material failures, lack of proper operation and maintenance, insufficient capacity and contractor-caused damages. Many SSOs are preventable with adequate and appropriate facilities, source control measures and operation and maintenance of the sanitary sewer system.

SEWER SYSTEM MANAGEMENT PLANS

5. To facilitate proper funding and management of sanitary sewer systems, each Enrollee must develop and implement a system-specific Sewer System Management Plan (SSMP). To be effective, SSMPs must include provisions to provide proper and efficient management, operation, and maintenance of sanitary sewer systems, while taking into consideration risk management and cost benefit analysis. Additionally, an SSMP must contain a spill response plan that establishes standard procedures for immediate response to an SSO in a manner designed to minimize water quality impacts and potential nuisance conditions.
6. Many local public agencies in California have already developed SSMPs and implemented measures to reduce SSOs. These entities can build upon their existing efforts to establish a comprehensive SSMP consistent with this Order. Others, however, still require technical assistance and, in some cases, funding to improve sanitary sewer system operation and maintenance in order to reduce SSOs.
7. SSMP certification by technically qualified and experienced persons can provide a useful and cost-effective means for ensuring that SSMPs are developed and implemented appropriately.
8. It is the State Water Board's intent to gather additional information on the causes and sources of SSOs to augment existing information and to determine the full extent of SSOs and consequent public health and/or environmental impacts occurring in the State.
9. Both uniform SSO reporting and a centralized statewide electronic database are needed to collect information to allow the State Water Board and Regional Water Quality Control Boards (Regional Water Boards) to effectively analyze the extent of SSOs statewide and their potential impacts on beneficial uses and public health. The monitoring and reporting program required by this Order and the attached Monitoring and Reporting Program No. 2006-0003-DWQ, are necessary to assure compliance with these waste discharge requirements (WDRs).
10. Information regarding SSOs must be provided to Regional Water Boards and other regulatory agencies in a timely manner and be made available to the public in a complete, concise, and timely fashion.
11. Some Regional Water Boards have issued WDRs or WDRs that serve as National Pollution Discharge Elimination System (NPDES) permits to sanitary sewer system owners/operators within their jurisdictions. This Order establishes minimum requirements to prevent SSOs. Although it is the State Water Board's intent that this Order be the primary regulatory mechanism for sanitary sewer systems statewide, Regional Water Boards may issue more stringent or more

prescriptive WDRs for sanitary sewer systems. Upon issuance or reissuance of a Regional Water Board's WDRs for a system subject to this Order, the Regional Water Board shall coordinate its requirements with stated requirements within this Order, to identify requirements that are more stringent, to remove requirements that are less stringent than this Order, and to provide consistency in reporting.

REGULATORY CONSIDERATIONS

12. California Water Code section 13263 provides that the State Water Board may prescribe general WDRs for a category of discharges if the State Water Board finds or determines that:

- The discharges are produced by the same or similar operations;
- The discharges involve the same or similar types of waste;
- The discharges require the same or similar treatment standards; and
- The discharges are more appropriately regulated under general discharge requirements than individual discharge requirements.

This Order establishes requirements for a class of operations, facilities, and discharges that are similar throughout the state.

13. The issuance of general WDRs to the Enrollees will:

- a) Reduce the administrative burden of issuing individual WDRs to each Enrollee;
- b) Provide for a unified statewide approach for the reporting and database tracking of SSOs;
- c) Establish consistent and uniform requirements for SSMP development and implementation;
- d) Provide statewide consistency in reporting; and
- e) Facilitate consistent enforcement for violations.

14. The beneficial uses of surface waters that can be impaired by SSOs include, but are not limited to, aquatic life, drinking water supply, body contact and non-contact recreation, and aesthetics. The beneficial uses of ground water that can be impaired include, but are not limited to, drinking water and agricultural supply. Surface and ground waters throughout the state support these uses to varying degrees.

15. The implementation of requirements set forth in this Order will ensure the reasonable protection of past, present, and probable future beneficial uses of water and the prevention of nuisance. The requirements implement the water quality control plans (Basin Plans) for each region and take into account the environmental characteristics of hydrographic units within the state. Additionally, the State Water Board has considered water quality conditions that could reasonably be achieved through the coordinated control of all factors that affect

water quality in the area, costs associated with compliance with these requirements, the need for developing housing within California, and the need to develop and use recycled water.

16. The Federal Clean Water Act largely prohibits any discharge of pollutants from a point source to waters of the United States except as authorized under an NPDES permit. In general, any point source discharge of sewage effluent to waters of the United States must comply with technology-based, secondary treatment standards, at a minimum, and any more stringent requirements necessary to meet applicable water quality standards and other requirements. Hence, the unpermitted discharge of wastewater from a sanitary sewer system to waters of the United States is illegal under the Clean Water Act. In addition, many Basin Plans adopted by the Regional Water Boards contain discharge prohibitions that apply to the discharge of untreated or partially treated wastewater. Finally, the California Water Code generally prohibits the discharge of waste to land prior to the filing of any required report of waste discharge and the subsequent issuance of either WDRs or a waiver of WDRs.
17. California Water Code section 13263 requires a water board to, after any necessary hearing, prescribe requirements as to the nature of any proposed discharge, existing discharge, or material change in an existing discharge. The requirements shall, among other things, take into consideration the need to prevent nuisance.
18. California Water Code section 13050, subdivision (m), defines nuisance as anything which meets all of the following requirements:
 - a. Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.
 - b. Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.
 - c. Occurs during, or as a result of, the treatment or disposal of wastes.
19. This Order is consistent with State Water Board Resolution No. 68-16 (Statement of Policy with Respect to Maintaining High Quality of Waters in California) in that the Order imposes conditions to prevent impacts to water quality, does not allow the degradation of water quality, will not unreasonably affect beneficial uses of water, and will not result in water quality less than prescribed in State Water Board or Regional Water Board plans and policies.
20. The action to adopt this General Order is exempt from the California Environmental Quality Act (Public Resources Code §21000 et seq.) because it is an action taken by a regulatory agency to assure the protection of the environment and the regulatory process involves procedures for protection of the environment. (Cal. Code Regs., tit. 14, §15308). In addition, the action to adopt

this Order is exempt from CEQA pursuant to Cal.Code Regs., title 14, §15301 to the extent that it applies to existing sanitary sewer collection systems that constitute “existing facilities” as that term is used in Section 15301, and §15302, to the extent that it results in the repair or replacement of existing systems involving negligible or no expansion of capacity.

21. The Fact Sheet, which is incorporated by reference in the Order, contains supplemental information that was also considered in establishing these requirements.
22. The State Water Board has notified all affected public agencies and all known interested persons of the intent to prescribe general WDRs that require Enrollees to develop SSMPs and to report all SSOs.
23. The State Water Board conducted a public hearing on February 8, 2006, to receive oral and written comments on the draft order. The State Water Board received and considered, at its May 2, 2006, meeting, additional public comments on substantial changes made to the proposed general WDRs following the February 8, 2006, public hearing. The State Water Board has considered all comments pertaining to the proposed general WDRs.

IT IS HEREBY ORDERED, that pursuant to California Water Code section 13263, the Enrollees, their agents, successors, and assigns, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted hereunder, shall comply with the following:

A. DEFINITIONS

1. **Sanitary sewer overflow (SSO)** - Any overflow, spill, release, discharge or diversion of untreated or partially treated wastewater from a sanitary sewer system. SSOs include:
 - (i) Overflows or releases of untreated or partially treated wastewater that reach waters of the United States;
 - (ii) Overflows or releases of untreated or partially treated wastewater that do not reach waters of the United States; and
 - (iii) Wastewater backups into buildings and on private property that are caused by blockages or flow conditions within the publicly owned portion of a sanitary sewer system.
2. **Sanitary sewer system** – Any system of pipes, pump stations, sewer lines, or other conveyances, upstream of a wastewater treatment plant headworks used to collect and convey wastewater to the publicly owned treatment facility. Temporary storage and conveyance facilities (such as vaults, temporary piping, construction trenches, wet wells, impoundments, tanks, etc.) are considered to be part of the sanitary sewer system, and discharges into these temporary storage facilities are not considered to be SSOs.

For purposes of this Order, sanitary sewer systems include only those systems owned by public agencies that are comprised of more than one mile of pipes or sewer lines.

3. **Enrollee** - A federal or state agency, municipality, county, district, and other public entity that owns or operates a sanitary sewer system, as defined in the general WDRs, and that has submitted a complete and approved application for coverage under this Order.
4. **SSO Reporting System** – Online spill reporting system that is hosted, controlled, and maintained by the State Water Board. The web address for this site is <http://ciwqs.waterboards.ca.gov>. This online database is maintained on a secure site and is controlled by unique usernames and passwords.
5. **Untreated or partially treated wastewater** – Any volume of waste discharged from the sanitary sewer system upstream of a wastewater treatment plant headworks.
6. **Satellite collection system** – The portion, if any, of a sanitary sewer system owned or operated by a different public agency than the agency that owns and operates the wastewater treatment facility to which the sanitary sewer system is tributary.
7. **Nuisance** - California Water Code section 13050, subdivision (m), defines nuisance as anything which meets all of the following requirements:
 - a. Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.
 - b. Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.
 - c. Occurs during, or as a result of, the treatment or disposal of wastes.

B. APPLICATION REQUIREMENTS

1. **Deadlines for Application** – All public agencies that currently own or operate sanitary sewer systems within the State of California must apply for coverage under the general WDRs within six (6) months of the date of adoption of the general WDRs. Additionally, public agencies that acquire or assume responsibility for operating sanitary sewer systems after the date of adoption of this Order must apply for coverage under the general WDRs at least three (3) months prior to operation of those facilities.
2. **Applications under the general WDRs** – In order to apply for coverage pursuant to the general WDRs, a legally authorized representative for each agency must submit a complete application package. Within sixty (60) days of adoption of the general WDRs, State Water Board staff will send specific instructions on how to

apply for coverage under the general WDRs to all known public agencies that own sanitary sewer systems. Agencies that do not receive notice may obtain applications and instructions online on the Water Board's website.

3. Coverage under the general WDRs – Permit coverage will be in effect once a complete application package has been submitted and approved by the State Water Board's Division of Water Quality.

C. PROHIBITIONS

1. Any SSO that results in a discharge of untreated or partially treated wastewater to waters of the United States is prohibited.
2. Any SSO that results in a discharge of untreated or partially treated wastewater that creates a nuisance as defined in California Water Code Section 13050(m) is prohibited.

D. PROVISIONS

1. The Enrollee must comply with all conditions of this Order. Any noncompliance with this Order constitutes a violation of the California Water Code and is grounds for enforcement action.
2. It is the intent of the State Water Board that sanitary sewer systems be regulated in a manner consistent with the general WDRs. Nothing in the general WDRs shall be:
 - (i) Interpreted or applied in a manner inconsistent with the Federal Clean Water Act, or supersede a more specific or more stringent state or federal requirement in an existing permit, regulation, or administrative/judicial order or Consent Decree;
 - (ii) Interpreted or applied to authorize an SSO that is illegal under either the Clean Water Act, an applicable Basin Plan prohibition or water quality standard, or the California Water Code;
 - (iii) Interpreted or applied to prohibit a Regional Water Board from issuing an individual NPDES permit or WDR, superseding this general WDR, for a sanitary sewer system, authorized under the Clean Water Act or California Water Code; or
 - (iv) Interpreted or applied to supersede any more specific or more stringent WDRs or enforcement order issued by a Regional Water Board.
3. The Enrollee shall take all feasible steps to eliminate SSOs. In the event that an SSO does occur, the Enrollee shall take all feasible steps to contain and mitigate the impacts of an SSO.
4. In the event of an SSO, the Enrollee shall take all feasible steps to prevent untreated or partially treated wastewater from discharging from storm drains into

flood control channels or waters of the United States by blocking the storm drainage system and by removing the wastewater from the storm drains.

5. All SSOs must be reported in accordance with Section G of the general WDRs.
6. In any enforcement action, the State and/or Regional Water Boards will consider the appropriate factors under the duly adopted State Water Board Enforcement Policy. And, consistent with the Enforcement Policy, the State and/or Regional Water Boards must consider the Enrollee's efforts to contain, control, and mitigate SSOs when considering the California Water Code Section 13327 factors. In assessing these factors, the State and/or Regional Water Boards will also consider whether:
 - (i) The Enrollee has complied with the requirements of this Order, including requirements for reporting and developing and implementing a SSMP;
 - (ii) The Enrollee can identify the cause or likely cause of the discharge event;
 - (iii) There were no feasible alternatives to the discharge, such as temporary storage or retention of untreated wastewater, reduction of inflow and infiltration, use of adequate backup equipment, collecting and hauling of untreated wastewater to a treatment facility, or an increase in the capacity of the system as necessary to contain the design storm event identified in the SSMP. It is inappropriate to consider the lack of feasible alternatives, if the Enrollee does not implement a periodic or continuing process to identify and correct problems.
 - (iv) The discharge was exceptional, unintentional, temporary, and caused by factors beyond the reasonable control of the Enrollee;
 - (v) The discharge could have been prevented by the exercise of reasonable control described in a certified SSMP for:
 - Proper management, operation and maintenance;
 - Adequate treatment facilities, sanitary sewer system facilities, and/or components with an appropriate design capacity, to reasonably prevent SSOs (e.g., adequately enlarging treatment or collection facilities to accommodate growth, infiltration and inflow (I/I), etc.);
 - Preventive maintenance (including cleaning and fats, oils, and grease (FOG) control);
 - Installation of adequate backup equipment; and
 - Inflow and infiltration prevention and control to the extent practicable.
 - (vi) The sanitary sewer system design capacity is appropriate to reasonably prevent SSOs.

- (vii) The Enrollee took all reasonable steps to stop and mitigate the impact of the discharge as soon as possible.
7. When a sanitary sewer overflow occurs, the Enrollee shall take all feasible steps and necessary remedial actions to 1) control or limit the volume of untreated or partially treated wastewater discharged, 2) terminate the discharge, and 3) recover as much of the wastewater discharged as possible for proper disposal, including any wash down water.

The Enrollee shall implement all remedial actions to the extent they may be applicable to the discharge and not inconsistent with an emergency response plan, including the following:

- (i) Interception and rerouting of untreated or partially treated wastewater flows around the wastewater line failure;
 - (ii) Vacuum truck recovery of sanitary sewer overflows and wash down water;
 - (iii) Cleanup of debris at the overflow site;
 - (iv) System modifications to prevent another SSO at the same location;
 - (v) Adequate sampling to determine the nature and impact of the release; and
 - (vi) Adequate public notification to protect the public from exposure to the SSO.
8. The Enrollee shall properly, manage, operate, and maintain all parts of the sanitary sewer system owned or operated by the Enrollee, and shall ensure that the system operators (including employees, contractors, or other agents) are adequately trained and possess adequate knowledge, skills, and abilities.
9. The Enrollee shall allocate adequate resources for the operation, maintenance, and repair of its sanitary sewer system, by establishing a proper rate structure, accounting mechanisms, and auditing procedures to ensure an adequate measure of revenues and expenditures. These procedures must be in compliance with applicable laws and regulations and comply with generally acceptable accounting practices.
10. The Enrollee shall provide adequate capacity to convey base flows and peak flows, including flows related to wet weather events. Capacity shall meet or exceed the design criteria as defined in the Enrollee's System Evaluation and Capacity Assurance Plan for all parts of the sanitary sewer system owned or operated by the Enrollee.
11. The Enrollee shall develop and implement a written Sewer System Management Plan (SSMP) and make it available to the State and/or Regional Water Board upon request. A copy of this document must be publicly available at the Enrollee's office and/or available on the Internet. This SSMP must be approved by the Enrollee's governing board at a public meeting.

12. In accordance with the California Business and Professions Code sections 6735, 7835, and 7835.1, all engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. Specific elements of the SSMP that require professional evaluation and judgments shall be prepared by or under the direction of appropriately qualified professionals, and shall bear the professional(s)' signature and stamp.
13. The mandatory elements of the SSMP are specified below. However, if the Enrollee believes that any element of this section is not appropriate or applicable to the Enrollee's sanitary sewer system, the SSMP program does not need to address that element. The Enrollee must justify why that element is not applicable. The SSMP must be approved by the deadlines listed in the SSMP Time Schedule below.

Sewer System Management Plan (SSMP)

- (i) **Goal:** The goal of the SSMP is to provide a plan and schedule to properly manage, operate, and maintain all parts of the sanitary sewer system. This will help reduce and prevent SSOs, as well as mitigate any SSOs that do occur.
- (ii) **Organization:** The SSMP must identify:
- (a) The name of the responsible or authorized representative as described in Section J of this Order.
 - (b) The names and telephone numbers for management, administrative, and maintenance positions responsible for implementing specific measures in the SSMP program. The SSMP must identify lines of authority through an organization chart or similar document with a narrative explanation; and
 - (c) The chain of communication for reporting SSOs, from receipt of a complaint or other information, including the person responsible for reporting SSOs to the State and Regional Water Board and other agencies if applicable (such as County Health Officer, County Environmental Health Agency, Regional Water Board, and/or State Office of Emergency Services (OES)).
- (iii) **Legal Authority:** Each Enrollee must demonstrate, through sanitary sewer system use ordinances, service agreements, or other legally binding procedures, that it possesses the necessary legal authority to:
- (a) Prevent illicit discharges into its sanitary sewer system (examples may include I/I, stormwater, chemical dumping, unauthorized debris and cut roots, etc.);

- (b) Require that sewers and connections be properly designed and constructed;
 - (c) Ensure access for maintenance, inspection, or repairs for portions of the lateral owned or maintained by the Public Agency;
 - (d) Limit the discharge of fats, oils, and grease and other debris that may cause blockages, and
 - (e) Enforce any violation of its sewer ordinances.
- (iv) **Operation and Maintenance Program.** The SSMP must include those elements listed below that are appropriate and applicable to the Enrollee's system:
- (a) Maintain an up-to-date map of the sanitary sewer system, showing all gravity line segments and manholes, pumping facilities, pressure pipes and valves, and applicable stormwater conveyance facilities;
 - (b) Describe routine preventive operation and maintenance activities by staff and contractors, including a system for scheduling regular maintenance and cleaning of the sanitary sewer system with more frequent cleaning and maintenance targeted at known problem areas. The Preventative Maintenance (PM) program should have a system to document scheduled and conducted activities, such as work orders;
 - (c) Develop a rehabilitation and replacement plan to identify and prioritize system deficiencies and implement short-term and long-term rehabilitation actions to address each deficiency. The program should include regular visual and TV inspections of manholes and sewer pipes, and a system for ranking the condition of sewer pipes and scheduling rehabilitation. Rehabilitation and replacement should focus on sewer pipes that are at risk of collapse or prone to more frequent blockages due to pipe defects. Finally, the rehabilitation and replacement plan should include a capital improvement plan that addresses proper management and protection of the infrastructure assets. The plan shall include a time schedule for implementing the short- and long-term plans plus a schedule for developing the funds needed for the capital improvement plan;
 - (d) Provide training on a regular basis for staff in sanitary sewer system operations and maintenance, and require contractors to be appropriately trained; and

- (e) Provide equipment and replacement part inventories, including identification of critical replacement parts.

(v) **Design and Performance Provisions:**

- (a) Design and construction standards and specifications for the installation of new sanitary sewer systems, pump stations and other appurtenances; and for the rehabilitation and repair of existing sanitary sewer systems; and
- (b) Procedures and standards for inspecting and testing the installation of new sewers, pumps, and other appurtenances and for rehabilitation and repair projects.

(vi) **Overflow Emergency Response Plan** - Each Enrollee shall develop and implement an overflow emergency response plan that identifies measures to protect public health and the environment. At a minimum, this plan must include the following:

- (a) Proper notification procedures so that the primary responders and regulatory agencies are informed of all SSOs in a timely manner;
- (b) A program to ensure an appropriate response to all overflows;
- (c) Procedures to ensure prompt notification to appropriate regulatory agencies and other potentially affected entities (e.g. health agencies, Regional Water Boards, water suppliers, etc.) of all SSOs that potentially affect public health or reach the waters of the State in accordance with the MRP. All SSOs shall be reported in accordance with this MRP, the California Water Code, other State Law, and other applicable Regional Water Board WDRs or NPDES permit requirements. The SSMP should identify the officials who will receive immediate notification;
- (d) Procedures to ensure that appropriate staff and contractor personnel are aware of and follow the Emergency Response Plan and are appropriately trained;
- (e) Procedures to address emergency operations, such as traffic and crowd control and other necessary response activities; and
- (f) A program to ensure that all reasonable steps are taken to contain and prevent the discharge of untreated and partially treated wastewater to waters of the United States and to minimize or correct any adverse impact on the environment resulting from the SSOs, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the discharge.

- (vii) **FOG Control Program:** Each Enrollee shall evaluate its service area to determine whether a FOG control program is needed. If an Enrollee determines that a FOG program is not needed, the Enrollee must provide justification for why it is not needed. If FOG is found to be a problem, the Enrollee must prepare and implement a FOG source control program to reduce the amount of these substances discharged to the sanitary sewer system. This plan shall include the following as appropriate:
- (a) An implementation plan and schedule for a public education outreach program that promotes proper disposal of FOG;
 - (b) A plan and schedule for the disposal of FOG generated within the sanitary sewer system service area. This may include a list of acceptable disposal facilities and/or additional facilities needed to adequately dispose of FOG generated within a sanitary sewer system service area;
 - (c) The legal authority to prohibit discharges to the system and identify measures to prevent SSOs and blockages caused by FOG;
 - (d) Requirements to install grease removal devices (such as traps or interceptors), design standards for the removal devices, maintenance requirements, BMP requirements, record keeping and reporting requirements;
 - (e) Authority to inspect grease producing facilities, enforcement authorities, and whether the Enrollee has sufficient staff to inspect and enforce the FOG ordinance;
 - (f) An identification of sanitary sewer system sections subject to FOG blockages and establishment of a cleaning maintenance schedule for each section; and
 - (g) Development and implementation of source control measures for all sources of FOG discharged to the sanitary sewer system for each section identified in (f) above.
- (viii) **System Evaluation and Capacity Assurance Plan:** The Enrollee shall prepare and implement a capital improvement plan (CIP) that will provide hydraulic capacity of key sanitary sewer system elements for dry weather peak flow conditions, as well as the appropriate design storm or wet weather event. At a minimum, the plan must include:
- (a) **Evaluation:** Actions needed to evaluate those portions of the sanitary sewer system that are experiencing or contributing to an SSO discharge caused by hydraulic deficiency. The evaluation must provide estimates of peak flows (including flows from SSOs

that escape from the system) associated with conditions similar to those causing overflow events, estimates of the capacity of key system components, hydraulic deficiencies (including components of the system with limiting capacity) and the major sources that contribute to the peak flows associated with overflow events;

- (b) **Design Criteria:** Where design criteria do not exist or are deficient, undertake the evaluation identified in (a) above to establish appropriate design criteria; and
 - (c) **Capacity Enhancement Measures:** The steps needed to establish a short- and long-term CIP to address identified hydraulic deficiencies, including prioritization, alternatives analysis, and schedules. The CIP may include increases in pipe size, I/I reduction programs, increases and redundancy in pumping capacity, and storage facilities. The CIP shall include an implementation schedule and shall identify sources of funding.
 - (d) **Schedule:** The Enrollee shall develop a schedule of completion dates for all portions of the capital improvement program developed in (a)-(c) above. This schedule shall be reviewed and updated consistent with the SSMP review and update requirements as described in Section D. 14.
- (ix) **Monitoring, Measurement, and Program Modifications:** The Enrollee shall:
- (a) Maintain relevant information that can be used to establish and prioritize appropriate SSMP activities;
 - (b) Monitor the implementation and, where appropriate, measure the effectiveness of each element of the SSMP;
 - (c) Assess the success of the preventative maintenance program;
 - (d) Update program elements, as appropriate, based on monitoring or performance evaluations; and
 - (e) Identify and illustrate SSO trends, including: frequency, location, and volume.
- (x) **SSMP Program Audits** - As part of the SSMP, the Enrollee shall conduct periodic internal audits, appropriate to the size of the system and the number of SSOs. At a minimum, these audits must occur every two years and a report must be prepared and kept on file. This audit shall focus on evaluating the effectiveness of the SSMP and the

Enrollee's compliance with the SSMP requirements identified in this subsection (D.13), including identification of any deficiencies in the SSMP and steps to correct them.

- (xi) **Communication Program** – The Enrollee shall communicate on a regular basis with the public on the development, implementation, and performance of its SSMP. The communication system shall provide the public the opportunity to provide input to the Enrollee as the program is developed and implemented.

The Enrollee shall also create a plan of communication with systems that are tributary and/or satellite to the Enrollee's sanitary sewer system.

14. Both the SSMP and the Enrollee's program to implement the SSMP must be certified by the Enrollee to be in compliance with the requirements set forth above and must be presented to the Enrollee's governing board for approval at a public meeting. The Enrollee shall certify that the SSMP, and subparts thereof, are in compliance with the general WDRs within the time frames identified in the time schedule provided in subsection D.15, below.

In order to complete this certification, the Enrollee's authorized representative must complete the certification portion in the Online SSO Database Questionnaire by checking the appropriate milestone box, printing and signing the automated form, and sending the form to:

State Water Resources Control Board
Division of Water Quality
Attn: SSO Program Manager
P.O. Box 100
Sacramento, CA 95812

The SSMP must be updated every five (5) years, and must include any significant program changes. Re-certification by the governing board of the Enrollee is required in accordance with D.14 when significant updates to the SSMP are made. To complete the re-certification process, the Enrollee shall enter the data in the Online SSO Database and mail the form to the State Water Board, as described above.

15. The Enrollee shall comply with these requirements according to the following schedule. This time schedule does not supersede existing requirements or time schedules associated with other permits or regulatory requirements.

Sewer System Management Plan Time Schedule

<u>Task and Associated Section</u>	Completion Date			
	Population > 100,000	Population between 100,000 and 10,000	Population between 10,000 and 2,500	Population < 2,500
Application for Permit Coverage Section C	6 months after WDRs Adoption			
Reporting Program Section G	6 months after WDRs Adoption ¹			
SSMP Development Plan and Schedule No specific Section	9 months after WDRs Adoption ²	12 months after WDRs Adoption ²	15 months after WDRs Adoption ²	18 months after WDRs Adoption ²
Goals and Organization Structure Section D 13 (i) & (ii)	12 months after WDRs Adoption ²		18 months after WDRs Adoption ²	
Overflow Emergency Response Program Section D 13 (vi)	24 months after WDRs Adoption ²	30 months after WDRs Adoption ²	36 months after WDRs Adoption ²	39 months after WDRs Adoption ²
Legal Authority Section D 13 (iii)				
Operation and Maintenance Program Section D 13 (iv)				
Grease Control Program Section D 13 (vii)	36 months after WDRs Adoption	39 months after WDRs Adoption	48 months after WDRs Adoption	51 months after WDRs Adoption
Design and Performance Section D 13 (v)				
System Evaluation and Capacity Assurance Plan Section D 13 (viii)				
Final SSMP, incorporating all of the SSMP requirements Section D 13				

1. In the event that by July 1, 2006 the Executive Director is able to execute a memorandum of agreement (MOA) with the California Water Environment Association (CWEA) or discharger representatives outlining a strategy and time schedule for CWEA or another entity to provide statewide training on the adopted monitoring program, SSO database electronic reporting, and SSMP development, consistent with this Order, then the schedule of Reporting Program Section G shall be replaced with the following schedule:

Reporting Program Section G	
Regional Boards 4, 8, and 9	8 months after WDRs Adoption
Regional Boards 1, 2, and 3	12 months after WDRs Adoption
Regional Boards 5, 6, and 7	16 months after WDRs Adoption

If this MOU is not executed by July 1, 2006, the reporting program time schedule will remain six (6) months for all regions and agency size categories.

2. In the event that the Executive Director executes the MOA identified in note 1 by July 1, 2006, then the deadline for this task shall be extended by six (6) months. The time schedule identified in the MOA must be consistent with the extended time schedule provided by this note. If the MOA is not executed by July 1, 2006, the six (6) month time extension will not be granted.

E. WDRs and SSMP AVAILABILITY

1. A copy of the general WDRs and the certified SSMP shall be maintained at appropriate locations (such as the Enrollee’s offices, facilities, and/or Internet homepage) and shall be available to sanitary sewer system operating and maintenance personnel at all times.

F. ENTRY AND INSPECTION

1. The Enrollee shall allow the State or Regional Water Boards or their authorized representative, upon presentation of credentials and other documents as may be required by law, to:
 - a. Enter upon the Enrollee’s premises where a regulated facility or activity is located or conducted, or where records are kept under the conditions of this Order;
 - b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order;

- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and
- d. Sample or monitor at reasonable times, for the purposes of assuring compliance with this Order or as otherwise authorized by the California Water Code, any substances or parameters at any location.

G. GENERAL MONITORING AND REPORTING REQUIREMENTS

1. The Enrollee shall furnish to the State or Regional Water Board, within a reasonable time, any information that the State or Regional Water Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order. The Enrollee shall also furnish to the Executive Director of the State Water Board or Executive Officer of the applicable Regional Water Board, upon request, copies of records required to be kept by this Order.
2. The Enrollee shall comply with the attached Monitoring and Reporting Program No. 2006-0003 and future revisions thereto, as specified by the Executive Director. Monitoring results shall be reported at the intervals specified in Monitoring and Reporting Program No. 2006-0003. Unless superseded by a specific enforcement Order for a specific Enrollee, these reporting requirements are intended to replace other mandatory routine written reports associated with SSOs.
3. All Enrollees must obtain SSO Database accounts and receive a "Username" and "Password" by registering through the California Integrated Water Quality System (CIWQS). These accounts will allow controlled and secure entry into the SSO Database. Additionally, within 30 days of receiving an account and prior to recording spills into the SSO Database, all Enrollees must complete the "Collection System Questionnaire", which collects pertinent information regarding a Enrollee's collection system. The "Collection System Questionnaire" must be updated at least every 12 months.
4. Pursuant to Health and Safety Code section 5411.5, any person who, without regard to intent or negligence, causes or permits any untreated wastewater or other waste to be discharged in or on any waters of the State, or discharged in or deposited where it is, or probably will be, discharged in or on any surface waters of the State, as soon as that person has knowledge of the discharge, shall immediately notify the local health officer of the discharge. Discharges of untreated or partially treated wastewater to storm drains and drainage channels, whether man-made or natural or concrete-lined, shall be reported as required above.

Any SSO greater than 1,000 gallons discharged in or on any waters of the State, or discharged in or deposited where it is, or probably will be, discharged in or on any surface waters of the State shall also be reported to the Office of Emergency Services pursuant to California Water Code section 13271.

H. CHANGE IN OWNERSHIP

1. This Order is not transferable to any person or party, except after notice to the Executive Director. The Enrollee shall submit this notice in writing at least 30 days in advance of any proposed transfer. The notice must include a written agreement between the existing and new Enrollee containing a specific date for the transfer of this Order's responsibility and coverage between the existing Enrollee and the new Enrollee. This agreement shall include an acknowledgement that the existing Enrollee is liable for violations up to the transfer date and that the new Enrollee is liable from the transfer date forward.

I. INCOMPLETE REPORTS

1. If an Enrollee becomes aware that it failed to submit any relevant facts in any report required under this Order, the Enrollee shall promptly submit such facts or information by formally amending the report in the Online SSO Database.

J. REPORT DECLARATION

1. All applications, reports, or information shall be signed and certified as follows:
 - (i) All reports required by this Order and other information required by the State or Regional Water Board shall be signed and certified by a person designated, for a municipality, state, federal or other public agency, as either a principal executive officer or ranking elected official, or by a duly authorized representative of that person, as described in paragraph (ii) of this provision. (For purposes of electronic reporting, an electronic signature and accompanying certification, which is in compliance with the Online SSO database procedures, meet this certification requirement.)
 - (ii) An individual is a duly authorized representative only if:
 - (a) The authorization is made in writing by a person described in paragraph (i) of this provision; and
 - (b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity.

K. CIVIL MONETARY REMEDIES FOR DISCHARGE VIOLATIONS

1. The California Water Code provides various enforcement options, including civil monetary remedies, for violations of this Order.
2. The California Water Code also provides that any person failing or refusing to furnish technical or monitoring program reports, as required under this Order, or

falsifying any information provided in the technical or monitoring reports is subject to civil monetary penalties.

L. SEVERABILITY

1. The provisions of this Order are severable, and if any provision of this Order, or the application of any provision of this Order to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this Order, shall not be affected thereby.
2. This order does not convey any property rights of any sort or any exclusive privileges. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property, nor protect the Enrollee from liability under federal, state or local laws, nor create a vested right for the Enrollee to continue the waste discharge.

CERTIFICATION

The undersigned Clerk to the State Water Board does hereby certify that the foregoing is a full, true, and correct copy of general WDRs duly and regularly adopted at a meeting of the State Water Resources Control Board held on May 2, 2006.

AYE: Tam M. Doduc
Gerald D. Secundy

NO: Arthur G. Baggett

ABSENT: None

ABSTAIN: None



Song Her
Clerk to the Board

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH BLACK WATER CONSULTING, INC. TO PREPARE AN UPDATE TO THE CITY'S SEWER SYSTEM MANAGEMENT PLAN FOR A TERM OF ONE YEAR AND A NOT-TO-EXCEED AMOUNT OF \$64,000

WHEREAS, the State Water Resources Control Board (Water Board) regulates sanitary sewer systems designed to convey sewage through the Statewide Sanitary Sewer Systems General Order (Order), and the City of Tracy must comply with this Order as it conveys waste (sewage) to a publicly owned treatment facility; and

WHEREAS, a new Order (2022-0103-DWQ) was adopted by the Water Board on December 6, 2022 and becomes effective on June 5, 2023, which requires the City to upgrade its existing Sewer System Management Plan (SSMP) completed in 2009; and

WHEREAS, under the new Order, the City's existing SSMP must be updated to meet the new requirements which go into effect on June 5, 2023, and the new requirements state that the City must update its SSMP every six (6) years and conduct audits every two (2) years; and

WHEREAS, an RFP was posted on the City's website on January 18, 2023 and after a careful review the City believes that Black Water Consulting, Inc. demonstrates the required degree of relevant experience and past performance in preparing projects of similar type and complexity in a satisfactory and timely manner at the most cost-effective rate; and

WHEREAS, the Scope of Work for this project includes reviewing existing policies, plans and procedures to determine gaps in the existing SSMP and what is needed for full compliance with the new Order; and

WHEREAS, areas to be reviewed and included in the gap analysis should include goals, legal authority, organizational structure, operations, and maintenance activities related to the collections system, design standards, FOG (Fats, Oils, and Grease) Control program, monitoring, reporting and budget to conduct the recommended programs associated with the SSMP, and deliverables included an Overflow Emergency Response Plan and an updated SSMP; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby approves a Professional Services Agreement with Black Water Consulting, Inc. to prepare an update to the City's Sewer System Management Plan for a term of one year and a not-to-exceed amount of \$64,000.

The foregoing Resolution 2023-_____ was adopted by the Tracy City Council on April 4, 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 the City Council adopt a resolution approving a Master Services Agreement with CommSys, Inc. for the installation, implementation, training, and maintenance of the California Law Enforcement Telecommunications System for a term of five years and a not-to-exceed amount of \$200,000.

EXECUTIVE SUMMARY

Tracy Police Department currently obtains its CLETS access through West Covina Service Group. When West Covina Service Group entered a partnership with Mark43 for a Computer Aided Dispatch System (CAD), West Covina Service Group had to develop a new cloud-based solution, Message Switch, for CLETS access. Due to ongoing performance issues with the Message Switch and the significant delay in submitting their solution to the California Department of Justice (DOJ) for final approval, the Tracy Police Department began researching other alternatives to receive CLETS access.

BACKGROUND AND LEGISLATIVE HISTORY

In November 2019, Tracy Police Department entered a contract with Mark43 and West Covina Service Group for an updated CAD system. The contract stated that West Covina Service Group would continue to provide the Tracy Police Department with CLETS access with their new cloud-based solution, Message Switch.

Since the implementation of the new solution Message Switch, the Tracy Police Department has experienced continued connection downtime, the inability to enter and modify CLETS entries timely and effectively, and the inability to receive timely state and national teletypes from other law enforcement agencies. Tracy Police Department has expressed concerns as the continued issues create officer and citizen safety issues. While some improvements have been made, they are not enough to consider staying with the problematic system. Additionally, the Department of Justice has reported that the current vendor is not compliant with Department of Justice requirements and there is no reasonable timeline projected for this to occur.

ANALYSIS

The Tracy Police Department reached out to other California Law Enforcement agencies that use Mark43 to inquire about various CLETS providers. The department also researched alternative solutions through our current vendor, West Covina, Mark 43, Datamaxx Solutions, and Commsys, Inc. West Covina was unable to provide an adequate timeline for resolving issues and becoming compliant with Department of Justice, Mark 43 does not host a Message Switch solution, and Datamaxx Solutions was unresponsive. Lastly, the department researched the feasibility of connecting through San Joaquin County Sheriff's Department.

San Joaquin Sheriff's Department experiences similar issues with their older systems. Tracy Police Department relies on San Joaquin County Sheriff's Department as its backup

CLETS provider. Tracy Police Department would need to secure a backup CLETS provider if it were to move forward with San Joaquin County to be its main provider.

Through research, it was determined that there are limited vendors offering message switch solutions. Commsys, Inc. was identified as the most effective solution.

Tracy Police Department has passed all Department of Justice requirements to proceed with the transition to a new message switch provider. Once a contract is initiated with a new vendor, the department can proceed and complete this project.

Pursuant to Tracy Municipal Code Section 2.20.140, professional services exceeding \$50,000 typically require a formal request for proposal process. Due to the above circumstances, a formal request for proposal process was not in the best interest of the City to obtain these services. Pursuant to Tracy Municipal Code Section 2.20.140(b)(6), the City Council may determine that compliance with procurement procedures is not in the best interest of the City for those professional services that exceed \$100,000.

FISCAL IMPACT

The five-year agreement for CLETS Message Switch is not to exceed \$200,000. The funding is provided through the Police Department's FY23 operating budget in the General Fund, and includes the following project costs:

- CommSys, Inc. – Installation and implementation - \$68,011
- Comsys, Inc. - Annual Maintenance - \$63,260 (\$12,652 annual)
- Department of Justice Router (equipment) - \$6,349
- Department of Justice Router Annual Maintenance - \$7,508

PUBLIC OUTREACH/ INTEREST

This is an operational item for the police department. No public outreach was conducted.

COORDINATION

Tracy Police Department has coordinated with City I.T., Department of Justice, Mark43, CommSys, and West Covina Service Group from application submission to interface coordination with our current CAD system.

CEQA DETERMINATION

This is not a CEQA project.

STRATEGIC PLAN

This agenda item is related to Council's strategic priority for Public Safety.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution approving a Master Services Agreement with CommSys, Inc. for the installation, implementation, training, and maintenance of the California Law Enforcement Telecommunications System for a term of five years and a not-to-exceed amount of \$200,000.

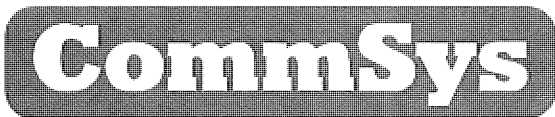
Prepared by: Michele Elmore, Dispatch Supervisor

Reviewed by: Beth Lyons-McCarthy, Support Division Manager
Sekou Millington, Chief of Police
Sara Cowell, Director of Finance
Riana Daniel, Deputy City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, Acting City Manager

Attachments:

Attachment A: Master Service Agreement Commsys, Inc.



Product Sales and Professional Services Agreement

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement"), is entered into this 10th day of April, 2023 (the "Effective Date"), by and between COMMSYS CALIFORNIA, LLC, an Ohio limited liability company, located at 7887 Washington Village Dr., Suite 220, Dayton, OH 45459 ("CommSys"), and the City of Tracy, a California Municipal Corporation, with a mailing address of 333 Civic Center Plaza, Tracy, CA 95376 ("End User"). CommSys and End User may each be referred to as a "Party" or collectively, the "Parties".

RECITALS

WHEREAS, CommSys is a wholly-owned subsidiary of CommSys, Inc., an Ohio corporation ("Parent Entity");

WHEREAS, CommSys licenses from Parent Entity certain software products and solutions for resale and sublicensing, and is the provider of certain professional services in connection with the use and sublicensing of such products, solutions, and services; and

WHEREAS, End User desires that CommSys provide and sublicense to End User certain CommSys products and specialized professional services; and

NOW, THEREFORE, in consideration of the mutual covenants herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Definitions. -- These capitalized terms shall have the following meanings:

1.1 "CommSys Products" means the Software and other products delivered, licensed, and/or sublicensed to End User as part of the Deliverables and Professional Services specified in the Project Documents.

1.2 "Deliverables" means those CommSys Products and related items to be provided by CommSys to End User in accordance with the terms and conditions of this Agreement and the Project Documents (as defined in Section 2.1 hereof), in each case which may include Software and as shall be listed in the Project Documents prepared by CommSys, or if applicable, in accordance with a Statement of Work prepared by CommSys.

1.3 "Facilitating Technology" means the CommSys Intellectual Property (as defined in Section 8.1 hereof), which may include Software, and which may be provided by CommSys in connection with or to facilitate the performance and delivery of the Professional Services and Deliverables.

1.4 “Intellectual Property” means all intellectual and industrial property rights, whether or not existing or existing in the future, including, without limitation: (i) all patent rights, including any rights in pending patent applications and any related rights; (ii) all copyrights and other related rights throughout the world in works of authorship, including all registrations and applications therefor; (iii) all trademarks, service marks, trade dress, logos, or other proprietary trade designations, including all registrations and applications therefor; (iv) all rights throughout the world to know-how, trade secrets, and other confidential information, whether arising by law, pursuant to any contractual obligation of non-disclosure, or otherwise; and (v) all other rights covering industrial or intellectual property.

1.5 “License” means the limited, non-exclusive, non-assignable, non-transferable sublicense to use the Deliverables and any Facilitating Technology to be granted by CommSys to End User pursuant to separate End User License Agreement(s) only in furtherance of End User’s obligations hereunder for the use of the Professional Services and Deliverables strictly in accordance with this Agreement and the Project Documents. If any Deliverable, Facilitating Technology, or any component thereof is owned by any third-party, the License granted hereunder shall be subject to, and on the terms and conditions of, any third-party license agreement.

1.6 “Permitted Sublicensee” means those persons to whom End User is permitted to sublicense a License to use the Deliverables and any Facilitating Technology, provided that such persons shall only be “downstream users” of End User (which, for purposes of this definition shall mean Persons who End User has a contractual, or legal or statutory responsibility to provide access or services), and which have been approved in advance by CommSys in writing.

1.7 “Person” means any individual or any proprietorship, general partnership, limited partnership, limited liability partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative or association, or any foreign trust or foreign business organization, and the heirs, executors, administrators, legal representatives, successors, and assigns of such “Person” where the context so permits.

1.8 “Project” shall mean each assembly of tasks, project activities, and supporting resources, including the required Professional Services and Deliverables for performance of the Project in accordance with this Agreement.

1.9 “Professional Services” means those services to be provided by CommSys in furtherance of a Project, as described in the Project Documents prepared by CommSys (the “Standard Professional Services”), and/or which are described in Statement(s) of Work for such Project that shall be issued by CommSys from time to time as necessary under this Agreement (“Specialized Professional Services”). The term “Professional Services” may be used herein to refer to Standard Professional Services and Specialized Professional Services, collectively.

1.10 “Software” means any software, programming, or computer code, along with all related documentation.

1.11 “Support” means technical support provided by CommSys for Deliverables, as set forth in separate specific support agreements between CommSys and End User, or specifically set forth in an SOW.

2. Project Scope and Documentation.

2.1 Project Scope. Pursuant to this Agreement, CommSys and End User agree that CommSys shall provide and sublicense to End User certain Deliverables and accompanying Standard Professional Services. The Deliverables and Standard Professional Services shall be as set forth in the quotation and other documentation provided by CommSys (collectively, the "Quotation and Sales Documents"), which shall be attached hereto as Exhibit A, and which shall include, without limitation, sales documentation, pricing documentation ("Pricing"), the performance and delivery schedule, including milestones and delivery dates, for the Specialized Professional Services and Deliverables (the "Schedule"), and documentation of any responsibilities and requirements of End User to enable CommSys to effectively deliver the Professional Services and Deliverables ("End User Requirements"); a description of the Standard Professional Services on Exhibit B, which shall include CommSys' standard installation, training, and start-up support services; the End User License Agreements for the License(s) in the forms attached as Exhibit C-1 and Exhibit C-2; and certain Support and maintenance agreements pursuant to which CommSys shall provide the agreed upon Support in the forms attached as Exhibit D-1 and Exhibit D-2 (collectively, and together with the documents, if any, described in Section 2.2 hereof and attached as Exhibit E, and if applicable, as a series starting with Exhibit F-1, the "Project Documents"). All Project Documents shall be issued in accordance with, subject to, and governed by, the provisions of this Agreement, subject to the provisions of Section 2.4 hereof.

2.2 Statement of Work for Specialized Professional Services. In the event that the Project requires special or customized Deliverables and/or Professional Services, CommSys shall prepare a description of such Deliverables and Specialized Professional Services, which shall be attached hereto as Exhibit E, and CommSys and End User shall enter into a Statement of Work or Statements of Work (each, an "SOW") for such Project, each of which shall be attached hereto as Exhibit F-1, Exhibit F-2, and so on. Each SOW shall be entered into in accordance with and subject to the provisions of this Agreement. Each SOW will include the following information for a Project: (a) the scope of work describing the Specialized Professional Services and Deliverables to be performed, including the terms, details, and specifications thereof; (b) the Schedule; (c) the pricing for the Specialized Professional Services and Deliverables and any ancillary services (the "Contract Fees"), and the terms and conditions for payment; and (d) the End User Requirements. The term "Project Documents" shall include Exhibit E any and all SOWs and other documents issued with respect thereto, even if not attached hereto as Exhibits F.

2.3 Purchase Orders. If CommSys requests a purchase order from End User for a Project (each, an "End User Purchase Order"), such End User Purchase Order shall specify the Professional Services, Deliverables, and delivery date(s) requested by End User.

2.4 No Conflict. All terms and conditions pertaining to the delivery and performance of the Deliverables, the Professional Services, and the related transactions are expressly limited to the terms and conditions of this Agreement and the Project Documents, including any applicable SOW, each of which are hereby assented and agreed to by End User. No additional or different terms or conditions, including any terms or conditions set forth in an End User Purchase Order, shall be binding on

CommSys or deemed to be part of this Agreement or the Project Documents. CommSys expressly objects to any contrary, different, altered, or additional terms or conditions other than those set forth in this Agreement or the Project Documents, and no such contrary, different, altered, or additional terms or conditions shall become part of this Agreement or the Project Documents. No implied terms or conditions shall be substituted for any terms or conditions in this Agreement or the Project Documents, nor shall be deemed to resolve any conflict among any terms or conditions. All other terms or conditions contained in any End User Purchase Order or other documents of End User will be void and of no force or effect. In the event of any conflict among the terms and conditions of this Agreement or the Project Documents and any documents provided by End User, the provisions of this Agreement or the Project Documents shall govern. Unless otherwise indicated in this Agreement or in an SOW, in the event of a conflict between this Agreement and an SOW, the terms of this Agreement shall prevail.

2.5 Performance. CommSys shall commence performance of the Professional Services and Deliverables in accordance with the Schedule. Subject to the Project Documents and/or any applicable SOW, CommSys shall determine in its sole discretion the method, details, and means of performing all Professional Services and Deliverables. End User agrees that CommSys' performance and delivery of the Professional Services and Deliverables is contingent upon the timely and effective performance and completion by End User of the End User Requirements, and timely decisions and approvals by End User when required by CommSys.

2.6 Change Orders. End User may request changes to the Deliverables and Professional Services by written notice to CommSys. End User agrees that any additions or changes to the Deliverables and/or the Professional Services described in the Project Documents or any SOW may result in Pricing, Contract Fee, and Schedule adjustments. To the extent that such changes and additions are mutually agreed to between CommSys and End User, CommSys and End User shall enter into a written document modifying such Project Documents and/or SOW, which shall include any change in the cost or time required for performance (each, a "Change Order"). No Change Orders or modifications shall become effective, and no modified Professional Services or Deliverables shall commence, until a Change Order is agreed upon and executed by authorized representatives of each of CommSys and End User, and if required by CommSys, a new or modified End User Purchase Order corresponding thereto has been received by CommSys.

3. Fees and Payment.

3.1 Fees and Expenses. In addition to the applicable Pricing and/or Contract Fees, End User shall reimburse CommSys for all documented travel and other out-of-pocket expenses incurred by CommSys in the performance of the Professional Services and Deliverables.

3.2 Taxes. Unless otherwise specified in writing by CommSys, Pricing and Contract Fees do not include sales, use, excise, or other similar taxes applied to the transactions, the Project, the Professional Services, or the Deliverables covered by this Agreement, the Project Documents, and any SOW. CommSys shall include on its invoice all such taxes that are End User's responsibility, and End User agrees to pay all of such taxes, except to the extent of any exemption therefrom. End User shall provide CommSys with evidence of any tax exemption claimed by End User.

3.3 Payment Terms. Unless different terms are provided in the Project Documents or an SOW, payment terms are net thirty (30) days from the date of CommSys' invoice. CommSys reserves the right to require different payment terms if payments due from End User are past due or End User is in breach of any other terms or conditions. Invoices shall be issued by CommSys as provided in the Project Documents or SOW. Payments shall be made without any deductions or setoffs of any kind. CommSys may suspend performance of Professional Services or delivery of any Deliverables without liability to End User until payment of any past due amount is made in full, including any interest and late payment charges. End User shall be liable to CommSys for all expenses relating to the collection of past due amounts.

4. Termination.

4.1 Term. This Agreement shall commence on the Effective Date and shall continue until the later of: (i) the date this Agreement is terminated as provided in this Section 4; or (ii) the date of completion of performance or earlier termination date of all Project Documents, including all SOWs and Support and maintenance agreements (the "Term").

4.2 Termination of Agreement, Project Documents, and SOW. This Agreement, any Project Documents, and/or an SOW may be terminated as follows:

(a) Either Party may terminate this Agreement and any or all Project Documents and/or SOWs: (i) upon thirty (30) days prior written notice to the other; or (ii) immediately upon written notice to the other Party in the event that such other Party has failed to cure any breach of this Agreement, any Project Document, or an SOW within thirty (30) days following receipt of written notice of such breach.

(b) CommSys may immediately terminate this Agreement and any or all Project Documents and/or SOWs upon written notice to End User if: (i) any payment due to CommSys is not received within five (5) business days after the due date thereof; or (ii) in the event that End User or any Permitted Sublicensee of End User has breached any provisions of Sections 7 and/or 8 hereof.

4.3 Effect of Termination. In the event of any termination of this Agreement, all Project Documents and SOWs shall also automatically terminate, unless otherwise agreed to in writing by CommSys and End User, and in the event of any termination of any Project Documents or any SOW, this Agreement shall remain in full force and effect until the completion or termination of all remaining unperformed Project Documents and/or SOWs, at which time this Agreement shall also automatically terminate. Upon termination of this Agreement for any reason, all End User License Agreements and the sublicenses granted thereunder, and pursuant to any Project Documents or SOWs shall immediately terminate. Upon termination, End User shall pay to CommSys all costs and the amount of all non-cancelable obligations incurred by CommSys through the time of said termination and shall pay CommSys for all Professional Services and Deliverables that have been performed and delivered through the date of such termination. Upon any termination, all CommSys materials shall be returned to CommSys.

5. Warranty and Limitation of Liability.

5.1 Warranty. Unless otherwise specified in any Project Document or SOW, for a period of ninety (90) days following the performance of any Professional Services or the delivery of any Deliverable (the "Warranty Period"), and provided that all sums due to CommSys have been timely paid by End User, CommSys warrants that the Professional Services and all Deliverables shall be performed and delivered materially in accordance with the terms and conditions set forth herein and/or in any applicable Project Documents or SOWs (the "Warranty"), and such Warranty shall be in lieu of all other warranties. Failure by End User to pay any fees or perform any obligations to or with respect to CommSys, and any modification by End User to the Professional Services and any Deliverables associated therewith, or the use thereof otherwise than in accordance with this Agreement or for their respective intended purposes, will terminate CommSys' obligations with respect to the Warranty, and will not extend the duration of the Warranty Period for any reason.

EXCEPT AS SET FORTH ABOVE IN THIS SECTION 5.1, COMMSYS MAKES NO OTHER REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE PROFESSIONAL SERVICES OR ANY DELIVERABLES, AND HEREBY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES OF ANY NATURE, WHETHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF WORKMANLIKE PERFORMANCE, ERROR-FREE OPERATION, ACCURACY, NONINFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. END USER IS CONCLUSIVELY PRESUMED TO HAVE INSPECTED AND ACCEPTED THE PROFESSIONAL SERVICES AND ALL DELIVERABLES.

5.2 Limitation of Liability. End User agrees that the scope of CommSys' liability and obligations with respect to, and End User's sole and exclusive remedy pursuant to, any claim of any kind arising out of or connected with this Agreement, all Project Documents, and any SOW, the performance of any Professional Services, and delivery of all Deliverables, including, but not limited to, a claim with respect to the Warranty set forth in Section 5.1 above, or otherwise in contract, negligence or tort (including strict liability), shall be, at CommSys' sole option, to use commercially reasonable efforts to: (i) cause the performance of such Professional Services and any Deliverables to be materially in accordance with any terms and conditions specified in the Project Documents or any applicable SOW; or (ii) grant to End User a credit for all or a portion of the price paid for the nonconforming Professional Services and Deliverables, provided that End User must promptly notify CommSys of any such claim within the Warranty Period, and further provided that all fees due to CommSys from End User have been paid. NEITHER COMMSYS NOR COMMSYS' OFFICERS, DIRECTORS, OWNERS, EMPLOYEES, REPRESENTATIVES, OR AGENTS SHALL BE LIABLE TO END USER OR ANY OTHER PERSON FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR SPECIAL DAMAGES, EXPENSES, LOST PROFITS, OR LOST DATA, FOR ANY REASON WHATSOEVER, AND IN NO EVENT SHALL COMMSYS BE LIABLE FOR DAMAGES IN EXCESS OF ANY AMOUNTS PAID BY END USER TO COMMSYS HEREUNDER.

6. Certain License Rights.

6.1 Grant of License. In connection with the performance of this Agreement, the Project Documents, and/or the SOWs, CommSys may produce Facilitating Technology. All grants by CommSys to End User of any license or sublicenses to use the Deliverables and any Facilitating Technology provided by CommSys to End User shall be set forth in separate End User License Agreements to be provided by CommSys.

6.2 Sublicenses. Under no circumstances shall End User sublicense any of the Deliverables or Facilitating Technology without the prior written consent of CommSys, which may be granted in CommSys' sole discretion. No such sublicense may be granted unless and until each such Permitted Sublicensee has executed and delivered a sublicense agreement with CommSys in a form required by CommSys. End User will cooperate with CommSys in the execution and delivery of any documents or other actions necessary to comply with and achieve the objectives of this Section 6.2.

6.3 Requirements and Limitations. All Deliverables and Facilitating Technology is and will remain the valuable and confidential property of CommSys (and any applicable third-party licensor), shall be deemed to be part of CommSys' Confidential Information and the CommSys Intellectual Property, and End User will not take any action in derogation of the rights of CommSys or any such third-party in and to such Deliverables or Facilitating Technology. CommSys does not convey, nor does End User obtain, any rights in any Deliverable or the Facilitating Technology. CommSys shall have the right to use any or all of its knowledge, skills, experience, ideas, concepts, know-how, and techniques that may be used in the performance of the Professional Services and Deliverables, including, without limitation, the Facilitating Technology, CommSys' Confidential Information, and the CommSys Intellectual Property, for the performance of other engagements or agreements.

7. Confidentiality.

In the performance of this Agreement, all Project Documents, and any SOWs, End User may have access to confidential, proprietary, or trade secret information owned or provided by CommSys, including, but not limited to, relating to Software programs, object code, source code, products, research, technical knowledge, marketing plans, business plans, customer information, financial information, pricing, specifications, flow charts and other data and Intellectual Property (collectively, "Confidential Information"). All Confidential Information of CommSys, including that disclosed by CommSys to End User, shall remain the sole and exclusive property of CommSys. All Confidential Information shall be deemed to be a "Trade Secret" as defined in and for purposes of Ohio Revised Code § 1333.61(D) and for purposes of Cal. Civil Code §§ 3426 – 3426.11 (California Uniform Trade Secrets Act), and shall be deemed not to be a public record, shall be deemed to be "confidential information or records", and shall be exempted from disclosure under the Ohio Public Records Act pursuant to Ohio Revised Code § 149.43(A)(1)(m) and § 149.43(A)(1)(v), and under the California Public Records Act (§§ 7920.000 – 7930.000) pursuant to Cal. Gov. Code § 7930.100. End User shall use such

Confidential Information only for the purposes of and strictly in accordance with this Agreement, the Project Documents, and the SOWs and shall not copy or use any of such Confidential Information, nor disclose, convey, or transfer any of the Confidential Information or any part thereof to any other Person, except as provided in the next sentence. End User may communicate Confidential Information to its officers, employees, representatives, consultants, and agents (collectively, and together with End User, the “End User Parties”) only for the purpose of carrying out End User’s performance under this Agreement, the Project Documents, and the SOWs, and provided that each such person: (A) needs to know the Confidential Information in connection with End User’s performance of this Agreement, the Project Documents, and the SOWs; (B) is informed by End User of the confidential nature of the Confidential Information; and (C) End User has caused such person to be bound by the provisions of this Section 7 and of Section 8 of this Agreement (or to be bound directly to End User by an agreement containing obligations that are at least as restrictive as the provisions of this Agreement). End User shall (and End User shall cause all End User Parties to) observe the terms of this Agreement, including this Section 7, shall guarantee the performance of such provisions by all End User Parties, and shall be liable to CommSys for, and shall be deemed to be in breach of this Agreement for, any failure of compliance or performance thereof, or any other breach by an End User Party of the terms of this Agreement, the Project Documents, or any SOW, and shall indemnify and hold harmless CommSys from any and all demands, claims, actions, or causes of action, assessments, settlement payments, losses, damages, liabilities, costs and expenses, including, without limitation, interest, penalties, and attorneys’ and other professional fees and expenses resulting from any breach thereof by any End User Party (collectively, “Losses”). End User shall promptly notify CommSys of any actual or suspected unauthorized use or disclosure of any Confidential Information of CommSys and shall provide reasonable assistance to CommSys in the investigation and prosecution of unauthorized uses or disclosure. The provisions of this Section 7 shall survive any termination of this Agreement.

8. Intellectual Property.

8.1 CommSys Intellectual Property. All CommSys Products, including all Software, all Facilitating Technology, all Confidential Information of CommSys, and all other Intellectual Property rights of CommSys, whether or not associated with any CommSys Products or the Facilitating Technology, and including, but not limited to, all source code and documentation with respect thereto and all goodwill associated therewith (collectively, the “CommSys Intellectual Property”) are owned by CommSys and its licensors. End User and all End User Parties shall abide by the terms of any proprietary notices or markings with respect to any CommSys Intellectual Property, and shall use all CommSys Products, including all Software, the Facilitating Technology, CommSys’ Confidential Information, and the CommSys Intellectual Property, only as specifically permitted by this Agreement and for no other purpose. End User shall (and End User shall cause all End User Parties to) observe the terms of this Agreement, including this Section 8.1 and Section 8.2, shall guarantee the performance of such provisions by all End User Parties, and shall be liable to CommSys for, and shall be deemed to be in breach of this Agreement for, any failure of compliance or performance thereof, or any other breach by an End User Party of the terms of this Agreement, any Project Documents, or any SOW, and End User shall indemnify and hold harmless CommSys from any and all Losses resulting from any breach thereof by any End User

Party. End User shall promptly notify CommSys of any actual or suspected unauthorized use or disclosure of any Confidential Information of CommSys and shall provide reasonable assistance to CommSys in the investigation and prosecution of unauthorized uses or disclosure. The provisions of this Section 8.1 and Section 8.2 shall survive any termination of this Agreement.

8.2 Obligations of End User. End User acknowledges that nothing set forth in this Agreement grants to End User or any End User Party, nor shall End User nor any End User Party acquire in any manner, any rights in any CommSys Product, Facilitating Technology, CommSys Intellectual Property, or Confidential Information of CommSys. Except as specifically permitted by this Agreement, End User shall not, nor shall any End User Party, directly or indirectly, or by or through any other Person or in cooperation with any other Person:

(a) create, design, develop, or produce; or use any CommSys Product, Facilitating Technology, Confidential Information of CommSys, or CommSys Intellectual Property to create, design, develop, or produce; any Software program, user documentation, solution, work-around, or other product or service similar to any CommSys Product, or any CommSys Intellectual Property, CommSys Confidential Information, or Facilitating Technology, or the same or similar to the functions of any such CommSys Product, CommSys Intellectual Property, product of CommSys, or Facilitating Technology;

(b) reverse engineer, disassemble, decompile, or otherwise attempt to derive any of CommSys' Confidential Information, CommSys Intellectual Property, any Facilitating Technology, or any CommSys Product, including, without limitation, any source code;

(c) except as permitted by this Agreement with respect to an approved sublicense agreement, encumber, timeshare, rent, sublicense, assign, or lease the rights granted by this Agreement, any Project Documents, or any SOW, or in or to the CommSys Intellectual Property, CommSys Confidential Information, Facilitating Technology or any CommSys Product; or

(d) copy, reproduce, modify, manufacture, adapt, attempt to recreate, create derivative works of or inventions to, translate, localize, port or otherwise modify or translate into any other format or language, any CommSys Products, any Facilitating Technology, any CommSys Intellectual Property, or any Confidential Information of CommSys, or use any CommSys Product, Facilitating Technology, CommSys Intellectual Property, or Confidential Information of CommSys to do any of the foregoing, or allow any End User Party, or any other Person, to engage in the same or similar conduct (and to the extent that End User or any such Person creates any of the foregoing, End User agrees that all such items shall belong to CommSys and shall be deemed to be CommSys Intellectual Property), and End User and each End User Party shall execute and deliver or cause to be executed and delivered any and all documents necessary to designate such items as CommSys Intellectual Property or to transfer such items to CommSys. End User shall be permitted to make one (1) back-up copy of the Facilitating Technology for internal use for performance of End User's obligations hereunder, and End User further acknowledges and agrees that such back-up copy shall belong to CommSys and shall be deemed to be CommSys Intellectual Property.



9. Publicity. Neither Party shall issue any press release or other publicity or advertising, nor will use the name, nor any tradename, trademark, or other logo of any kind of the other Party in any publicity, advertising, or news release, in any case without the prior written approval of an authorized representative of such other Party.

10. Relationship of the Parties. CommSys shall at all times be deemed to be, and shall be, an independent contractor with respect to End User, and nothing in this Agreement, any Project Document, or in any SOW shall be construed to create a joint venture, partnership, agency, or any other relationship between End User and CommSys for any purpose. Neither End User nor CommSys shall have any power or authority to act as agent for the other, to assume or create any obligation for or on behalf of the other, whether express or implied, to enter into agreements or make any representations or warranties of any kind on behalf of the other, nor bind the other in any manner. Neither Party shall be bound by the acts or conduct of the other, except that CommSys shall have the right to rely on all written decisions and written approvals of End User. To the extent that End User grants authority to a Person to execute specific actions as the agent of End User, End User shall provide evidence of such written instruction and authorization to CommSys. Each Party hereby represents and warrants to the other that it has the full right and authority to enter into this Agreement, all Project Documents, each SOW, and all other agreements required hereby, and that the execution and delivery hereof and thereof has been authorized by all necessary action on behalf of such Party.

11. Notices. Any notice or other communication hereunder shall be in writing and shall be made by any of the following methods: (i) personal delivery; (ii) overnight delivery service; (iii) registered or certified mail, postage prepaid, return receipt requested; (iv) facsimile transmission; or (v) electronic mail. Notices shall be sent to the appropriate Party at the address given below, or such other address as may hereafter be designated by notice in writing:

To CommSys:

CommSys California, LLC
7887 Washington Village Dr., Suite 220
Dayton, OH 45459
Attn: Robert Turner
Fax: (937) 220-4919
Email: turner@commsys.com

With a copy to:

Kristin A. Finch, Esq.
Coolidge Wall Co., L.P.A.
33 West First Street, Suite 600
Dayton, OH 45402
Fax: (937) 223-6705
Email: finch@coollaw.com

To End User:

Bijal M. Patel
City Attorney
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

All such notices, requests, demands, waivers, and communications shall be deemed received: (a) in the case of personal delivery, upon actual receipt thereof by the addressee; (b) in the case of overnight delivery, on the day following delivery to the addressee; (c) in the case of mail or email, upon receipt of the return receipt; or (d) in the case of a facsimile transmission, upon transmission thereof by the sender and issuance by the transmitting machine of a confirmation slip that the number of pages constituting the notice have been transmitted without error. In the case of notices or other communications sent by email or facsimile transmission, the sender shall contemporaneously deliver by the method specified in (i), (ii), or (iii) above a copy of the notice or communication to the addressee at the address provided for above; however, such personal delivery or mailing shall in no way alter the time at which the email or facsimile transmission is deemed received (unless the personal delivery or mailing is received before the email or facsimile transmission, in which case the notice shall be deemed received in accordance with the method of delivery first received).

12. Force Majeure. Each Party agrees that the other Party (the "Impacted Party") shall not be liable for any delay or failure in the Impacted Party's performance caused by acts of God, war, fires, flood, court order, strike or labor dispute, epidemic or pandemic, or other similar conditions beyond the Impacted Party's reasonable control (each, a "Force Majeure Condition"), provided that, to the extent that the Impacted Party owes any fees to the other Party pursuant hereto or any Project Documents or SOW, such Force Majeure Condition shall not excuse performance of such payment, and the Impacted Party shall continue to pay the other Party in accordance with this Agreement or the applicable Project Documents or SOW for any amounts due for Professional Services rendered or Deliverables delivered prior to or during such Force Majeure Condition. The Impacted Party shall give written notice to the other Party within twenty-four (24) hours of the occurrence of the Force Majeure Condition, which notice shall state the period of time the Impacted Party's failure or delay to perform its obligations set forth in this Agreement or any Project Documents or SOW as a result of the Force Majeure Condition is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Condition are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the cessation of the Force Majeure Condition.

13. Assignment. Except as otherwise set forth herein, neither this Agreement, nor any Project Documents or SOW, nor any rights, licenses, sublicenses (including the License), or obligations hereunder, may be sublicensed or assigned by either Party without the prior written approval of the other Party. Any attempted sublicense or assignment in violation of this Section 13 shall be void and without effect. Subject to the foregoing, this Agreement, all Project Documents, and each SOW will be binding on each Parties' successors and assigns.

14. Governing Law; Jurisdiction. Except as provided in Section 7 hereof, this Agreement, all Project Documents, and all SOWs shall be construed and governed by the laws of the State of California, regardless of principles of conflicts of law. Any action or claim arising out of, relating to, or in regard to this Agreement, any Project Documents, or any SOW shall be instituted and litigated in any federal or state court located in Montgomery County, Ohio, and in no other. The Parties hereby irrevocably consent to the jurisdiction of the courts in Montgomery County, Ohio, and each of the Parties waives any objection that such Party may now have or hereafter have to venue or to convenience of forum, agrees that all claims with respect to this Agreement, any Project Documents, or any SOW shall be heard and determined only in such court, and agrees not to bring any proceeding arising out of or relating to this Agreement, any Project Documents, or any SOW in any other court.

15. Entire Agreement; Interpretation; Survivability. This Agreement, all Project Documents, and all SOWs attached hereto represent the entire agreement and understanding between the Parties with respect to the subject matter hereof and thereof, and supersede any prior and/or concurrent discussions, representations, or agreements, whether written or oral, of the Parties regarding such matters, unless specifically incorporated herein by reference, and subject to the order of preference set forth in Section 2.4 hereof regarding any conflict between this Agreement and any other document. If any provision of this Agreement, any Project Document, or any SOW shall be held by a court of competent jurisdiction to be unenforceable or inapplicable, such holding shall not affect the enforceability of any other provision of this Agreement, any Project Document, or any SOW, and such term or provision shall be deemed modified to the extent necessary in such court's opinion to render such term or provision enforceable, and the rights and obligations of the Parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the Parties. The provisions of Sections 4.3, 5.2, 7, 8, and 9 through 19 shall survive any termination of this Agreement, any Project Document, or any SOW.

16. Waiver; Remedies. No waiver of any breach of any provision of this Agreement, any Project Document, or any SOW shall constitute a waiver of any breach of any other provision of this Agreement, any Project Document, or any SOW, or of any prior or subsequent breach thereof, nor shall such waiver constitute an amendment or modification of this Agreement, any Project Document, or any SOW. End User acknowledges that CommSys' Intellectual Property and Confidential Information is highly valuable to CommSys, that any breach of its obligations with respect thereto or otherwise pursuant to Sections 7 or 8 of this Agreement, may severely damage CommSys, the extent of which damage would be difficult to ascertain, and therefore, that CommSys is entitled to seek, among other remedies, immediate injunctive or other equitable relief for any such breach. In addition to all other remedies at law or in equity, End User shall indemnify and hold harmless CommSys from any and all Losses resulting from any breach by any End User Party of the provisions of this Agreement. The provisions of this Section 16 shall survive any termination of this Agreement.

17. Amendment. No provision in this Agreement shall be amended, modified, waived, terminated, or rescinded, except by a writing signed by an authorized representative of each Party hereto. This Agreement shall govern the performance of all



Project Documents and SOWs without modification to this Agreement, unless agreed to by the Parties in writing in accordance with this Section 17.

18. Further Assurances. Each Party agrees to execute and deliver, or cause to be executed and delivered, all such other instruments, certificates, and documents, and to take all such other actions, necessary to consummate the transactions contemplated hereby.

19. Headings. Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

[SIGNATURES ON FOLLOWING PAGE]




IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the Effective Date.

End User

CommSys California, LLC

By:



By: Robert S. Turner
President, CommSys Inc, Member

City of Tracy

a California Municipal Corporation

an Ohio limited liability company

Exhibit A

Quotation and Sales Documents



Exhibit B

Description of Standard Professional Services



Exhibit C-1

**ConnectCIC End User License
Agreement**



Exhibit C-2

CLIPS End User License Agreement



Exhibit D-1

ConnectCIC Support and Maintenance Agreement



Exhibit D-2

CLIPS Support and Maintenance Agreement



Exhibit E

Descriptions of Specialized Services



Exhibit F

**Specialized Services Statements of
Work (SOW)**



Product Quotation

DAYQ3799-02

ConnectCIC/CLIPS for Tracy Police Department, CA

Michele Elmore
Public Safety Dispatch Supervisor

Tracy Police Department, CA
1000 Civic Center Drive
Tracy, CA 95376

Date
Jan 24, 2023

Introduction

Tracy Police Department plans to utilize the CommSys ConnectCIC state interface middleware product and CLIPS - CLETS Terminal software to connect to the California CLETS (Direct) message switch for state and local transactions respectively.

This quote includes 16 Full Terminal CLIPS licenses and 77 Limited Use licenses for Basic Inquiry and Criminal History access.

CLIPS training proposed includes one (1) Administrator Training session and (2) Train the Trainer sessions to be conducted remotely. Administrator Training is limited to a maximum of five (5) attendees. Train the Trainer sessions are limited to a maximum of ten (10) attendees per session.

All hardware and third party software costs are the responsibility of the Tracy Police Department. Additionally any transaction or communication costs are the responsibility of the end user agency.

ConnectCIC and CLIPS are CommSys standard products.

Pricing

Item	Part Number	Description	Qty	Price	Note #
1		ConnectCIC Licenses			
2	PS-CA02-010	ConnectCIC with Basic Inquiry + RTDM	1	\$5,500.00	
3	PS-0301-010	LogViewer Application	1	\$0.00	1
4		SubTotal		\$5,500.00	
5		CLIPS Licenses			
6	PS-CA02-330	CLIPS Full Terminal License for 16 - 20 Devices	16	\$12,384.00	2
7	PS-CA02-340	CLIPS Limited Access - Basic Inquiry + CCH Terminal Licenses 21-399	77	\$32,725.00	3
8		SubTotal		\$45,109.00	
9		Maintenance and Support			

Continued On Next Page ...

Item	Part Number	Description	Qty	Price	Note #
10	PS-0202-105	24x7 ConnectCIC Annual Support	1	\$1,375.00	4
11	PS-0202-185	24x7 CLIPS Annual Support	1	\$11,277.00	5
12		SubTotal		\$12,652.00	
13		Professional Services			
14	PS-0200-420	ConnectCIC Remote Installation	1	\$800.00	6
15	PS-0200-320	CLIPS Remote Installation	2	\$1,600.00	7
16	PS-0200-340	CLIPS Remote Training - Administration	1	\$800.00	
17	PS-0200-340	CLIPS Remote Training - Train the Trainer	1	\$800.00	
18	PS-CA02-002	CLETS Certification (per site) (required)	1	\$750.00	
19		SubTotal		\$4,750.00	
Total				\$68,011.00	

Notes

1. CLETS Audit Logging Tool
2. Full Access Terminal for Records and Dispatch
3. Limited Access Terminal for Basic Inquiry + CCH for CLIPS Terminal GUI, NRO, Report Writing, SGT, Prof. Stand. SET, SIU, SRO, Watch Commanders
4. Annual Support - Connect CIC
5. Annual Support - CLIPS
6. ConnectCIC - Remote Install, Configuration and Testing Services
7. CLIPS - Remote Install, Configuration and Testing Services

Terms and Conditions

Quotation Expiration Date: 4/24/2023

This quotation and offer is made by CommSys California, LLC, a wholly owned subsidiary of CommSys, Inc. CommSys California LLC is certified and licensed to do business in the State of California. All references to "CommSys" in this document refer to CommSys California, LLC. All contractual agreements with the agency regarding licensing, support, maintenance, and services will be established with CommSys California LLC.

For More Information

For more information on this quote, please contact Valeria Ferrell at 937-477-0341 or by e-mail at vferrell@commsys.com.

Standard Services Descriptions

Version: 1/24/2023

CommSys most commonly provides Implementation, Installation, and Training services for its software solutions. To achieve a successful implementation, CommSys personnel provide the standard services defined in this document. Standard Services are oriented to simple and definable implementations.

Note: This is a comprehensive listing and description of the Standard Services CommSys may offer to support ConnectCIC and CLIPS installations at/for local law enforcement agency. Your agency may or may not receive these services. Your entitlement to the services described in this document are based on the Quotation or Statement of Work (SOW) provided by CommSys as part of the procurement of CommSys products.

This document recognizes that implementation and training affects three different personnel groups involved in implementations:

- **CommSys Technical and Training Personnel**
- **End User Agency (or Agencies) User, Technical and Training Personnel**
- **CommSys Software Partner Personnel**

CommSys software partner is defined as companies and its personnel that partner with CommSys to include CommSys products as part of their software solution to an end user agency.

End user agencies that purchase software products directly from CommSys may or may not involve CommSys partners and its personnel. In cases where a CommSys partner is not involved, the partner references do not apply.

Standard services are provided during CommSys business hours 8AM to 5:30PM Monday through Friday, Eastern Time, excluding most Federal Holidays.

Any services requested by the partner or end user agency in addition to and beyond those specifically defined in this Standard Services Description document, or services requested during off-hours are not considered standard services, and will require an additional quotation and subsequent purchase order along with a Statement of Work (SOW).

1. Pre-Implementation Support

Pre-Implementation Support is defined as the activities that occur post-procurement in preparation for implementation of CommSys software solutions.

1.1 Implementation Planning Support

Implementation Planning Support occurs during the kickoff of the project in preparation for implementation of the CommSys software. This includes defining the requirements for a partner or end user agency needed for installation. This also includes state specific requirements for implementation of the CJIS connection.

The end user agency is responsible for providing the necessary information required to achieve state CJIS access.

1.2 CJIS Application Support

An implementation of the CommSys ConnectCIC is a change to the local agency connection to the state CJIS environment. Some states may require that an agency complete an application and provide other supporting documentation for approval of a connection change. CommSys can provide a set of standard answers to assist with this process as part of the project.

Comprehensive CJIS Application Support Services are available at an additional cost.

2. Requirements for Implementation

The following outlines the prerequisites for licensing and installation of the CommSys software.

2.1 Executed License and Support Agreements

Prior to implementation, all license and support agreements supplied by CommSys, must be executed by the end user agency.

2.2 Completed State Application and Approval

The end user agency is responsible to ensure that the State Application has been completed and approval has been received from the State CJIS agency prior to installation of ConnectCIC

See Section 1.2 CJIS Application Support.

2.3 Identification of Involved Agencies

In order for CommSys to generate software licenses and provide ongoing support, all agencies that will utilize the CommSys software must be clearly identified. The partner or end user agency is responsible to properly identify the full agency name of Primary and Additional Agencies. CommSys makes every effort to obtain this

information at quotation, however, the need may arise to clarify the identities during implementation.

CommSys will require the IP Address of the server where ConnectCIC will be installed and all ORIs that will perform state transactions.

A. Primary Agency

The primary End User agency is defined as the agency where the ConnectCIC server is physically installed. States typically require this be a law enforcement agency or support agency, such as a dispatch center.

The partner or end user agency is responsible for notifying CommSys if the Primary Agency differs from the agency hosting the ConnectCIC server, to determine if there are unique requirements for deployment.

B. Additional Agencies

Additional user agencies are required to be licensed to use ConnectCIC and CLIPS. These agencies should be declared when requesting a quotation from CommSys.

Additional agencies not initially declared and included in the initial procurement may be added by requesting a quotation.

2.4 Server System

The partner or end user agency is responsible for providing the server environment and all associated costs. This includes all hardware and third party software required to install the purchased CommSys products.

CommSys products operate in Microsoft Windows based environment. Servers maybe virtualized or physical. CommSys will provide the partner or end user agency with the current *Hardware/3rd Party Software Requirements* documents prior to installation.

2.5 End User Network Configuration

The state CJIS system will require a network route. The partner or end user agency is responsible for any changes to the network including firewall changes required to support state CJIS system access.

The partner or end user agency is additionally responsible for the creation, installation, configuration, and maintenance of Secure Sockets Layer (SSL) Certificates, if required for the implementation or subsequently during support.

2.6 Remote Access

The partner or end user agency is responsible for providing escorted remote access to the server(s) where CommSys products are installed. Remote escorted



access is required for implementation and ongoing support of the end user agency.

CJIS compliant tools are used to facilitate remote escorted access. CommSys performs background checks, fingerprinting, and requires CJIS Security Awareness training for all personnel who access end user agency systems. CJIS Security Addendum information is available upon request.

CommSys personnel will retrieve ConnectCIC log files from the end user agency server only in cases where log files are required to facilitate support or development activities for the end user agency.

2.7 Failure to Meet Support Requirements

If the end user agency or partner fails to provide the necessary log/debug data or access to the ConnectCIC instance, the sales and support agreements between CommSys and the partner or end user agency will be considered breached.

See the Support Agreement or equivalent document for details of the definitions, terms, and legal conditions of a breach.

3. Basic Implementation Services

The following outlines the standard services CommSys provides as part of an implementation project.

Number of professional services hours allocated for a project depends on Quotation or Statement of Work (SOW).

3.1 Project Management

CommSys will provide Project Management services for implementation of CommSys software. The Project Manager will be responsible for coordinated planning and execution of the project by working with the partner's and user agency's project team.

3.2 ConnectCIC Remote Installation

CommSys will perform the following activities:

1. Review technical information from partner or end user agency (IP Addresses, ORIs, and Mnemonics), ensuring it is complete and sufficient to proceed. (Partner or end user agency is responsible for compiling information)
2. Access system, using standardized remote access as described in **2.6 Remote Access**
3. Ensure proper database connectivity
4. Install ConnectCIC with the proper settings for the partner, end user agency and CJIS environments as appropriate for the purchased/contracted configuration.

5. Support testing with partner, end user agency, and state CJIS agency to ensure that the CJIS connectivity is functional. As well as to ensure the proper functioning of the partner's software with ConnectCIC and the state CJIS system.

3.3 CLIPS Server Remote Installation

CommSys will perform the following activities:

1. Review technical information from partner (IP Addresses, ORIs, and Mnemonics) or end user agency, ensuring it is complete and sufficient to proceed. (Partner or end user agency is responsible for compiling information)
2. Access system, using standardized remote escorted access as described in **2.6 Remote Access**.
3. Ensure proper database connectivity
4. Install CLIPS server with the proper settings.
5. Support testing with the end user agency, and partner if applicable, to ensure CLIPS is functional.

3.4 Cutover Support

CommSys will provide cutover support during CommSys normal business hours as part of the implementation services included in the initial quotation, provided the project has not exceeded the allocated time.

3.5 ConnectCIC State System Certification Testing

Some state CJIS authorities require a certification test for systems that communicate with the state message switch or CJIS system. CommSys provides services to perform the testing remotely with the end user agency and state personnel. The following are required to facilitate a certification test:

- ConnectCIC has been installed properly and is operational
- Network connectivity has been established with the state CJIS system or message switch

When required, the time allocated is for two testing sessions with the State CJIS personnel. If CommSys is unable to test because of issues with end user network connectivity or State CJIS agency technology problems, additional time may be requested.

4. Standardized Post-Installation Technical Services

After an end-user site is operational for a period time, certain needs may occur. These may be changes in environment or failures in systems. Regardless these may be beyond the partner or end user's ability to support the technical changes. CommSys can provide services to support these changes.

Number of hours allocated for Post-Installation Technical Services depends on Quotation or Statement of Work (SOW).

4.1 ConnectCIC Re-hosting/Re-configuration

Re-hosting services are normally for supporting a new server or virtual machine where ConnectCIC is hosted. This typically occurs because of operating system changes or hardware end of life. Reconfiguration activity typically occurs because of a change in connectivity with the partner CAD or RMS or end user local network.

4.2 ConnectCIC Testing Support Services

CommSys Testing Support Services are offered to partners implementing a new version of software products and CJIS testing with a production or test connection is required.

4.3 ConnectCIC Implementation Recovery

Implementation Recovery services are available when the system running ConnectCIC is severely damaged or impaired. Recovery services include assistance with recovery of log data for audit purposes, large tables containing mnemonics and device aliases where there is an imperative need to recover data.

5. Specialized Services

The CJIS environment is somewhat unique in both the technology space as well as the public safety space. The CJIS environment imposes responsibilities on the agency and the supporting technology providers. We offer specialized service that address the need of CJIS compliance to our partners who can in turn offer it to their end users.

5.1 CJIS Auditing Support Services

Agencies that are connected or submit information (such as entries) to a CJIS system are subject to triannual audit. In most situations, agencies are not required to supply detailed technical information or vendor personnel information to support these audits. However, in a case of reported misuse that leads to an investigation or a full on-site technical audit of the agency, these requirements may be different and need assistance. In those situations, CommSys cannot provide these support services at no charge. Based on the size of the agency CommSys can provide a cost for the services to support the audit or investigation. We are able in most situations to quote a day or two of a senior individual's time to provide auditing support services.

6. CLIPS Training Services

CLIPS full terminal application is an end user facing application allowing access to state CJIS transactions. CLIPS training is provided by CommSys personnel to end user agency personnel. A Training Prep Call will be scheduled with agency personnel following installation of CLIPS but prior to Admin training to gather agency information, discuss training prerequisites, logistics, training schedules,



and to address any agency questions regarding training.

6.1 Administrator Training

Administrator training instructs system and agency administrators on the use of the CLIPS Admin Tool to enable local administrators to perform initial set-up and ongoing configuration maintenance of the CLIPS application. Electronic copies of the CLIPS Administrator and User guides are provided to Administrators for general distribution to appropriate agency personnel.

An active state CJIS system is not required for Administrator Training. Administrator Training is typically provided to agency personnel representing technical (IT) and operational perspectives.

Administrator Training is conducted remotely. Session is limited to 5 agency personnel and is typically scheduled for 2 hours.

6.2 User Training

User training provides instruction on the use of the CLIPS application. This includes application navigation, features, and general use of CLIPS.

An active state CJIS system connection, test or production, is required to conduct End User Training. Users must have access to actively use CLIPS during training with no more than 2 users per available workstation.

The agency is responsible to provide training to their personnel on matters relating the state CJIS system, agency policy and procedures, and utilization of the CJIS system to perform their duties.

CLIPS User training is offered to end users directly or as Train the Trainer where agency trainers are trained by CommSys personnel, and the agency trainers are responsible to train the agency end users.

User training is scheduled for 3 hours per session. Each session is limited to 10 agency personnel with the assumption that a minimum of 5 workstations are available for training.

CLIPS user training is typically conducted remotely however, may be offered on-site upon request for an additional charge.

ConnectCIC End User License Agreement

This ConnectCIC End User License Agreement ("Agreement") is entered into as of this 10th day of April, 2023 (the "Effective Date"), by and between CommSys, California, LLC, an Ohio limited liability company, with its principal place of business located at 7887 Washington Village Dr, Ste 220, Dayton, OH 45459 ("CommSys"), and the City of Tracy, a California Municipal Corporation ("End User"), with its principal place of business at 333 Civic Center Plaza, Tracy, CA 95376 . CommSys and End User may each be referred to as a "Party" or collectively, the "Parties".

RECITALS

CommSys is a wholly-owned subsidiary of CommSys, Inc., an Ohio corporation ("Parent Entity");

CommSys licenses from Parent Entity certain software products and solutions for resale and sublicensing, and is the provider of certain professional services in connection with the use and sublicensing of such products, solutions, and services; and

End User desires that CommSys provide and sublicense to End User certain CommSys products and specialized professional services; and

NOW, THEREFORE, in consideration of the mutual covenants herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Definitions.

The following capitalized term shall have the meaning set forth below:

"CommSys Products" shall mean those products and programs, and all documentation related thereto, listed on Exhibit 1 attached hereto and incorporated herein by reference (and which Exhibit 1 may be amended from time to time in writing solely by CommSys as products are modified or discontinued), whether referred to as "software", "firmware" or otherwise, wherever resident on any media, and whether separately licensed, furnished as a part of equipment, or provided as a result of Software services, and further may include programs and related documentation that are owned by third parties and distributed by CommSys under license from the owner thereof.

Capitalized terms not otherwise defined herein shall have the meanings as set forth in the Professional Services and Deliverables Agreement, as of the same date hereof, entered into by and between CommSys and End User (the "PSDA").

2. Grant of License and License Fees.

Subject to and conditioned upon End User's strict compliance with all of the terms and conditions of this Agreement, CommSys hereby grants to End User a limited, non-exclusive, non-assignable, non-transferable, nonsublicensable sublicense (the "License") to use the CommSys Products only: (i) on or in connection with End User's designated computer equipment specified in Appendix 1 (the "Designated Equipment"); and/or (ii) as integrated or bundled with the Professional Services provided by CommSys to End User and its Permitted Sublicensees (which, for purposes of this Agreement, shall be collectively included in the defined term "End User").

As consideration for the grant of the License, End User shall pay to CommSys the Pricing and or Contract Fees specified in CommSys' Project Documents. Such amounts shall be payable by End User to CommSys in accordance with Project Documents and CommSys' standard terms and conditions, as may be modified from time to time by CommSys.

3. Terms, Conditions, and Restrictions.

The License and the grant thereof, and the use by End User of the CommSys Products, is conditioned upon and subject to the following terms, conditions, and restrictions:

- (a) All rights to use the CommSys Products are non-exclusive, non-transferable, non-assignable, and non-sublicensable, and shall terminate automatically upon the failure of End User to comply with any provision of this Agreement.
- (b) All confidential, proprietary, or trade secret information associated with the CommSys Products, including, but not limited to, all software programs, object code, source code, products, research, technical knowledge, documentation, specifications, and other data, is the sole and exclusive Confidential Information of CommSys, and End User shall abide by and maintain, and not remove, deface, or destroy, any proprietary markings on any of the CommSys Products or Confidential Information.
- (c) The CommSys Products, the Confidential Information, all CommSys Intellectual Property related thereto, and all copies of any of the foregoing, shall at all times remain the sole and exclusive property of CommSys, and End User shall have no title thereto, and shall obtain no other rights or interests therein except as expressly set forth in this Agreement.

- (d) End User may not make any copies of the CommSys Products, Confidential Information, or CommSys Intellectual Property. End User may use the CommSys Products only for the purposes of and strictly in accordance with the provisions of this Agreement and the PSDA, and shall not otherwise use, disclose, convey, disseminate, transfer, or assign any of the CommSys Products, CommSys Intellectual Property, or Confidential Information. End User shall not permit the CommSys Products, Confidential Information, or CommSys Intellectual Property to be used by or for the benefit of any other party, nor at any time after this Agreement or the License terminates.
- (e) End User may not: (i) sell, resell, or distribute the CommSys Products; (ii) allow the CommSys Products to be used in conjunction with or launched from within any other product; (iii) re-brand, re-label, bundle, or integrate the CommSys Products, or use in any manner the CommSys Products with any other Software or products; (iv) use the CommSys Products for internal or third party production purposes or development of products; or (v) use the CommSys Products in violation of law.
- (f) End User shall safeguard all CommSys Products, CommSys Intellectual Property, and Confidential Information from infringement, misappropriation, theft, misuse, or unauthorized access, and End User shall promptly notify CommSys of any actual or suspected unauthorized use or disclosure of the CommSys Products, CommSys Intellectual Property, or Confidential Information and shall provide to CommSys reasonable assistance in the investigation and prosecution of such use or disclosure.
- (g) End User shall destroy all CommSys Products and Confidential Information if: (i) End User ceases to use the CommSys Products; (ii) this Agreement or the PSDA terminates; or (iii) the License or other rights granted to End User under this Agreement or the PSDA with respect to the CommSys Products is or are terminated.
- (h) End User shall not, directly or indirectly, nor cause or allow any other person to: (i) modify or translate into any other format or language any portion of the CommSys Products, CommSys Intellectual Property, or Confidential Information; (ii) use any Confidential Information or CommSys Intellectual Property to create any item which is substantially similar to, competitive with, or performs the functions of any of the CommSys Products or for any other purpose; (iii) reverse engineer, disassemble, decompile, or otherwise attempt to derive the source code for or other Confidential Information or CommSys Intellectual Property with respect to, any of the CommSys Products, CommSys Intellectual Property, or Confidential Information; (iv) modify, copy, distribute, reproduce, manufacture, publish, adapt, create derivative works of, translate, localize, port, or otherwise make available to any other person any of the



CommSys Products, CommSys Intellectual Property, or the Confidential Information; (v) modify, block, circumvent, or interfere with any authentication, license key, or security measures in the CommSys Products; or (vi) allow any employee, representative, consultant, agent, or other person to engage in such conduct.

- (i) End User agrees that any item resulting from any actions under Section 3(h) above shall be the sole and exclusive property of CommSys.

End User further agrees that all of the CommSys Products, CommSys Intellectual Property, and Confidential Information are highly valuable to CommSys, and that any breach of this Agreement would severely damage CommSys, the extent of which damage would be difficult to ascertain, and therefore CommSys is entitled to seek, among other remedies, immediate injunctive and other equitable relief for any such breach. In the event that any action, suit, or other legal or administrative proceeding is instituted or commenced by CommSys against End User arising out of related to any provision of this Agreement, CommSys shall be entitled to recover attorneys' fees and court costs from End User.

4. Disclaimer and Limitations.

ALL COMMSYS PRODUCTS ARE PROVIDED TO END USER "AS IS", AND COMMSYS DOES NOT MAKE, AND COMMSYS EXPRESSLY DISCLAIMS, ANY EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE COMMSYS PRODUCTS, INCLUDING BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE, AND FURTHER PROVIDED THAT COMMSYS MAKES NO WARRANTIES AND ASSUMES NO LIABILITIES WITH RESPECT TO ANY THIRD PARTY PROGRAMS OR APPLICATIONS. IN NO EVENT SHALL COMMSYS BE LIABLE FOR INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL, OR OTHER DAMAGES OF ANY KIND WHATSOEVER, INCLUDING, WITHOUT LIMITATION, LOSSES OR DAMAGES ARISING OUT OF CLAIMS FOR LOSS OF BUSINESS, GOODWILL, DATA OR PROFITS, OR ARISING OUT OF CLAIMS FOR TORT, UNDER STATUTE, BREACH OF WARRANTY OR CONTRACT, STRICT LIABILITY, OR OTHERWISE.

5. Termination.

This Agreement and the License shall automatically terminate: (a) upon the termination of the PSDA; (b) in the event that End User ceases to use the CommSys Products; or (c) in the event of a breach of this Agreement by End User. The provisions of Sections 3, 4, 5, 6, 8, 9, 10, 11, and 12 shall survive the expiration or termination of this Agreement.

6. Relationship.

The only relationship between End User and CommSys created by this Agreement is that of sublicensor and sublicensee, and neither party shall be nor represent itself to be, an agent, representative, employee, partner, or joint venturer of the other, nor shall either party transact any business in the name of the other, nor on the other's behalf, nor in any manner or form make promises, representations, or warranties, or incur any liability, for or on behalf of the other party.

7. Assignment.

The provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto, and their successors and assigns; provided however, that End User may not assign this Agreement without the express written consent of CommSys, which may be given in CommSys' sole discretion, and further provided that no assignment of this Agreement shall operate to release End User from any obligations hereunder.

8. Entire Agreement.

End User acknowledges that it has read this Agreement and agrees that it is the complete and exclusive agreement and understanding between the parties, which supersedes all previous understandings, negotiations, and proposals, whether oral or written. This Agreement may not be modified without the express written agreement of CommSys, which may be provided in CommSys' sole discretion. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, regardless of principles of conflicts of law. Any action or claim arising out of, relating to, or in regard to this Agreement shall be instituted and litigated in any federal or state court located in Montgomery County, Ohio, and in no other. The Parties hereby irrevocably consent to the jurisdiction of the courts in Montgomery County, Ohio, and each of the Parties waives any objection that such Party may now have or hereafter have to venue or to convenience of forum, agrees that all claims with respect to this Agreement shall be heard and determined only in such court, and agrees not to bring any proceeding arising out of or relating to this Agreement in any other court.

9. Waiver or Delay.

Any waiver or delay in the exercise by either party hereto of any right hereunder or to enforce any provision of this Agreement shall not prejudice such party's right of enforcement of this Agreement or any provision hereof.

10. Conflicting Documents.

In the event that any provision of this Agreement conflicts with any provision of the PSDA with respect to CommSys or any CommSys Product, or of any other document or agreement between CommSys and End User, the provisions of this



Agreement shall control.

11. Severability.

In the event that any provision contained in this Agreement should, for any reason, be held to be invalid or unenforceable in any respect under the laws of any State or the United States, such invalidity or unenforceability shall not affect any other provision of this Agreement, such invalid and unenforceable provision shall be reformed to the extent necessary to render it valid and enforceable or this Agreement shall be construed as if such invalid or unenforceable provision had not been contained herein.

12. Publicity Releases.

End User shall not issue, make or allow any press, publicity, or other release or advertising, nor will use the name, nor any tradename, trademark, or other logo of any kind of CommSys in any manner without the prior written consent of CommSys, which may be granted by CommSys in its sole discretion.

[SIGNATURES ON FOLLOWING PAGE]




IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the Effective Date.

End User

CommSys California, LLC

By: _____



By: *Robert S. Turner*
President, CommSys Inc, Member

City of Tracy

a California Municipal Corporation

an Ohio limited liability company

Exhibit 1 – CommSys Products



CommSys ConnectCIC Products and Options

1. ConnectCIC Direct CLETS Interface with full logging
2. ConnectCIC LogViewer Application for review CLETS transaction logs

Appendix 1 – Designated Equipment

The Designated Equipment and the Operating System Environment are:

A PC computer (physical or virtual) to host the CommSys Products, utilizing one of the following Microsoft operating systems (Check one):

- Windows Server 2012 R2
- Windows Server 2016
- Windows Server 2019
- Windows Server 2022

Furthermore, a copy of Microsoft's database software is also required. The database software can be one of the following (Check One):

- SQL Server 2014
- SQL Server 2016
- SQL Server 2017
- SQL Server 2019
- SQL Express (above versions) for smaller installations, without full transaction logging
- SQL Management Studio is required on the machine where the CommSys Products are installed.

CLIPS End User License Agreement

This CLIPS End User License Agreement ("Agreement") is entered into as of this 10th day of April, 2023 (the "Effective Date"), by and between CommSys, California, LLC, an Ohio limited liability company, with its principal place of business located at 7887 Washington Village Dr, Ste 220, Dayton, OH 45459 ("CommSys"), and the City of Tracy, a California Municipal Corporation ("End User"), with its principal place of business at 333 Civic Center Plaza, Tracy, CA 95376 . CommSys and End User may each be referred to as a "Party" or collectively, the "Parties".

RECITALS

CommSys is a wholly-owned subsidiary of CommSys, Inc., an Ohio corporation ("Parent Entity");

CommSys licenses from Parent Entity certain software products and solutions for resale and sublicensing, and is the provider of certain professional services in connection with the use and sublicensing of such products, solutions, and services; and

End User desires that CommSys provide and sublicense to End User certain CommSys products and specialized professional services; and

NOW, THEREFORE, in consideration of the mutual covenants herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Definitions.

The following capitalized term shall have the meaning set forth below:

"CommSys Products" shall mean those products and programs, and all documentation related thereto, listed on Exhibit 1 attached hereto and incorporated herein by reference (and which Exhibit 1 may be amended from time to time in writing solely by CommSys as products are modified or discontinued), whether referred to as "software", "firmware" or otherwise, wherever resident on any media, and whether separately licensed, furnished as a part of equipment, or provided as a result of Software services, and further may include programs and related documentation that are owned by third parties and distributed by CommSys under license from the owner thereof.

Capitalized terms not otherwise defined herein shall have the meanings as set forth in the Product Sales and Professional Services Agreement, as of the same

date hereof, entered into by and between CommSys and End User (the "PSPSA").

2. Grant of License and License Fees.

Subject to and conditioned upon End User's strict compliance with all of the terms and conditions of this Agreement, CommSys hereby grants to End User a limited, non-exclusive, non-assignable, non-transferable, nonsublicensable sublicense (the "License") to use the CommSys Products only: (i) on or in connection with End User's designated computer equipment specified in Appendix 1 (the "Designated Equipment"); and/or (ii) as integrated or bundled with the Professional Services provided by CommSys to End User and its Permitted Sublicensees (which, for purposes of this Agreement, shall be collectively included in the defined term "End User").

As consideration for the grant of the License, End User shall pay to CommSys the Pricing and or Contract Fees specified in CommSys' Project Documents. Such amounts shall be payable by End User to CommSys in accordance with Project Documents and CommSys' standard terms and conditions, as may be modified from time to time by CommSys.

3. Terms, Conditions, and Restrictions.

The License and the grant thereof, and the use by End User of the CommSys Products, is conditioned upon and subject to the following terms, conditions, and restrictions:

- (a) All rights to use the CommSys Products are non-exclusive, non-transferable, non-assignable, and non-sublicensable, and shall terminate automatically upon the failure of End User to comply with any provision of this Agreement.
- (b) All confidential, proprietary, or trade secret information associated with the CommSys Products, including, but not limited to, all software programs, object code, source code, products, research, technical knowledge, documentation, specifications, and other data, is the sole and exclusive Confidential Information of CommSys, and End User shall abide by and maintain, and not remove, deface, or destroy, any proprietary markings on any of the CommSys Products or Confidential Information.
- (c) The CommSys Products, the Confidential Information, all CommSys Intellectual Property related thereto, and all copies of any of the foregoing, shall at all times remain the sole and exclusive property of CommSys, and End User shall have no title thereto, and shall obtain no other rights or interests therein except as expressly set forth in this Agreement.
- (d) End User may not make any copies of the CommSys Products, Confidential Information, or CommSys Intellectual Property. End User

may use the CommSys Products only for the purposes of and strictly in accordance with the provisions of this Agreement and the PPSA, and shall not otherwise use, disclose, convey, disseminate, transfer, or assign any of the CommSys Products, CommSys Intellectual Property, or Confidential Information. End User shall not permit the CommSys Products, Confidential Information, or CommSys Intellectual Property to be used by or for the benefit of any other party, nor at any time after this Agreement or the License terminates.

- (e) End User may not: (i) sell, resell, or distribute the CommSys Products; (ii) allow the CommSys Products to be used in conjunction with or launched from within any other product; (iii) re-brand, re-label, bundle, or integrate the CommSys Products, or use in any manner the CommSys Products with any other Software or products; (iv) use the CommSys Products for internal or third party production purposes or development of products; or (v) use the CommSys Products in violation of law.
- (f) End User shall safeguard all CommSys Products, CommSys Intellectual Property, and Confidential Information from infringement, misappropriation, theft, misuse, or unauthorized access, and End User shall promptly notify CommSys of any actual or suspected unauthorized use or disclosure of the CommSys Products, CommSys Intellectual Property, or Confidential Information and shall provide to CommSys reasonable assistance in the investigation and prosecution of such use or disclosure.
- (g) End User shall destroy all CommSys Products and Confidential Information if: (i) End User ceases to use the CommSys Products; (ii) this Agreement or the PPSA terminates; or (iii) the License or other rights granted to End User under this Agreement or the PPSA with respect to the CommSys Products is or are terminated.
- (h) End User shall not, directly or indirectly, nor cause or allow any other person to: (i) modify or translate into any other format or language any portion of the CommSys Products, CommSys Intellectual Property, or Confidential Information; (ii) use any Confidential Information or CommSys Intellectual Property to create any item which is substantially similar to, competitive with, or performs the functions of any of the CommSys Products or for any other purpose; (iii) reverse engineer, disassemble, decompile, or otherwise attempt to derive the source code for or other Confidential Information or CommSys Intellectual Property with respect to, any of the CommSys Products, CommSys Intellectual Property, or Confidential Information; (iv) modify, copy, distribute, reproduce, manufacture, publish, adapt, create derivative works of, translate, localize, port, or otherwise make available to any other person any of the CommSys Products, CommSys Intellectual Property, or the Confidential Information; (v) modify, block, circumvent, or interfere with any



authentication, license key, or security measures in the CommSys Products; or (vi) allow any employee, representative, consultant, agent, or other person to engage in such conduct.

- (i) End User agrees that any item resulting from any actions under Section 3(h) above shall be the sole and exclusive property of CommSys.

End User further agrees that all of the CommSys Products, CommSys Intellectual Property, and Confidential Information are highly valuable to CommSys, and that any breach of this Agreement would severely damage CommSys, the extent of which damage would be difficult to ascertain, and therefore CommSys is entitled to seek, among other remedies, immediate injunctive and other equitable relief for any such breach. In the event that any action, suit, or other legal or administrative proceeding is instituted or commenced by CommSys against End User arising out of related to any provision of this Agreement, CommSys shall be entitled to recover attorneys' fees and court costs from End User.

4. Disclaimer and Limitations.

ALL COMMSYS PRODUCTS ARE PROVIDED TO END USER "AS IS", AND COMMSYS DOES NOT MAKE, AND COMMSYS EXPRESSLY DISCLAIMS, ANY EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE COMMSYS PRODUCTS, INCLUDING BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE, AND FURTHER PROVIDED THAT COMMSYS MAKES NO WARRANTIES AND ASSUMES NO LIABILITIES WITH RESPECT TO ANY THIRD PARTY PROGRAMS OR APPLICATIONS. IN NO EVENT SHALL COMMSYS BE LIABLE FOR INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL, OR OTHER DAMAGES OF ANY KIND WHATSOEVER, INCLUDING, WITHOUT LIMITATION, LOSSES OR DAMAGES ARISING OUT OF CLAIMS FOR LOSS OF BUSINESS, GOODWILL, DATA OR PROFITS, OR ARISING OUT OF CLAIMS FOR TORT, UNDER STATUTE, BREACH OF WARRANTY OR CONTRACT, STRICT LIABILITY, OR OTHERWISE.

5. Termination.

This Agreement and the License shall automatically terminate: (a) upon the termination of the PSPSA; (b) in the event that End User ceases to use the CommSys Products; or (c) in the event of a breach of this Agreement by End User. The provisions of Sections 3, 4, 5, 6, 8, 9, 10, 11, and 12 shall survive the expiration or termination of this Agreement.

6. Relationship.

The only relationship between End User and CommSys created by this

Agreement is that of sublicensor and sublicensee, and neither party shall be nor represent itself to be, an agent, representative, employee, partner, or joint venturer of the other, nor shall either party transact any business in the name of the other, nor on the other's behalf, nor in any manner or form make promises, representations, or warranties, or incur any liability, for or on behalf of the other party.

7. Assignment.

The provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto, and their successors and assigns; provided however, that End User may not assign this Agreement without the express written consent of CommSys, which may be given in CommSys' sole discretion, and further provided that no assignment of this Agreement shall operate to release End User from any obligations hereunder.

8. Entire Agreement.

End User acknowledges that it has read this Agreement and agrees that it is the complete and exclusive agreement and understanding between the parties, which supersedes all previous understandings, negotiations, and proposals, whether oral or written. This Agreement may not be modified without the express written agreement of CommSys, which may be provided in CommSys' sole discretion. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, regardless of principles of conflicts of law. Any action or claim arising out of, relating to, or in regard to this Agreement shall be instituted and litigated in any federal or state court located in Montgomery County, Ohio, and in no other. The Parties hereby irrevocably consent to the jurisdiction of the courts in Montgomery County, Ohio, and each of the Parties waives any objection that such Party may now have or hereafter have to venue or to convenience of forum, agrees that all claims with respect to this Agreement shall be heard and determined only in such court, and agrees not to bring any proceeding arising out of or relating to this Agreement in any other court.

9. Waiver or Delay.

Any waiver or delay in the exercise by either party hereto of any right hereunder or to enforce any provision of this Agreement shall not prejudice such party's right of enforcement of this Agreement or any provision hereof.

10. Conflicting Documents.

In the event that any provision of this Agreement conflicts with any provision of the PSPSA with respect to CommSys or any CommSys Product, or of any other document or agreement between CommSys and End User, the provisions of this Agreement shall control.



11. Severability.

In the event that any provision contained in this Agreement should, for any reason, be held to be invalid or unenforceable in any respect under the laws of any State or the United States, such invalidity or unenforceability shall not affect any other provision of this Agreement, such invalid and unenforceable provision shall be reformed to the extent necessary to render it valid and enforceable or this Agreement shall be construed as if such invalid or unenforceable provision had not been contained herein.

12. Publicity Releases.

End User shall not issue, make or allow any press, publicity, or other release or advertising, nor will use the name, nor any tradename, trademark, or other logo of any kind of CommSys in any manner without the prior written consent of CommSys, which may be granted by CommSys in its sole discretion.

[SIGNATURES ON FOLLOWING PAGE]




IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the Effective Date.

End User

CommSys California, LLC

By:



By: *Robert S. Turner*
President, CommSys Inc, Member

City of Tracy

a California Municipal Corporation

an Ohio limited liability company

Exhibit 1

CommSys Products



CommSys CLIPS Products and Options

1. 16 Full Terminal License for CLIPS CLETS CJIS Terminal
2. 77 Limited Terminal License - Inquiry Only for Basic Inquiry and Criminal History

Appendix 1

End User's Designated Equipment

The CLIPS Server Designated Equipment and the Operating System Environment are:

A PC computer (physical or virtual) to act as the central CLIPS™ server, utilizing one of the following Microsoft operating systems:

- Windows Server 2012 R2 Server with IIS 8.5 or later
- Windows Server 2016 with IIS 10 (version 1609 or later)
- Windows Server 2019 with IIS 10.0 (version 1809)
- Windows Server 2022 with IIS 10.0
- Windows 10 with IIS 10 (for small systems < 5 users)

The server PC is required to be configured to utilize Microsoft's Internet Information Server (IIS) for a web server. Furthermore, a copy of Microsoft's database software is also required. The database software can be one of the following:

- Microsoft SQL Server 2005 (Any edition)
- Microsoft SQL Server 2008 (Any edition)
- Microsoft SQL Server 2012 (Any edition)
- Microsoft SQL Server 2016 (Any edition)
- Microsoft SQL Server 2019 (Any edition)

SQL Management Studio is required on the machine where the CommSys Products are installed.

In addition, CommSys will supply a copy of the PHP web language interpreter to be installed in the IIS server. PHP is an open source product, provided at no cost to the end user. PHP is required for the proper operation of the CLIPS™ software.

ConnectCIC End User Product Maintenance and Technical Support Agreement

This ConnectCIC End User Product Maintenance and Technical Support Agreement ("Agreement") is entered into as of this 10th day of April, 2023 (the "Effective Date"), by and between CommSys California, LLC, an Ohio limited liability company, with its principal place of business located at 7887 Washington Village Dr, Ste 220, Dayton, OH 45459 ("CommSys"), and the City of Tracy, a California Municipal Corporation ("End User"), with its principal place of business at 333 Civic Center Plaza, Tracy, CA95376.

RECITALS

WHEREAS, CommSys is a wholly-owned subsidiary of CommSys, Inc., an Ohio corporation ("Parent Entity");

WHEREAS, CommSys licenses from Parent Entity certain software products and solutions for resale and sublicensing, and is the provider of certain professional services in connection with the use and sublicensing of such products, solutions, and services; and

WHEREAS, End User desires that CommSys provide and sublicense to End User certain CommSys products and specialized professional services, including related support and maintenance services; and

NOW, THEREFORE, in consideration of the mutual covenants herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Definitions

Capitalized terms not otherwise defined herein shall have the meanings as set forth in the Product Sales and Professional Services Agreement, as of the same date hereof, entered into by and between CommSys and End User (the "PSPSA").

2. Support – General Description

CommSys shall provide to End User the maintenance and support services described below ("Support") for the Supported Products (defined in Section 3 below) under the terms and conditions set forth herein. Additional or specialized Support services may be provided by CommSys pursuant to specific Statements of Work attached to the PSPSA.

3. Supported Products

The term "Supported Products" as used in this Agreement means the CommSys Products sublicensed by CommSys to End User pursuant to an End User License Agreement between CommSys and End User.

4. Designated Contacts

"Designated Contacts" shall mean the persons designated by End User and listed on Exhibit 1 attached hereto as the contacts for the provision by CommSys of the Support. During the Term of this Agreement, End User may delete and add Designated Contacts by sending notification in writing to CommSys' Manager of Support pursuant to the notice provisions set forth in the PPSA. CommSys shall be entitled to rely on all such notices from End User for purposes of updating the Designated Contacts.

5. Terms of Support

CommSys has established and maintains an organization and process to provide Support for the Supported Products to End User. Support shall include: (i) diagnosis of problems or performance deficiencies of the Supported Products; and (ii) a resolution of the problem or performance deficiencies of the Supported Products.

End User understands that support of Supported Products is dependent on a Support Package, as defined in Section 5.1, being purchased and in effect for the End User, and the terms of the Support Package. The fees for the Support Package are set forth on Exhibit 2 attached hereto. CommSys Support is not transferable by End User, nor may a Support Package be transferred or used by any Permitted Sublicensees of End User without the written consent of CommSys.

5.1 Support Package Hours

CommSys offers two annual telephone/remote access support-level packages which provide different hours of availability (each, a "Support Package"), and End User shall purchase one or more of the following Support Packages:

- A. **Business Hours Support** – Support is provided during the hours of 8:00 AM through 7:00 PM eastern standard time (or eastern daylight time, as applicable) through customersupport@commsys.com or the 800 number support line, excluding federal holidays and weekends.
- B. **24 X 7 Support** – Support is provided 24 hours a day, seven days a week through customersupport@commsys.com or the 800 number support line during regular business hours and the 800 number support line which is available for after business hours



support.

5.2 Support Package Term and Renewal

- (a) **Commencement of Active Support.** As an annual Support Package, the Support Package shall be in effect for a period of one (1) year. The first Support Package shall commence on the date the Supported Product is installed (the "Installation Date") and continue for a period of one (1) year from the Installation Date (the "Term of a Support Package"). End Users with a Support Package that is in effect will have a status of "Active Support."
- (b) **Renewal of Support Package.** To renew the annual Support Package, End User will be invoiced ("Renewal Invoice") for the next annual Support Package at least thirty (30) days prior to the end of the current Support Package. The failure to pay the Renewal Invoice shall result in End User being changed to a status of "Inactive Support."
- (c) **Support During Inactive Support Status.** CommSys may provide Support to End User that has a status of "Inactive Support" on a "per incident" basis only. For "per incident" basis support, End User must supply to CommSys a Purchase Order number to bill against in order to commence Support.
- (d) **Update of Status.** To change the status of from "Inactive Support" to "Active Support" requires End User to pay all unpaid and past due amounts, as well as all Renewal Invoices.

5.3 Support Classification and Response

CommSys will use commercially reasonable efforts to promptly identify and cure, as described below, reported and reproducible errors in the Supported Products. CommSys utilizes the following four (4) severity levels to categorize reported problems:

A. SEVERITY 1 — CRITICAL OPERATIONAL IMPACT

The impact of the reported deficiency is such that End User is unable to either use the Supported Products or reasonably continue work using the Supported Products. CommSys will commence work on resolving the deficiency within one (1) hour of notification and will engage staff on a continual, active basis until an acceptable resolution is achieved.

B. SEVERITY 2 — SIGNIFICANT OPERATIONAL IMPACT

Important features of the Supported Products are not working properly and there are no acceptable alternative solutions. While other areas of the Supported Products are not impacted, the reported deficiency has created a significant, negative impact on End User's productivity or service level.



CommSys will commence work on resolving the deficiency within two (2) hours of notification and will engage staff on an active basis during business hours until a resolution is achieved.

C. SEVERITY 3 — SOME OPERATIONAL IMPACT

Important features of the Supported Products are unavailable, but an alternative solution is available, or non-essential features of the Supported Products are unavailable with no alternative solution. End User impact, regardless of Supported Product usage, is minimal loss of operational functionality or implementation resources. CommSys will commence work on resolving the deficiency within one (1) business day of notification and will engage staff during business hours until a resolution is achieved.

D. SEVERITY 4 — MINIMAL OPERATIONAL IMPACT

End User submits a Supported Products information request, software enhancement or documentation clarification which has minimal to no operational impact. The implementation or use of the Supported Products by End User is continuing and there is minimal to no negative impact on productivity. CommSys will provide an initial response regarding the request within one (1) business week.

With respect to Severity One (1) reported deficiencies, CommSys may elect to send senior support or development staff to the End User location to accelerate problem resolution. CommSys will be responsible for the costs associated with this escalated problem resolution if the problem is determined to be related to Supported Products. If it is determined that the problem was not related to the Supported Products, End User agrees to pay travel and lodging expenses in addition to CommSys' standard consulting rates. Travel time will be charged at consulting rates.

6. Maintenance

During the Term of this Agreement, and provided that End User has maintained in Active Status a Support Package for the Supported Product, CommSys will provide to End User with respect to each such Supported Product for which a Support Package is in Active Status, updates, releases, service packs, and new versions of the Supported Products along with other generally available technical material (collectively, "Maintenance Material"). These Maintenance Materials, including the Supported Products, may not be used to increase the licensed number of versions or copies of the Supported Products. End User agrees not to use or transfer the prior version but to destroy or archive the prior version of the Supported Products. All Maintenance Materials shall be subject to the sublicense arrangement and agreement related to the underlying Supported Products.



7. Limitation of Liability

CommSys will undertake reasonable efforts to provide technical assistance under this Agreement and to rectify or provide solutions to problems where the Supported Products do not function as described in the Supported Products documentation, but CommSys does not guarantee that the problems will be solved or that any item will be error-free. This Agreement and each Support Package is only applicable to CommSys Supported Products running under the certified environments specified in the release notes for that Supported Product. CommSys may from time to time discontinue Supported Products or versions and stop supporting Supported Products or versions or otherwise discontinue any Support service.

THE WARRANTIES OF COMMSYS SET FORTH IN THIS SECTION 4 ARE EXCLUSIVE AND EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. IN NO EVENT SHALL COMMSYS BE LIABLE FOR ANY LOST REVENUES OR PROFITS, OR INCIDENTAL, INDIRECT, CONSEQUENTIAL, OR SPECIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF DATA OR PROFITS, WHETHER OR NOT AS A CLAIM BY REASON OF BREACH OF WARRANTY OR BASED ON CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EVEN IF COMMSYS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. COMMSYS' LIABILITY HEREUNDER SHALL IN NO EVENT EXCEED THE AMOUNT OF SUPPORT FEES ACTUALLY PAID BY END USER TO COMMSYS.

8. Term

The Term of this Agreement shall commence on the Effective Date and shall continue until terminated as provided in this Section 8. The duration of the Term is dependent on one or more Support Packages being in effect as described in Section 5 of this Agreement, as well as the terms of the PSPSA. Once all End User Support Packages are no longer in effect, this Agreement shall automatically terminate. CommSys may immediately terminate this Agreement if any payment due to CommSys is not received within five (5) days after the due date thereof or in the event of a breach by End User of Sections 7 or 8 of the PSPSA. Either party may immediately terminate this Agreement if the other party is in breach or default of any obligation set forth herein or in any other agreement between the parties (other than for the payment of money), and after receipt of notice thereof from the non-breaching party, the breaching party has not cured its breach or default within thirty (30) business days following such notice. The effect of termination of this Agreement shall result in the Support Status of End User being changed to "Inactive Support".

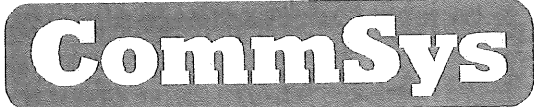
9. General

- (a) Nothing in this Agreement shall create an obligation of CommSys to provide consulting or other services to End Users.
- (b) Each party acknowledges that it has read this Agreement, and it represents the entire agreement and understanding between the parties with respect to the subject matter hereof, and supersedes any prior and/or contemporaneous discussions, representations, or agreements, whether written or oral, of the parties regarding this matter.
- (c) Ordering and payment terms, and cancellation fees, are as specified in the Project Documents.
- (d) Times by which CommSys will perform under this Agreement shall be postponed automatically to the extent that CommSys is prevented from meeting them by causes beyond CommSys' reasonable control.
- (e) This Agreement shall be construed and governed by the laws of the State of Ohio, regardless of the laws that might be applicable under principles of conflicts of law. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be instituted and litigated in the applicable federal or state court located in Montgomery County, Ohio. The parties hereby irrevocably consent to the exclusive jurisdiction of the state and federal courts located in Montgomery County, Ohio, and each party waives any objection that such party may now have or hereafter have to venue or to convenience of forum, agrees that all claims with respect to this Agreement shall be heard and determined only in such court, and agrees not to bring any proceeding arising out of or relating to this Agreement in any other court. The non-prevailing party shall reimburse all reasonable direct costs (including the fees and costs of attorneys, accountants, and other professionals and/or experts) incurred by the prevailing party in relation to the resolution of any such claim with respect to this Agreement.
- (f) This Agreement may not be modified or altered except by written instrument duly executed by both parties. The Supported Products and the use thereof are subject to the terms of the license arrangement and agreement related to the Supported Products.
- (g) No waiver of any breach of any provision of this Agreement shall constitute a waiver of any similar or dissimilar provision or any prior or subsequent breach nor shall constitute an amendment or modification of this Agreement.
- (h) If any provision of this Agreement shall be held by a court of competent jurisdiction to be unenforceable or inapplicable, such holding shall not

affect the enforceability of any other provision of this Agreement, and such term or provision shall be deemed modified to the extent necessary in such court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties.

- (i) Neither this Agreement nor any rights, licenses or obligations hereunder, may be assigned by either party without the prior written approval of CommSys. Any attempted assignment in violation of this Section 9(i) shall be void and without effect. For purposes of this Agreement, an assignment shall be deemed to have occurred as a result of an acquisition of either party's business, or change or ownership or control of such party or its business, including by stock sale, other change of control or ownership, merger, or purchase of all or substantially all of the assets comprising either party's business, including any of such transactions with, or any other assignment or transfer of the Agreement to, an affiliate entity that controls, is under the control of, or under common control with such party (where control means 100% direct or indirect ownership). Subject to the foregoing, this Agreement will benefit and bind the parties' successors and assigns.
- (j) End User agrees that CommSys shall not be liable for any delay or failure in CommSys' performance caused by acts of God, war, fires, flood, court order, strike or labor dispute, epidemic or pandemic, or other similar conditions beyond the CommSys' reasonable control (each, a "Force Majeure Condition"). CommSys shall give written notice to End User within twenty-four (24) hours of the occurrence of the Force Majeure Condition, which notice shall state the period of time CommSys' failure or delay to perform its obligations set forth in this Agreement or any Project Documents or SOW as a result of the Force Majeure Condition is expected to continue. CommSys shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Condition are minimized. CommSys shall resume the performance of its obligations as soon as reasonably practicable after the cessation of the Force Majeure Condition.
- (k) Each party agrees to execute and deliver, or cause to be executed and delivered, all such other instruments, certificates, and documents, and to take all such other actions necessary to consummate the transactions contemplated hereby.
- (l) Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

[SIGNATURES ON FOLLOWING PAGE]




IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the Effective Date.

End User

CommSys California, LLC

By:



By: Robert S. Turner
President, CommSys Inc, Member

City of Tracy

a California Municipal Corporation

an Ohio limited liability company

Exhibit 1 – Designated Contacts

End User's Designated Contacts are:

Contact 1:	
Name:	
Telephone:	
E-mail:	
Contact 2:	
Name:	
Telephone:	
E-mail:	

Exhibit 2 – Support Fees

The Fees for each Support Package are as follows:

1. PS-0202-105 24x7 ConnectCIC Annual Support \$1,375.00
 - a. This agreement is for the period of March 1, 2023 through February 29, 2024.

End User shall pay the fees for maintenance and support set forth herein annually and/or as specifically designated. The first payment is due within thirty (30) days of the Effective Date. All fees are non-refundable. End User shall be responsible for and shall pay any and all taxes and other fees and charges which might be imposed on the transactions contemplated by this Support Agreement.

Payment for each renewal Term shall be due on the renewal of each Support Package at the current rates for Support of the CommSys Products as designated by CommSys. Reinstatement for lapsed maintenance and support services is subject to CommSys' then current services reinstatement fees in effect on the date that the reinstatement becomes effective.

CLIPS End User Product Maintenance and Technical Support Agreement

This CLIPS End User Product Maintenance and Technical Support Agreement ("Agreement") is entered into as of this 10th day of April, 2023 (the "Effective Date"), by and between CommSys California, LLC, an Ohio limited liability company, with its principal place of business located at 7887 Washington Village Dr, Ste 220, Dayton, OH 45459 ("CommSys"), and the City of Tracy, a California Municipal Corporation ("End User"), with its principal place of business at 333 Civic Center Plaza, Tracy, CA95376.

RECITALS

WHEREAS, CommSys is a wholly-owned subsidiary of CommSys, Inc., an Ohio corporation ("Parent Entity");

WHEREAS, CommSys licenses from Parent Entity certain software products and solutions for resale and sublicensing, and is the provider of certain professional services in connection with the use and sublicensing of such products, solutions, and services; and

WHEREAS, End User desires that CommSys provide and sublicense to End User certain CommSys products and specialized professional services, including related support and maintenance services; and

NOW, THEREFORE, in consideration of the mutual covenants herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Definitions

Capitalized terms not otherwise defined herein shall have the meanings as set forth in the Product Sales and Professional Services Agreement, as of the same date hereof, entered into by and between CommSys and End User (the "PSPSA").

2. Support – General Description

CommSys shall provide to End User the maintenance and support services described below ("Support") for the Supported Products (defined in Section 3 below) under the terms and conditions set forth herein. Additional or specialized Support services may be provided by CommSys pursuant to specific Statements of Work attached to the PSPSA.

3. Supported Products

The term "Supported Products" as used in this Agreement means the CommSys Products sublicensed by CommSys to End User pursuant to an End User License Agreement between CommSys and End User.

4. Designated Contacts

"Designated Contacts" shall mean the persons designated by End User and listed on Exhibit A attached hereto as the contacts for the provision by CommSys of the Support. During the Term of this Agreement, End User may delete and add Designated Contacts by sending notification in writing to CommSys' Manager of Support pursuant to the notice provisions set forth in the PSPSA. CommSys shall be entitled to rely on all such notices from End User for purposes of updating the Designated Contacts.

5. Terms of Support

CommSys has established and maintains an organization and process to provide Support for the Supported Products to End User. Support shall include: (i) diagnosis of problems or performance deficiencies of the Supported Products; and (ii) a resolution of the problem or performance deficiencies of the Supported Products.

End User understands that support of Supported Products is dependent on a Support Package, as defined in Section 5.1, being purchased and in effect for the End User, and the terms of the Support Package. The fees for the Support Package are set forth on Exhibit B attached hereto. CommSys Support is not transferable by End User, nor may a Support Package be transferred or used by any Permitted Sublicensees of End User without the written consent of CommSys.

5.1 Support Package Hours

CommSys offers two annual telephone/remote access support-level packages which provide different hours of availability (each, a "Support Package"), and End User shall purchase one or more of the following Support Packages:

- A. Business Hours Support** – Support is provided during the hours of 8:00 AM through 7:00 PM eastern standard time (or eastern daylight time, as applicable) through customersupport@commsys.com or the 800 number support line, excluding federal holidays and weekends.

- B. 24 X 7 Support** – Support is provided 24 hours a day, seven days a week through customersupport@commsys.com or the 800 number support line during regular business hours and the 800



number support line which is available for after business hours support.

5.2 Support Package Term and Renewal

(a) **Commencement of Active Support.** As an annual Support Package, the Support Package shall be in effect for a period of one (1) year. The first Support Package shall commence on the date the Supported Product is installed (the "Installation Date") and continue for a period of one (1) year from the Installation Date (the "Term of a Support Package"). End Users with a Support Package that is in effect will have a status of "Active Support."

(b) **Renewal of Support Package.** To renew the annual Support Package, End User will be invoiced ("Renewal Invoice") for the next annual Support Package at least thirty (30) days prior to the end of the current Support Package. The failure to pay the Renewal Invoice shall result in End User being changed to a status of "Inactive Support."

(c) **Support During Inactive Support Status.** CommSys may provide Support to End User that has a status of "Inactive Support" on a "per incident" basis only. For "per incident" basis support, End User must supply to CommSys a Purchase Order number to bill against in order to commence Support.

(d) **Update of Status.** To change the status of from "Inactive Support" to "Active Support" requires End User to pay all unpaid and past due amounts, as well as all Renewal Invoices.

5.3 Support Classification and Response

CommSys will use commercially reasonable efforts to promptly identify and cure, as described below, reported and reproducible errors in the Supported Products. CommSys utilizes the following four (4) severity levels to categorize reported problems:

A. SEVERITY 1 — CRITICAL OPERATIONAL IMPACT

The impact of the reported deficiency is such that End User is unable to either use the Supported Products or reasonably continue work using the Supported Products. CommSys will commence work on resolving the deficiency within one (1) hour of notification and will engage staff on a continual, active basis until an acceptable resolution is achieved.

B. SEVERITY 2 — SIGNIFICANT OPERATIONAL IMPACT

Important features of the Supported Products are not working properly and there are no acceptable alternative solutions. While other areas of the Supported Products are not impacted, the reported deficiency has created a significant, negative impact on End User's productivity or service level. CommSys will commence work on resolving the deficiency within two (2) hours of notification and will engage staff on an active basis during business hours until a resolution is achieved.

C. SEVERITY 3 — SOME OPERATIONAL IMPACT

Important features of the Supported Products are unavailable, but an alternative solution is available, or non-essential features of the Supported Products are unavailable with no alternative solution. End User impact, regardless of Supported Product usage, is minimal loss of operational functionality or implementation resources. CommSys will commence work on resolving the deficiency within one (1) business day of notification and will engage staff during business hours until a resolution is achieved.

D. SEVERITY 4 — MINIMAL OPERATIONAL IMPACT

End User submits a Supported Products information request, software enhancement or documentation clarification which has minimal to no operational impact. The implementation or use of the Supported Products by End User is continuing and there is minimal to no negative impact on productivity. CommSys will provide an initial response regarding the request within one (1) business week.

With respect to Severity One (1) reported deficiencies, CommSys may elect to send senior support or development staff to the End User location to accelerate problem resolution. CommSys will be responsible for the costs associated with this escalated problem resolution if the problem is determined to be related to Supported Products. If it is determined that the problem was not related to the Supported Products, End User agrees to pay travel and lodging expenses in addition to CommSys' standard consulting rates. Travel time will be charged at consulting rates.

6. Maintenance

During the Term of this Agreement, and provided that End User has maintained in Active Status a Support Package for the Supported Product, CommSys will provide to End User with respect to each such Supported Product for which a Support Package is in Active Status, updates, releases, service packs, and new versions of the Supported Products along with other generally available technical material (collectively, "Maintenance Material"). These Maintenance Materials, including the Supported Products, may not be used to increase the licensed number of versions or copies of the Supported Products. End User agrees not to use or transfer the prior version but to destroy or archive the prior version of the Supported Products. All Maintenance Materials shall be subject to the sublicense arrangement and agreement related to the underlying Supported

Products.

7. Limitation of Liability

CommSys will undertake reasonable efforts to provide technical assistance under this Agreement and to rectify or provide solutions to problems where the Supported Products do not function as described in the Supported Products documentation, but CommSys does not guarantee that the problems will be solved or that any item will be error-free. This Agreement and each Support Package is only applicable to CommSys Supported Products running under the certified environments specified in the release notes for that Supported Product. CommSys may from time to time discontinue Supported Products or versions and stop supporting Supported Products or versions or otherwise discontinue any Support service.

THE WARRANTIES OF COMMSYS SET FORTH IN THIS SECTION 4 ARE EXCLUSIVE AND EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. IN NO EVENT SHALL COMMSYS BE LIABLE FOR ANY LOST REVENUES OR PROFITS, OR INCIDENTAL, INDIRECT, CONSEQUENTIAL, OR SPECIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF DATA OR PROFITS, WHETHER OR NOT AS A CLAIM BY REASON OF BREACH OF WARRANTY OR BASED ON CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EVEN IF COMMSYS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. COMMSYS' LIABILITY HEREUNDER SHALL IN NO EVENT EXCEED THE AMOUNT OF SUPPORT FEES ACTUALLY PAID BY END USER TO COMMSYS.

8. Term

The Term of this Agreement shall commence on the Effective Date and shall continue until terminated as provided in this Section 8. The duration of the Term is dependent on one or more Support Packages being in effect as described in Section 5 of this Agreement, as well as the terms of the PSPSA. Once all End User Support Packages are no longer in effect, this Agreement shall automatically terminate. CommSys may immediately terminate this Agreement if any payment due to CommSys is not received within five (5) days after the due date thereof or in the event of a breach by End User of Sections 7 or 8 of the PSPSA. Either party may immediately terminate this Agreement if the other party is in breach or default of any obligation set forth herein or in any other agreement between the parties (other than for the payment of money), and after receipt of notice thereof from the non-breaching party, the breaching party has not cured its breach or default within thirty (30) business days following such notice. The effect of termination of this Agreement shall result in the Support Status of End User being changed to "Inactive Support".

9. General

(a) Nothing in this Agreement shall create an obligation of CommSys to provide consulting or other services to End Users.

(b) Each party acknowledges that it has read this Agreement, and it represents the entire agreement and understanding between the parties with respect to the subject matter hereof, and supersedes any prior and/or contemporaneous discussions, representations, or agreements, whether written or oral, of the parties regarding this matter.

(c) Ordering and payment terms, and cancellation fees, are as specified in the Project Documents.

(d) Times by which CommSys will perform under this Agreement shall be postponed automatically to the extent that CommSys is prevented from meeting them by causes beyond CommSys' reasonable control.

(e) This Agreement shall be construed and governed by the laws of the State of Ohio, regardless of the laws that might be applicable under principles of conflicts of law. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be instituted and litigated in the applicable federal or state court located in Montgomery County, Ohio. The parties hereby irrevocably consent to the exclusive jurisdiction of the state and federal courts located in Montgomery County, Ohio, and each party waives any objection that such party may now have or hereafter have to venue or to convenience of forum, agrees that all claims with respect to this Agreement shall be heard and determined only in such court, and agrees not to bring any proceeding arising out of or relating to this Agreement in any other court. The non-prevailing party shall reimburse all reasonable direct costs (including the fees and costs of attorneys, accountants, and other professionals and/or experts) incurred by the prevailing party in relation to the resolution of any such claim with respect to this Agreement.

(f) This Agreement may not be modified or altered except by written instrument duly executed by both parties. The Supported Products and the use thereof are subject to the terms of the license arrangement and agreement related to the Supported Products.

(g) No waiver of any breach of any provision of this Agreement shall constitute a waiver of any similar or dissimilar provision or any prior or subsequent breach nor shall constitute an amendment or modification of this Agreement.

(h) If any provision of this Agreement shall be held by a court of competent jurisdiction to be unenforceable or inapplicable, such holding

shall not affect the enforceability of any other provision of this Agreement, and such term or provision shall be deemed modified to the extent necessary in such court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties.

(i) Neither this Agreement nor any rights, licenses or obligations hereunder, may be assigned by either party without the prior written approval of CommSys. Any attempted assignment in violation of this Section 9(i) shall be void and without effect. For purposes of this Agreement, an assignment shall be deemed to have occurred as a result of an acquisition of either party's business, or change or ownership or control of such party or its business, including by stock sale, other change of control or ownership, merger, or purchase of all or substantially all of the assets comprising either party's business, including any of such transactions with, or any other assignment or transfer of the Agreement to, an affiliate entity that controls, is under the control of, or under common control with such party (where control means 100% direct or indirect ownership). Subject to the foregoing, this Agreement will benefit and bind the parties' successors and assigns.

(j) End User agrees that CommSys shall not be liable for any delay or failure in CommSys' performance caused by acts of God, war, fires, flood, court order, strike or labor dispute, epidemic or pandemic, or other similar conditions beyond the CommSys' reasonable control (each, a "Force Majeure Condition"). CommSys shall give written notice to End User within twenty-four (24) hours of the occurrence of the Force Majeure Condition, which notice shall state the period of time CommSys' failure or delay to perform its obligations set forth in this Agreement or any Project Documents or SOW as a result of the Force Majeure Condition is expected to continue. CommSys shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Condition are minimized. CommSys shall resume the performance of its obligations as soon as reasonably practicable after the cessation of the Force Majeure Condition.

(k) Each party agrees to execute and deliver, or cause to be executed and delivered, all such other instruments, certificates, and documents, and to take all such other actions necessary to consummate the transactions contemplated hereby.

(l) Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

[SIGNATURES ON FOLLOWING PAGE]




IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the Effective Date.

End User

CommSys California, LLC

By:



By: *Robert S. Turner*
President, CommSys Inc, Member

City of Tracy

a California Municipal Corporation

an Ohio limited liability company

Exhibit 1 – Designated Contacts

End User's Designated Contacts are:

Contact 1:	
Name:	
Telephone:	
E-mail:	
Contact 2:	
Name:	
Telephone:	
E-mail:	



Exhibit 2 – Support Fees

The Fees for each Support Package are as follows:

1. PS-0202-185 24x7 CLIPS Annual Support \$11,277.00
for the period of May 1, 2022 and April 30, 2023

End User shall pay the fees for maintenance and support set forth herein annually and/or as specifically designated. The first payment is due within thirty (30) days of the Effective Date. All fees are non-refundable. End User shall be responsible for and shall pay any and all taxes and other fees and charges which might be imposed on the transactions contemplated by this Support Agreement.

Payment for each renewal Term shall be due on the renewal of each Support Package at the current rates for Support of the CommSys Products as designated by CommSys. Reinstatement for lapsed maintenance and support services is subject to CommSys' then current services reinstatement fees in effect on the date that the reinstatement becomes effective.

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

APPROVING A MASTER SERVICES AGREEMENT WITH COMMSYS, INC. FOR THE INSTALLATION, IMPLEMENTATION, TRAINING, AND MAINTENANCE OF THE CALIFORNIA LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM FOR A TERM OF FIVE YEARS AND A NOT-TO-EXCEED AMOUNT OF \$200,000

WHEREAS, the Tracy Police Department requires access to the California Law Enforcement Telecommunications System (CLETS); and

WHEREAS, the Tracy Police Department has experienced continued connection downtime, the inability to enter and modify CLETS entries timely and effectively, and the inability to receive timely state and national teletypes from other law enforcement agencies; and

WHEREAS, as of November 22, 2022, the Department of Justice has approved the Tracy Police Department for the required direct connection to the Department of Justice for CLETS; and

WHEREAS, Commsys, Inc. was identified as a vendor who works with many departments throughout California, offers the necessary capabilities to access CLETS and Criminal History Information, and meets Department of Justice requirements; and

WHEREAS, Tracy Police Department researched alternatives and found there are limited vendors offering message switch solutions and received no response to several inquiries; now, therefore, be it

RESOLVED: That the City Council hereby approves a Master Services Agreement with CommSys, Inc. for a term of five years and a total not to exceed the amount of \$200,000; and be it

FURTHER RESOLVED: That the City Council hereby finds and determines that pursuant to Tracy Municipal Code Section 2.20.140(b)(6), compliance with procurement procedures is not in the best interest of the City for the professional services for this Master Services Agreement.

* * * * *

The foregoing Resolution 2023-_____ was adopted by the Tracy City Council on April 4, 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 adopt a resolution 1) authorizing the issuance and sale of special tax bonds for the purpose of financing authorized facilities and 2) approving and authorizing related documents and actions for Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2.

EXECUTIVE SUMMARY

For the purpose of financing public facilities and public services for development in the Ellis Specific Plan, the City Council previously acted under the Mello-Roos Community Facilities Act of 1982 (the “Mello-Roos Act”) to establish the following:

- City of Tracy Community Facilities District No. 2016-2 (ECFD) (the “CFD”),
- City of Tracy Community Facilities District No. 2016-2 (ECFD) (Future Annexation Area) (the “Future Annexation Area”), and
- improvement areas for the CFD, including Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD) (“Improvement Area No. 3”).

Staff recommends that the City Council adopt the referenced resolution (the “2023 Bond Resolution”) for the purpose of authorizing the issuance of one or more series of special tax bonds on behalf of the CFD with respect to Improvement Area No. 3 and approving related documents and actions.

This item was considered by the City Council at its March 7, 2023 meeting. After deliberation, the City Council, by majority vote, continued this item to the April 4, 2023 meeting. One key issue of concern was whether the Preliminary Official Statement adequately reflected the recent developments between the City of Tracy and Surland Communities, LLC regarding outstanding actions needing to be completed as part of the court mandated unwinding of the Second Amendment to the 2013 Amended and Restated Development Agreement. The Preliminary Official Statement has been revised since March 7, 2023.

DISCUSSION

LOCAL GOALS AND POLICIES

Section 53312.7(a) of the Mello-Roos Act requires the City of Tracy (City) to consider and adopt local goals and policies concerning the use of the Mello-Roos Act prior to the initiation of proceedings on or after January 1, 1994, to establish a new community facilities district.

The City adopted “Amended Local Goals and Policies for Community Facilities Districts (CFDs)” on February 4, 2014, by Resolution No. 2014-019 (“Goals and Policies”).

The Goals and Policies provide guidance and conditions for the conduct by the City of proceedings for, and the issuance of bonds secured by special taxes levied in, a community facilities district established under the Mello-Roos Act.

CFD FORMATION PROCESS AND APPROVAL OF BONDS

Prior CFD Proceedings. Under the Mello-Roos Act, and pursuant to Resolution No. 2017-21, adopted by the City Council on February 7, 2017 (the “Resolution of Formation”), the City previously formed (i) the CFD, (ii) an initial improvement area in the CFD designated “Improvement Area No. 1 of the City of Tracy Community Facilities District No. 2016-2 (ECFD)” (“Improvement Area No. 1”), and (iii) a future annexation area for the CFD (the “Future Annexation Area”).

Pursuant to Resolution No. 2017-22, adopted by the Council on February 7, 2017, the Council declared the necessity to issue and sell bonds and incur other debt to finance the authorized facilities and impact fees, including an amount not to exceed \$53,000,000 in those portions of the CFD that are not in Improvement Area No. 1, with such amount to be allocated to Future Improvement Areas as described in the Resolution of Formation.

The purpose of the City’s formation of the Future Annexation Area was to establish a process by which future phases of the Ellis development could annex into the CFD with the approval of the landowner/developer using a streamlined annexation process.

Pursuant to Resolution No. 2019-074, adopted by the Council on April 16, 2019, the City previously took actions to add property from the Future Annexation Area to the CFD as Improvement Area No. 2. The City previously issued special tax bonds for the CFD with respect to Improvement Area No. 2.

Proceedings Related to Improvement Area No. 3.

Pursuant to Resolution No. 2019-244, adopted by the Council on December 17, 2019 (the “Annexation Resolution”), the City Council took the following actions to add property from the Future Annexation Area to the CFD as a new improvement area:

- acknowledged receipt of a Unanimous Approval executed by the owner (the “Property Owner”) of Assessor’s Parcel Numbers 240-140-50, 240-140-51, 240-140-52 and 240-140-53 (the “Annexation Property”), which Unanimous Approval (1) identified, specified and approved the annexation of the Annexation Property to the CFD as a separate improvement area and other related matters and (ii) confirmed that the Unanimous Approval constituted the approval and unanimous vote of the Property Owner with respect to the matters addressed in the Unanimous Approval under the Act and Article XIII A of the California Constitution;
- confirmed that the Annexation Property had been added to the CFD as “Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD)” (“Improvement Area No. 3”);

- confirmed that the maximum aggregate principal amount of bonds and other debt for Improvement Area No. 3, as specified in the Unanimous Approval, is \$25,000,000; and
- confirmed the rate and method of apportionment of the special tax among the parcels of real property within Improvement Area No. 3, as specified and approved in the Unanimous Approval (the "Improvement Area No. 3 Rate and Method"), and as set forth in Exhibit A to the Annexation Resolution.

PROPOSED 2023 BONDS

Staff recommends that the City Council adopt the 2023 Bond Resolution for the following purposes:

- (i) provide for one or more series of bonds for the CFD with respect to Improvement Area No. 3 (the "2023 Bonds") in a principal amount not to exceed \$20,000,000,
- (ii) approve the sale of the 2023 Bonds to Piper Sandler & Co. (the "Underwriter"),
- (iii) approve the documents related to the 2023 Bonds, and
- (iv) authorize staff to take all actions necessary related to issuance of the 2023 Bonds.

TERMS OF THE 2023 BONDS

Pursuant to the Resolution, the true interest cost of the 2023 Bonds cannot exceed 7.00% and the principal amount of the 2023 Bonds cannot exceed \$20,000,000. Government Code Section 5852.1 requires the City to obtain and disclose a good faith estimate of certain information about the 2023 Bonds, including the true interest cost, the financing costs, the use of proceeds and the total payment amount, and the information is included in Appendix A of the 2023 Bond Resolution. Based upon current market conditions, the 2023 Bonds are estimated to be issued in a single series in the amount of \$16,330,000 (excluding original issue discount of approximately \$122,000) and carry a true interest cost of approximately 5.39%.

The Goals and Policies require a minimum value to lien ratio for special tax financings of 3:1 (the value-to-lien calculation compares the value of the property to the proposed principal amount of the 2023 Bonds and bonds issued by overlapping community facilities districts and assessment districts).

The current draft of the appraisal (the "Appraisal") prepared by Integra Realty Resources (the "Appraiser") was prepared consistent with the Goals and Policies.

The Appraisal reports that the taxable property in the CFD has a total value of \$191,793,000, resulting in an estimated value to lien ratio of approximately 9.59:1 based on the \$20,000,000 maximum authorized principal amount of the 2023 Bonds (there are no overlapping special tax or assessment bonds).

The proposed Resolution authorizes staff to execute a bond purchase agreement with the Underwriter only if the value to lien ratio based on the final principal amount of the 2023 Bonds will be at least 3:1.

The 2023 Bonds are a limited obligation of the City, payable only from special taxes levied in Improvement Area No. 3 and moneys in the funds and accounts established under the Fiscal Agent Agreement described below.

DOCUMENTS RELATED TO THE 2023 BONDS

In addition to authorizing the sale and issuance of the bonds, the City Council is being asked to approve each of the following:

- Preliminary Official Statement. The Official Statement is the primary disclosure document for investors in the 2023 Bonds. A Preliminary Official Statement will be circulated to potential investors prior to the pricing of the 2023 Bonds, a draft of which is attached to this staff report as Attachment A. After the 2023 Bonds have been priced, a Final Official Statement will be circulated to investors; the Final Official Statement should be identical to the Preliminary Official Statement except for the addition of pricing information (principal amount, interest rates, redemption terms).

The Preliminary Official Statement describes the special taxes to be levied in Improvement Area No. 3, each of the parcels to be taxed, and, based on information by the developers of property in Improvement Area No. 3, the development plans for the parcels within Improvement Area No. 3. The Preliminary Official Statement will also include the Appraisal of the taxable parcels in Improvement Area No. 3.

The Preliminary Official Statement is prepared by Jones Hall, serving the City as Bond Counsel and Disclosure Counsel for this transaction, with the assistance of the remainder of the financing team, including City staff; the property owners in Improvement Area No. 3; CSG Advisors Incorporated, the City's municipal advisor ("Municipal Advisor"); the Underwriter; and Goodwin Consulting, the City's special tax consultant ("Special Tax Consultant").

The Preliminary Official Statement has been reviewed and approved for transmittal to the City Council by the City's financing team. The distribution of the Preliminary Official Statement by the City is subject to federal securities laws, including the Securities Act of 1933 and the Securities Exchange Act of 1934. These laws require the Preliminary Official Statement to include all facts that would be material to an investor in the 2023 Bonds. Material information is information that there is a substantial likelihood would have actual significance in the deliberations of the reasonable investor when deciding whether to buy or sell the bonds. If the City Council concludes that the Preliminary Official Statement includes all facts that would be material to an investor in the 2023 Bonds, it must adopt a resolution that authorizes staff to execute a certificate to the effect that the Preliminary Official Statement has been "deemed final."

The Securities and Exchange Commission (the “SEC”), the agency with regulatory authority over the City’s compliance with the federal securities laws, has issued guidance as to the duties of the City Council with respect to its approval of the Preliminary Official Statement. In its “Report of Investigation in the Matter of County of Orange, California as it Relates to the Conduct of the Members of the Board of Supervisors” (Release No. 36761 / January 24, 1996) (the “Release”), the SEC stated that, if a member of the City Council has knowledge of any facts or circumstances that an investor would want to know about prior to investing in the 2023 Bonds, whether relating to their repayment, tax-exempt status, undisclosed conflicts of interest with interested parties, or otherwise, he or she should endeavor to discover whether such facts are adequately disclosed in the Preliminary Official Statement. In the Release, the SEC stated that the steps that a member of the City Council could take include becoming familiar with the Preliminary Official Statement and questioning staff and consultants about the disclosure of such facts.

The key sections of the Preliminary Official Statement are summarized below:

- “THE 2023 BONDS”: This section summarizes the key terms of the 2023 Bonds, including payment dates and redemption provisions.
 - “SECURITY FOR THE 2023 BONDS”: This section summarizes key security terms, including the City’s pledge of special tax revenues, its covenant to levy special taxes according to the Improvement Area No. 3 Rate and Method, as amended, and its covenant to foreclose on parcels that are delinquent in the payment of special taxes. As described above, the 2023 Bonds are a limited obligation of the City, payable only from special taxes levied in Improvement Area No. 3 and moneys in the funds and accounts established under the Fiscal Agent Agreement.
 - “THE DISTRICT AND IMPROVEMENT AREA NO. 3”: This section summarizes certain features of Improvement Area No. 3, including the appraised value of taxable property, overlapping taxes, assessments and debt and anticipated debt service coverage provided by maximum special taxes that may be levied under the RMA.
 - “OWNERSHIP AND DEVELOPMENT OF IMPROVEMENT AREA NO. 3”: This section includes information provided by the property owners in Improvement Area No. 3, and describes the proposed development in Improvement Area No. 3 and its current status.
 - “BOND OWNERS’ RISK”: This section highlights the primary risks associated with the 2023 Bonds, including failure to complete the proposed development, natural disasters and failure of property owners to pay their special taxes.
 - “LEGAL MATTERS - Tax Exemption”: This section describes the tax-exempt nature of interest on the 2023 Bonds.
- Continuing Disclosure Certificate. Under SEC Rule 15c2-12, the underwriter of the 2023 Bonds may only purchase the 2023 Bonds if it has determined that the City is obligated to provide continuing disclosure, including annual updates of the financial and operating data included in the Official Statement and notices of certain specified events.

- Fiscal Agent Agreement. This document, attached to this staff report as Attachment B, governs the 2023 Bonds and the use of special taxes from Improvement Area No. 3 to pay debt service on the 2023 Bonds. The special taxes will be levied on the regular County tax roll and collected by the County from each taxable parcel in Improvement Area No. 3. The County will remit these special taxes to the City. The City will remit them to the fiscal agent specified therein ("Fiscal Agent") as provided for in the Fiscal Agent Agreement. The Fiscal Agent will use the revenues to (1) pay administrative costs of the CFD and (2) pay principal of and interest on the 2023 Bonds to the bond owners.
- Bond Purchase Agreement. At the time the 2023 Bonds are sold, the City will enter into a Bond Purchase Agreement with the Underwriter, who will agree to underwrite the 2023 Bonds subject to satisfaction of the conditions described in the Bond Purchase Agreement. The resolution provides the Underwriter's discount on the purchase of the 2023 Bonds may not exceed 2.00% of the par amount of the 2023 Bonds. The Underwriter was selected as underwriter for the 2023 Bonds based upon the combination of its qualifications and proposed fees following a competitive selection process. The proposed Bond Purchase Agreement is included here as Attachment C.

STRATEGIC PLAN

This agenda item supports Governance Strategic Goal 2: Ensure Short and Long-term fiscal health and Goal 3: Increase Public Awareness around City finances and other civic matters.

FISCAL IMPACT

The fees and expenses of the City's outside financing team, including Bond Counsel, Disclosure Counsel, Underwriter, Municipal Advisor, Special Tax Consultant and Appraiser are paid from proceeds of the 2023 Bonds or paid through an existing Cost Recovery Agreement with the developer.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution 1) authorizing the issuance and sale of special tax bonds for the purpose of financing authorized facilities and 2) approving and authorizing related documents and actions, for Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2.

Prepared by: Sara Cowell, Finance Director

Reviewed by: Karin Schnaider, Assistant City Manager
Bijal Patel, City Attorney

Approved by: Midori Lichtwardt, Acting City Manager

ATTACHMENTS

- A: Preliminary Official Statement (including Continuing Disclosure Certificates)
- B: Fiscal Agent Agreement
- C: Bond Purchase Agreement

PRELIMINARY OFFICIAL STATEMENT DATED APRIL [13], 2023**NEW ISSUE – BOOK-ENTRY ONLY****NOT RATED**

In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, subject, however to certain qualifications described herein, under existing law, the interest on the 2023 Bonds is excluded from gross income for federal income tax purposes and such interest is not an item of tax preference for purposes of the federal alternative minimum tax. Interest on the 2023 Bonds may be subject to the corporate alternative minimum tax. In the further opinion of Bond Counsel, such interest is exempt from California personal income taxes. See "LEGAL MATTERS – Tax Exemption."

\$16,750,000*
IMPROVEMENT AREA NO. 3
OF THE CITY OF TRACY
COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD)
SPECIAL TAX BONDS, SERIES 2023

Dated: Date of Delivery**Due: September 1, as shown on inside cover.**

Authority for Issuance. The bonds captioned above (the "2023 Bonds") are being issued by the City of Tracy (the "City") for and on behalf of the City of Tracy Community Facilities District No. 2016-2 (ECFD) (the "District") with respect to its Improvement Area No. 3 ("Improvement Area No. 3") under the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), the Resolution of Issuance (as defined herein), and a Fiscal Agent Agreement dated as of May 1, 2023 (the "Fiscal Agent Agreement"), by and between the City and U.S. Bank Trust Company, National Association, as fiscal agent (the "Fiscal Agent"). See "THE 2023 BONDS – Authority for Issuance."

Security and Sources of Payment. The 2023 Bonds are payable from proceeds of Special Tax Revenues (as defined herein) levied on property within Improvement Area No. 3 according to the rate and method of apportionment of special tax approved by the City Council of the City (the "City Council"), acting as legislative body of the District, and the eligible landowner voters in Improvement Area No. 3 of the District. The 2023 Bonds are secured by a first pledge of the Special Tax Revenues (as defined in the Fiscal Agent Agreement) and the moneys on deposit in certain funds held by the Fiscal Agent under the Fiscal Agent Agreement, on a parity with bonds that may be issued in the future, subject to the conditions set forth in the Fiscal Agent Agreement. See "SECURITY FOR THE 2023 BONDS." The 2023 Bonds and any Parity Bonds (as defined herein) are referred to herein as the "Bonds."

Use of Proceeds. The 2023 Bonds are being issued to (i) finance the acquisition and construction of certain public improvements [and the payment of impact fees to be used to finance public facilities], (ii) fund a debt service reserve fund for the 2023 Bonds, and (iii) pay the costs of issuing the 2023 Bonds. See "FINANCING PLAN."

Bond Terms. Interest on the 2023 Bonds is payable on September 1, 2023, and semiannually thereafter on each March 1 and September 1. The 2023 Bonds will be issued in denominations of \$5,000 or integral multiples of \$5,000. The 2023 Bonds, when delivered, will be initially registered in the name of Cede & Co., as nominee of The Depository Trust Company ("DTC"). DTC will act as securities depository for the 2023 Bonds. See "THE 2023 BONDS – General Bond Terms" and "APPENDIX D – DTC and the Book-Entry Only System."

Redemption*. The 2023 Bonds are subject to optional redemption, mandatory sinking fund redemption and special redemption from prepaid Special Taxes. See "THE 2023 BONDS – Redemption."

The 2023 Bonds are not general obligations of the City, but are limited obligations, payable solely from the Special Tax Revenues and the funds pledged therefor under the Fiscal Agent Agreement. Neither the faith and credit nor the taxing power of the City (except to the limited extent set forth in the Fiscal Agent Agreement) or of the State of California (the "State") or any political subdivision thereof is pledged to the payment of the 2023 Bonds.

MATURITY SCHEDULE

(see inside cover)

This cover page contains certain information for quick reference only. It is not a summary of the issue. Potential investors must read the entire Official Statement to obtain information essential to the making of an informed investment decision. Investment in the 2023 Bonds involves risks which may not be appropriate for some investors. See "BOND OWNERS' RISKS" for a discussion of special risk factors that should be considered in evaluating the investment quality of the 2023 Bonds.

The 2023 Bonds are offered when, as and if issued and accepted by the Underwriter, subject to approval as to their legality by Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, and subject to certain other conditions. Jones Hall, A Professional Law Corporation, has served as disclosure counsel to the City. Stradling Yocca Carlson & Rauth, A Professional Corporation, Newport Beach, California, is serving as counsel to the Underwriter. Holland & Knight LLP, San Francisco, California, is serving as counsel to the Master Developer and Hefner, Stark & Marois, LLP, Sacramento, California, is serving as counsel to LS-Tracy LLC. It is anticipated that the 2023 Bonds, in book-entry form, will be available for delivery through the facilities of DTC on or about May [8], 2023.

[Piper Sandler Logo]

The date of this Official Statement is: _____, 2023.

* Preliminary; subject to change.

This Preliminary Official Statement and the information contained herein are subject to completion or amendment. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or a solicitation of an offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer solicitation or sale would be unlawful prior to registration or qualification under the securities laws of such jurisdiction.

MATURITY SCHEDULE*

\$ _____ Serial Bonds
(Base CUSIP†: _____)

Maturity (September 1)	Principal Amount	Interest Rate	Yield	Price	CUSIP†
---------------------------	---------------------	------------------	-------	-------	--------

\$ ____ % Term Bond due September 1, 20____, Yield: __%, Price: __%
CUSIP† No. ____

\$ ____ % Term Bond due September 1, 20____, Yield: __%, Price: __%
CUSIP† No. ____

* Preliminary; subject to change.

† CUSIP Global Services (CGS) is managed on behalf of American Bankers Association by FactSet Research Systems Inc. Copyright© 2023 CUSIP Global Services. This data is not intended to create a database and does not serve in any way as a substitute for the CGS database. CUSIP® numbers are provided for convenience of reference only. Neither the City nor the Underwriter or their agents or counsel assume responsibility for the accuracy of such numbers.

CITY OF TRACY

CITY COUNCIL

Nancy Young, *Mayor*
Eleassia Davis, *Mayor Pro Tem*
Dan Arriola, *Council Member*
Matt Bedolla, *Council Member*
Dan Evans, *Council Member*

CITY STAFF

Midori Lichtwardt, *Acting City Manager*
Karin Schnaider, *Assistant City Manager*
Sara Cowell, *Finance Director*
Adrienne Richardson, *City Clerk*
Bijal Patel, *City Attorney*

PROFESSIONAL SERVICES

BOND COUNSEL and DISCLOSURE COUNSEL

Jones Hall, A Professional Law Corporation
San Francisco, California

MUNICIPAL ADVISOR

CSG Advisors Incorporated
San Francisco, California

SPECIAL TAX CONSULTANT

Goodwin Consulting Group, Inc.
Sacramento, California

APPRAISER

Integra Realty Resources
San Francisco, California

FISCAL AGENT

U.S. Bank Trust Company, National Association
San Francisco, California

[INSERT REGIONAL MAP]

[INSERT LOCATION MAP]

GENERAL INFORMATION ABOUT THIS OFFICIAL STATEMENT

No Offering May Be Made Except by this Official Statement. No dealer, broker, salesperson or other person has been authorized to give any information or to make any representations with respect to the 2023 Bonds other than as contained in this Official Statement, and if given or made, such other information or representation must not be relied upon as having been authorized.

No Unlawful Offers or Solicitations. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy in any state in which such offer or solicitation is not authorized or in which the person making such offer or solicitation is not qualified to do so or to any person to whom it is unlawful to make such offer or solicitation.

Effective Date. This Official Statement speaks only as of its date, and the information and expressions of opinion contained in this Official Statement are subject to change without notice. Neither the delivery of this Official Statement nor any sale of the 2023 Bonds will, under any circumstances, create any implication that there has been no change in the affairs of the City, the District, any other parties described in this Official Statement, or in the condition of property within Improvement Area No. 3 of the District since the date of this Official Statement.

Use of this Official Statement. This Official Statement is submitted in connection with the sale of the 2023 Bonds referred to herein and may not be reproduced or used, in whole or in part, for any other purpose. This Official Statement is not a contract with the purchasers of the 2023 Bonds.

Preparation of this Official Statement. The information contained in this Official Statement has been obtained from sources that are believed to be reliable, but this information is not guaranteed as to accuracy or completeness.

The Underwriter has provided the following sentence for inclusion in this Official Statement: The Underwriter has reviewed the information in this Official Statement in accordance with, and as part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

Document References and Summaries. All references to and summaries of the Fiscal Agent Agreement or other documents contained in this Official Statement are subject to the provisions of those documents and do not purport to be complete statements of those documents.

Stabilization of and Changes to Offering Prices. The Underwriter may over allot or take other steps that stabilize or maintain the market prices of the 2023 Bonds at levels above those that might otherwise prevail in the open market. If commenced, the Underwriter may discontinue such market stabilization at any time. The Underwriter may offer and sell the 2023 Bonds to certain securities dealers, dealer banks and banks acting as agent at prices lower than the public offering prices stated on the inside cover page of this Official Statement, and those public offering prices may be changed from time to time by the Underwriter.

Bonds are Exempt from Securities Laws Registration. The issuance and sale of the 2023 Bonds have not been registered under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, in reliance upon exemptions for the issuance and sale of municipal securities provided under Section 3(a)(2) of the Securities Act of 1933 and Section 3(a)(12) of the Securities Exchange Act of 1934.

Estimates and Projections. Certain statements included or incorporated by reference in this Official Statement constitute "forward-looking statements" within the meaning of the United States Private Securities Litigation Reform Act of 1995, Section 21E of the United States Securities Exchange Act of 1934, as amended, and Section 27A of the United States Securities Act of 1933, as amended. Such statements are generally identifiable by the terminology used such as "plan," "expect," "estimate," "budget" or other similar words.

The achievement of certain results or other expectations contained in such forward-looking statements involve known and unknown risks, uncertainties and other factors which may cause actual results, performance or achievements described to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. The District does not plan to issue any updates or revisions to those forward-looking statements if or when its expectations, or events, conditions or circumstances on which such statements are based occur.

The City maintains an Internet website, but the information on the website is not incorporated in this Official Statement.

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OFFICIAL STATEMENT

\$16,750,000*
IMPROVEMENT AREA NO. 3 OF THE CITY OF TRACY
COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD)
SPECIAL TAX BONDS, SERIES 2023

INTRODUCTION

This Official Statement, including the cover page, inside cover and attached appendices, is provided to furnish information regarding the bonds captioned above (the “**2023 Bonds**”) to be issued by the City of Tracy (the “**City**”) on behalf of the City of Tracy Community Facilities District No. 2016-2 (ECFD) (the “**District**”) with respect to its Improvement Area No. 3 (“**Improvement Area No. 3**”).

This introduction is not a summary of this Official Statement. It is only a brief description of and guide to, and is qualified by, more complete and detailed information contained in the entire Official Statement, including the cover page, the inside cover and attached appendices, and the documents summarized or described in this Official Statement. A full review should be made of the entire Official Statement. The offering of the 2023 Bonds to potential investors is made only by means of the entire Official Statement. Capitalized terms used but not defined in this Official Statement have the definitions given in the Fiscal Agent Agreement (as defined below).

The District and Improvement Area No. 3. The District is located in the southwestern part of the City. At the time of establishment of the District, a future annexation area was also established for the District (the “**Future Annexation Area**”). Since the establishment of the District, certain parcels in the Future Annexation Area have annexed into Improvement Area No. 3 and further parcels may annex into one or more improvement areas in the future. Unless and until parcels annex into Improvement Area No. 3, they do not serve as security for the 2023 Bonds. The City does not currently expect that any future annexations of property into Improvement Area No. 3 will occur.

The District was formed and established by the City Council of the City (the “**City Council**”), as legislative body of the District, under the Mello-Roos Community Facilities Act of 1982, as amended (the “**Act**”), pursuant to a resolution adopted by the City Council following a public hearing, and the landowners of the property included in Improvement Area No. 3, by unanimous approval, approved the annexation of Improvement Area No. 3 to the District, authorized the City to incur bonded indebtedness with respect to Improvement Area No. 3, and approved the levy of special taxes within Improvement Area No. 3. See “THE DISTRICT AND IMPROVEMENT AREA NO. 3 – Formation and Background.”

Authority for Issuance of the 2023 Bonds. The 2023 Bonds are issued under the Act, a resolution adopted by the City Council on December 17, 2019 (the “**Annexation Resolution**”), a resolution adopted by the City Council on [April 4], 2023 (the “**Resolution of Issuance**”), and a Fiscal Agent Agreement, dated as of May 1, 2023 (the “**Fiscal Agent Agreement**”), by and between the City and U.S. Bank Trust Company, National Association, as fiscal agent (the “**Fiscal Agent**”). The City Council, as legislative body of the District, has authorized the issuance of the 2023 Bonds in an aggregate principal amount not to exceed \$20,000,000. See “THE 2023 BONDS – Authority for Issuance.”

* Preliminary; subject to change.

Purpose of the 2023 Bonds. Proceeds of the 2023 Bonds will be used primarily to finance the acquisition and construction of certain authorized improvements [and the payment of impact fees to be used to finance public facilities]. Proceeds of the 2023 Bonds will also be used fund a debt service reserve fund for the 2023 Bonds and to pay the costs of issuing the 2023 Bonds. See “FINANCING PLAN.”

Redemption of Bonds before Maturity.* The 2023 Bonds are subject to optional redemption, mandatory sinking fund redemption and special redemption from prepaid Special Taxes (as defined below). See “THE 2023 BONDS – Redemption.”

Security and Sources of Payment for the 2023 Bonds. The City Council annually levies special taxes on the property in Improvement Area No. 3 (the “**Special Taxes**”) in accordance with the Rate and Method of Apportionment for Improvement Area No. 3 (the “**Rate and Method**”). As used in this Official Statement, Special Taxes refers only to the Facilities Special Tax levied under the Rate and Method. See “SECURITY FOR THE 2023 BONDS – Rate and Method.” The 2023 Bonds are secured by and payable from a first pledge of the net proceeds of the Special Taxes (as more particularly defined in the Fiscal Agent Agreement, the “**Special Tax Revenues**”), on a parity with any bonds that may be issued in the future, subject to the conditions set forth in the Fiscal Agent Agreement. The 2023 Bonds will be additionally secured by certain funds and accounts established and held under the Fiscal Agent Agreement. See “SECURITY FOR THE 2023 BONDS.”

Debt Service Reserve Fund. In order to further secure the payment of principal of and interest on the 2023 Bonds (and any series of Parity Bonds), certain proceeds of the 2023 Bonds will be deposited into the 2023 Reserve Fund in an amount equal to the 2023 Reserve Requirement (as defined herein). See “FINANCING PLAN” and “SECURITY FOR THE 2023 BONDS – 2023 Reserve Fund.”

Covenant to Foreclose. The City has covenanted in the Fiscal Agent Agreement to cause foreclosure proceedings to be commenced and prosecuted against certain parcels with delinquent installments of the Special Taxes. For a more detailed description of the foreclosure covenant see “SECURITY FOR THE 2023 BONDS – Covenant to Foreclose.”

Property Ownership and Development Status. The property in Improvement Area No. 3 (herein, the “**Property**”) consists of approximately 73.65 acres (41 net acres) being developed into 308 single-family lots by LS-Tracy LLC, a Delaware limited liability company (“**LS-Tracy LLC**”) and certain of its affiliates, all of which are affiliated with Landsea Homes Corporation (“**Landsea Homes Corporation**”) and, collectively with its affiliates, “**Landsea**”), a publicly traded homebuilder (Nasdaq: LSEA) based in Newport Beach, California that has operations in several states and has been building homes in Northern California for over eight years. All off-site improvements for Improvement Area No. 3 required to be completed as a condition of receiving occupancy permits are complete. LS-Tracy LLC has completed substantially all site improvements, with only crosswalk pavers, entry monument, park and parkway landscaping remaining to be completed as of February 1, 2023. LS-Tracy LLC held a grand opening featuring 10 model homes in September 2022. As of February 1, 2023, LS-Tracy LLC had pulled 266 full building permits and 42 foundation-only permits, with the remaining 42 full-building permits expected to be pulled by December 2023. As of February 1, 2023, ownership of the 308 lots within Improvement Area No. 3 was as follows:

* Preliminary; subject to change.

Status	# of Lots
<i>Developed Property</i>	
Individual Homeowners	173
Landsea - Completed Model Homes	10
Landsea - Homes Under Construction	51
<i>Undeveloped Property</i>	
Landsea - Finished Lot	74

For additional information about the current development status and proposed development plans for the Property in Improvement Area No. 3, see “OWNERSHIP AND DEVELOPMENT OF IMPROVEMENT AREA NO. 3.”

The land in Improvement Area No. 3 is part of a larger residential community referred to as the “Ellis Development” being developed by Surland Communities LLC, a California limited liability company (the “**Master Developer**”), as the master developer, which includes property within Improvement Area No. 1 and Improvement Area No. 2, the Property within Improvement Area No. 3, and property identified as part of the Future Annexation Area that may annex into the District to a then-existing Improvement Area or to a new Improvement Area. The City currently expects that any future annexations will be into a new improvement area (Improvement Area No. 4).

Appraised Value of Property in Improvement Area No. 3. An appraisal of certain property within Improvement Area No. 3, dated February 21, 2023 (the “**Appraisal**”), was prepared by Integra Realty Resources, San Francisco, California (the “**Appraiser**”) in connection with issuance of the 2023 Bonds. The Appraisal has a date of value of January 3, 2023 and appraised property as of that date consisted of 179 completed single-family homes that did not have a complete assessed value for both land and improvements, 55 homes under construction, and 74 finished lots. The purpose of the Appraisal was to estimate the market value of the fee simple estate, subject to lien of the Special Taxes and overlapping liens, for all the taxable property within Improvement Area No. 3 as of a January 3, 2023 date of value. Subject to the assumptions contained in the Appraisal, the Appraiser estimated that the taxable property within Improvement Area No. 3, subject to the lien of the Special Taxes and overlapping liens, had an estimated cumulative appraised and assessed value of \$191,793,000. See “THE DISTRICT AND IMPROVEMENT AREA NO. 3 – Value of Property in Improvement Area No. 3” for further information on the Appraisal. A complete copy of the Appraisal is included in this Official Statement as APPENDIX H.

Value-to-Lien Ratios in Improvement Area No. 3. Based on the appraised value of the taxable property within Improvement Area No. 3 of \$191,793,000 and a par amount of 2023 Bonds of \$16,750,000*, the overall value-to-lien ratio of the taxable property within Improvement Area No. 3 is approximately 11.5* to 1, not including overlapping general obligation bond indebtedness. See “THE DISTRICT AND IMPROVEMENT AREA NO. 3 – Direct and Overlapping Governmental Obligations.” This is an overall estimate, however, and the value-to-lien ratios of individual parcels varies widely from this ratio.

Risk Factors Associated with Purchasing the 2023 Bonds. Investment in the 2023 Bonds involves risks that may not be appropriate for some investors. See “BOND OWNERS' RISKS” for a discussion of certain risk factors which should be considered, in addition to the other matters set forth in this Official Statement, in considering the investment quality of the 2023 Bonds.

* Preliminary; subject to change.

FINANCING PLAN

Authorized Facilities

The net proceeds of the 2023 Bonds will be used to construct and/or acquire various facilities authorized to be financed by the District, including Improvement Area No. 3[, and payment of certain impact fees to be used to finance public facilities]. For a complete list of the authorized facilities, see “THE DISTRICT AND IMPROVEMENT AREA NO. 3 – Authorized Facilities.”

Sources and Uses of Funds

The estimated proceeds from the sale of the 2023 Bonds will be used as follows:

<u>SOURCES</u>	
Principal Amount of 2023 Bonds	\$
<i>Plus/Less: Net Original Issue Premium/Discount</i>	
<i>Total Sources</i>	<hr/> \$
 <u>USES</u>	
Deposit into Improvement Fund	\$
Deposit into 2023 Reserve Fund ⁽¹⁾	
Costs of Issuance ⁽²⁾	
<i>Total Uses</i>	<hr/> \$

- (1) Equal to the 2023 Reserve Requirement with respect to the 2023 Bonds as of their date of delivery.
- (2) Includes, among other things, the fees and expenses of Bond Counsel and Disclosure Counsel, printing the Preliminary and Final Official Statements, the Fiscal Agent, the Municipal Advisor, and the Special Tax Consultant, and Underwriter’s discount.

THE 2023 BONDS

This section generally describes the terms of the 2023 Bonds contained in the Fiscal Agent Agreement, which is summarized in more detail in APPENDIX C. Capitalized terms used but not defined in this section are defined in APPENDIX C.

Authority for Issuance

The 2023 Bonds are issued under the Act, the Resolution of Issuance and the Fiscal Agent Agreement. Under the Resolution of Issuance, the 2023 Bonds may be issued in a maximum principal amount of \$20,000,000.

General Bond Terms

Dated Date, Maturity and Authorized Denominations. The 2023 Bonds will be dated their date of delivery (the “**Closing Date**”) and will mature in the amounts and on the dates set forth on the inside cover page of this Official Statement. The 2023 Bonds will be issued in fully registered form in denominations of \$5,000 each or any integral multiple of \$5,000 in excess thereof.

Calculation of Interest. Interest will be calculated on the basis of a 360-day year composed of twelve 30-day months. The 2023 Bonds will bear interest at the annual rates set forth on the inside cover page of this Official Statement, payable semiannually on each March 1 and September 1, commencing September 1, 2023 (each, an “**Interest Payment Date**”).

Each 2023 Bond will bear interest from the Interest Payment Date next preceding its date of authentication unless:

(i) it is authenticated on an Interest Payment Date, in which event it will bear interest from such date of authentication, or

(ii) it is authenticated prior to an Interest Payment Date and after the close of business on the Record Date (as defined below) preceding such Interest Payment Date, in which event it will bear interest from such Interest Payment Date, or

(iii) it is authenticated prior to the Record Date preceding the first Interest Payment Date, in which event it will bear interest from the Closing Date;

provided, however, that if at the time of authentication of a 2023 Bond, interest is in default thereon, such 2023 Bond will bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

“**Record Date**” means the 15th day of the calendar month next preceding the applicable Interest Payment Date, whether or not such day is a Business Day.

DTC and Book-Entry Only System. DTC will act as securities depository for the 2023 Bonds. The 2023 Bonds will be issued as fully-registered securities registered initially in the name of Cede & Co. (DTC’s partnership nominee). See APPENDIX D – “DTC AND THE BOOK-ENTRY ONLY SYSTEM.”

Payments of Interest and Principal. For so long as DTC is used as depository for the 2023 Bonds, principal of, premium, if any, and interest payments on the 2023 Bonds will be made solely to DTC or its nominee, Cede & Co., as registered owner of the 2023 Bonds, for distribution to the beneficial owners of the 2023 Bonds in accordance with the procedures adopted by DTC.

Interest on the 2023 Bonds (including the final interest payment upon maturity or earlier redemption), is payable on the applicable Interest Payment Date by check of the Fiscal Agent mailed by first-class mail to the registered Owner thereof at such registered Owner's address as it appears on the registration books maintained by the Fiscal Agent at the close of business on the Record Date preceding the Interest Payment Date, or by wire transfer made on such Interest Payment Date upon written instructions of any Owner of \$1,000,000 or more in aggregate principal amount of 2023 Bonds delivered to the Fiscal Agent prior to the applicable Record Date, which will continue in effect until revoked in writing, or until such 2023 Bonds are transferred to a new Owner.

The principal of the 2023 Bonds and any premium on the 2023 Bonds are payable in lawful money of the United States of America upon surrender of the 2023 Bonds at the Principal Office of the Fiscal Agent.

Redemption*

Optional Redemption from any Source other than Prepayments. The 2023 Bonds maturing on or after September 1, 20___, are subject to optional redemption as directed by the City, from sources of funds other than prepayments of Special Taxes, prior to their stated maturity on any date on or after September 1, 20___, as a whole or in part, at a redemption price (expressed as a percentage of the principal amount of the 2023 Bonds to be redeemed), as set forth below, together with accrued interest thereon to the date fixed for redemption:

<u>Redemption Dates</u>	<u>Redemption Price</u>
September 1, ___ through August 31, ___	___%
September 1, ___ through August 31, ___	___
September 1, ___ through August 31, ___	___
September 1, ___ and any date thereafter	___

Mandatory Sinking Fund Redemption. The 2023 Bonds maturing on September 1, 20__ (the "Term Bonds"), are subject to mandatory redemption in part by lot, from sinking fund payments made by the City from the Bond Fund, at a redemption price equal to the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts all as set forth in the following table:

<u>Sinking Fund Redemption Date (September 1)</u>	<u>Sinking Payments</u>
	\$

(maturity)

* Preliminary; subject to change.

However, if some but not all of the Term Bonds of a given maturity have been redeemed through optional redemption or mandatory prepayment redemption, the total amount of all future Sinking Fund Payments relating to such maturity will be reduced by the aggregate principal amount of Term Bonds of such maturity so redeemed, to be allocated among such Sinking Fund Payments on a pro rata basis in integral multiples of \$5,000 as determined by the City, notice of which will be given by the City to the Fiscal Agent.

Redemption from Special Tax Prepayments. Special Tax Prepayments and any corresponding transfers from the 2023 Reserve Fund under the Fiscal Agent Agreement will be used to redeem 2023 Bonds on the next Interest Payment Date for which notice of redemption can timely be given under the Fiscal Agent Agreement, among series and maturities so as to maintain substantially the same debt service profile for the Bonds as in effect prior to such redemption and by lot within a maturity, at a redemption price (expressed as a percentage of the principal amount of the 2023 Bonds to be redeemed), as set forth below, together with accrued interest to the date fixed for redemption:

<u>Redemption Dates</u>	<u>Redemption Price</u>
Any Interest Payment Date on or before March 1, ____	____%
September 1, ____ and March 1, ____	____%
September 1, ____ and March 1, ____	____%
September 1, ____ and any Interest Payment Date thereafter	____%

See “BOND OWNERS’ RISKS – Potential Early Redemption of Bonds from Prepayments” for a discussion of the potential for the 2023 Bonds to be priced with original issue premium and then be redeemed from Special Tax prepayments prior to maturity or the optional redemption date.

Purchase in Lieu of Redemption. In lieu of redemption, moneys in the Bond Fund may be used and withdrawn by the Fiscal Agent for purchase of Outstanding 2023 Bonds upon the filing with the Fiscal Agent of an Officer’s Certificate requesting such purchase, at public or private sale as and when, and at such prices (including brokerage and other charges) as such Officer’s Certificate may provide, but in no event may 2023 Bonds be purchased at a price in excess of the principal amount thereof, plus interest accrued to the date of purchase and any premium which would otherwise be due if such 2023 Bonds were to be redeemed in accordance with the Fiscal Agent Agreement.

Notice of Redemption. The Fiscal Agent will cause notice of any redemption to be mailed by first-class mail, postage prepaid, at least 20 days but not more than 60 days prior to the date fixed for redemption, to the Original Purchaser, the Securities Depositories, and to the respective registered Owners of any 2023 Bonds designated for redemption, at their addresses appearing on the 2023 Bond registration books in the Principal Office of the Fiscal Agent; but such mailing will not be a condition precedent to such redemption and failure to mail or to receive any such notice, or any defect therein, will not affect the validity of the proceedings for the redemption of such 2023 Bonds. In addition, the Fiscal Agent will file each notice of redemption with the MSRB through its EMMA system.

However, while the 2023 Bonds are subject to DTC’s book-entry system, the Fiscal Agent will be required to give notice of redemption only to DTC as provided in the letter of representations executed by the City and received and accepted by DTC. DTC and the Participants will have sole responsibility for providing any such notice of redemption to the Beneficial Owners of the 2023 Bonds to be redeemed. Any failure of DTC to notify any Participant, or any failure of Participants to notify the Beneficial Owner of any 2023 Bonds to be redeemed, of a notice of redemption or its content or effect will not affect the validity of the notice of redemption, or alter the effect of redemption set forth in the Fiscal Agent Agreement.

Conditional Redemption Notice and Rescission of Redemption. Any redemption notice may specify that redemption on the specified date will be subject to receipt by the City of moneys sufficient to cause such redemption (and will specify the proposed source of such moneys), and neither the City nor

the Fiscal Agent will have any liability to the Owners or any other party as a result of its failure to redeem the Series 2023 Bonds as a result of insufficient moneys.

The City will have the right to rescind any notice of the optional redemption of 2023 Bonds by written notice to the Fiscal Agent on or prior to the date fixed for redemption. Any notice of redemption will be cancelled and annulled if for any reason funds will not be or are not available on the date fixed for redemption for the payment in full of the 2023 Bonds then called for redemption, and such cancellation will not constitute a default under the Fiscal Agent Agreement.

The City and the Fiscal Agent have no liability to the Owners or any other party related to or arising from such rescission of redemption. The Fiscal Agent will mail notice of such rescission of redemption in the same manner as the original notice of redemption was sent under the Fiscal Agent Agreement.

Selection of 2023 Bonds for Redemption. Whenever provision is made in the Fiscal Agent Agreement for the redemption of less than all the 2023 Bonds of any maturity or any given portion thereof, the Fiscal Agent will select the 2023 Bonds to be redeemed by lot in any manner which the Fiscal Agent in its sole discretion deems appropriate.

Effect of Redemption. From and after the date fixed for redemption, if funds available for the payment of the principal of, and interest and any premium on, the 2023 Bonds called for redemption have been deposited in the Bond Fund, those 2023 Bonds will cease to be entitled to any benefit under the Fiscal Agent Agreement other than the right to receive payment of the redemption price, and no interest will accrue thereon on or after the redemption date specified in the notice of redemption.

Registration, Transfer and Exchange

The following provisions regarding the exchange and transfer of the 2023 Bonds apply only during any period in which the 2023 Bonds are not subject to DTC's book-entry system. While the 2023 Bonds are subject to DTC's book-entry system, their exchange and transfer will be effected through DTC and the Participants and will be subject to the procedures, rules and requirements established by DTC. See "APPENDIX D – DTC and the Book-Entry Only System."

Registration. The Fiscal Agent will keep, or cause to be kept, at its Principal Office sufficient books for the registration and transfer of the 2023 Bonds, which will show the series number, date, amount, rate of interest and last known owner of each 2023 Bond and will at all times be open to inspection by the City during regular business hours upon reasonable notice; and, upon presentation for such purpose, the Fiscal Agent will, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, the ownership of the 2023 Bonds as provided in the Fiscal Agent Agreement.

The City and the Fiscal Agent will treat the Owner of any 2023 Bond whose name appears on the Bond register as the absolute Owner of such 2023 Bond for any and all purposes, and the City and the Fiscal Agent will not be affected by any notice to the contrary. The City and the Fiscal Agent may rely on the address of the Bondowner as it appears in the Bond register for any and all purposes.

Registration of Exchange or Transfer. Any 2023 Bond may, in accordance with its terms, be transferred, upon the Bond register by the person in whose name it is registered, in person or by such person's duly authorized attorney, upon surrender of such 2023 Bond for cancellation, accompanied by delivery of a duly written instrument of transfer in a form acceptable to the Fiscal Agent.

2023 Bonds may be exchanged at the Principal Office of the Fiscal Agent solely for a like aggregate principal amount of 2023 Bonds of authorized denominations and of the same maturity.

The cost for any services rendered or any expenses incurred by the Fiscal Agent in connection with any such transfer or exchange will be paid by the City. The Fiscal Agent will collect from the Owner requesting such transfer or exchange any tax or other governmental charge required to be paid with respect to such transfer or exchange. Whenever any 2023 Bond or 2023 Bonds are surrendered for transfer or exchange, the City will execute and the Fiscal Agent will authenticate and deliver a new 2023 Bond or 2023 Bonds, for a like aggregate principal amount.

No transfers or exchanges of 2023 Bonds will be required to be made (i) 15 days prior to the date established by the Fiscal Agent for selection of 2023 Bonds for redemption or (ii) with respect to a 2023 Bond after such 2023 Bond has been selected for redemption; or (iii) between a Record Date and the succeeding Interest Payment Date.

DEBT SERVICE SCHEDULE

Debt Service Schedule. The following table presents the annual debt service on the 2023 Bonds (including mandatory sinking fund redemptions), assuming there are no optional redemptions or special redemptions from Special Tax Prepayments.

Year Ending September 1	2023 Bonds Principal	2023 Bonds Interest	2023 Bonds Total
2023	\$	\$	\$
2024			
2025			
2026			
2027			
2028			
2029			
2030			
2031			
2032			
2033			
2034			
2035			
2036			
2037			
2038			
2039			
2040			
2041			
2042			
2043			
2044			
2045			
2046			
2047			
2048			
2049			
2050			
2051			
2052			
Total:	\$	\$	\$

Special Tax Revenues and Projected Debt Service Coverage

Debt service on the 2023 Bonds is structured so that commencing with Fiscal Year 2023-24, annual Special Tax Revenues, if levied at the Maximum Special Tax rates in the Rate and Method and assuming all properties are classified as Developed Property, net of Administrative Expenses, will result in an annual debt service coverage ratio of at least 110%. However, as of February 1, 2023, there are 42 parcels classified as Undeveloped Property because full building permits had not yet been pulled. Because Special Tax rates for Undeveloped Property are based on acreage, some parcels have disproportionate Undeveloped Maximum Special Taxes attributable on a per parcel basis due to the size of the lot. In a worst case, in which the smallest of these 42 parcels remain classified as Undeveloped Property, Maximum Facilities Special Tax Revenues could be lower than projected and could reduce debt service coverage to approximately 108.8% until such time as all parcels were classified as Developed Property. Landsea expects to pull the remaining 42 full building permits by December 2023. See "OWNERSHIP AND DEVELOPMENT OF IMPROVEMENT AREA NO. 3 – Landsea Development Plan."

SECURITY FOR THE 2023 BONDS

This section generally describes the security for the 2023 Bonds set forth in the Fiscal Agent Agreement, which is summarized in more detail in APPENDIX C. Capitalized terms used but not defined in the section are defined in APPENDIX C.

General

The 2023 Bonds and any Parity Bonds (collectively, the “**Bonds**”) are secured by a first pledge (which will be effected in the manner and to the extent provided in the Fiscal Agent Agreement) of all of the Special Tax Revenues and all moneys deposited in the Bond Fund (including the Special Tax Prepayments Account), and, until disbursed as provided therein, in the Special Tax Fund.

The Special Tax Revenues and all moneys deposited into such funds (except as otherwise provided in the Fiscal Agent Agreement) are dedicated to the payment of the principal of, and interest and any premium on, the Bonds as provided in the Fiscal Agent Agreement and in the Act until all of the Bonds have been paid and retired or until moneys or Federal Securities have been set aside irrevocably for that purpose under the Fiscal Agent Agreement.

The 2023 Bonds and all Parity Bonds (as defined herein) will be secured by a first pledge (which will be effected in the manner and to the extent provided in the Fiscal Agent Agreement) of all moneys deposited in the 2023 Reserve Fund. The moneys in the 2023 Reserve Fund (except as otherwise provided in the Fiscal Agent Agreement) are dedicated to the payment of the principal of, and interest and any premium on, the 2023 Bonds and all Parity Bonds as provided in the Fiscal Agent Agreement and in the Act until all of the 2023 Bonds and all Parity Bonds have been paid and retired or until moneys or Federal Securities have been set aside irrevocably for that purpose under the Fiscal Agent Agreement.

Amounts in the Improvement Fund (and the accounts therein), the Administrative Expense Fund and the Costs of Issuance Fund are not pledged to the repayment of the Bonds. The Project is not pledged to the repayment of the Bonds, nor are the proceeds of any condemnation or insurance award received by the City with respect to the Project.

“**Special Tax Revenues**” are defined in the Fiscal Agent Agreement as the proceeds of the Special Taxes received by the City, including any scheduled payments thereof and any Special Tax Prepayments, interest thereon and proceeds of the redemption or sale of property sold as a result of foreclosure of the lien of the Special Taxes to the amount of said lien and interest thereon. *However*, Special Tax Revenues do not include any interest in excess of the interest due on the Bonds, or any penalties collected in connection with any such foreclosure.

Limited Obligation

The 2023 Bonds are not general obligations of the City, but are limited obligations, payable solely from the Special Tax Revenues and the funds pledged therefor under the Fiscal Agent Agreement. Neither the faith and credit nor the taxing power of the City (except to the limited extent set forth in the Fiscal Agent Agreement) or of the State or any political subdivision thereof is pledged to the payment of the 2023 Bonds.

Special Taxes

Covenant to Levy Special Taxes. The Finance Director will fix and levy the amount of Special Taxes within Improvement Area No. 3 required to pay the following amounts, taking into account the balances in the applicable funds established under the Fiscal Agent Agreement:

(i) the principal of and interest on any outstanding Bonds of the District with respect to Improvement Area No. 3 becoming due and payable during the ensuing calendar year,

(ii) any necessary replenishment or expenditure of the 2023 Reserve Fund, to the extent such replenishment has not been included in the computation of the Special Taxes in a previous Fiscal Year,

(iii) the Administrative Expenses, including amounts necessary to discharge any rebate obligation, during such year,

(iv) an amount to cure delinquencies in the payment of principal or interest on Bonds that occurred in the previous Fiscal Year, and

(v) any Project costs to be paid from Special Taxes to the extent that paying for such costs does not increase the Special Taxes levied on Undeveloped Property.

During the Remainder Taxes Period, the Finance Director will fix and levy the Special Taxes at the Maximum Special Tax rate on Developed Property before considering any Capitalized Interest (as those terms are defined in the Rate and Method). The Special Taxes so levied may not exceed the authorized amounts as provided in the proceedings under the Resolution of Formation.

Manner of Collection. Except as set forth in the Ordinance, the Fiscal Agent Agreement provides that the Special Taxes will be payable and be collected in the same manner and at the same time and in the same installment as the general taxes on real property are payable, and have the same priority, become delinquent at the same time and in the same proportionate amounts and bear the same proportionate penalties and interest after delinquency as do the *ad valorem* taxes on real property.

Because the Special Tax levy is limited to the maximum Special Tax rates set forth in the Rate and Method, no assurance can be given that, in the event of Special Tax delinquencies, the receipts of Special Taxes will, in fact, be collected in sufficient amounts in any given year to pay debt service on the Bonds. In addition, under the Fiscal Agent Agreement, the first use of Special Tax Revenues is the payment of Administrative Expenses in an amount not to exceed the amount included in the Special Tax levy for such Fiscal Year for Administrative Expenses. Further, under no circumstances will the Special Tax levied against any parcel of residential property for which an occupancy permit for private residential use has been issued be increased by more than 10% as a consequence of delinquency or default by the owner of any other parcel within the District. Finally, in no event shall Special Taxes be levied after fiscal year 2060-61. See “BOND OWNERS’ RISKS – Property Tax Delinquencies.”

Rate and Method

General. The Special Taxes will be levied and collected according to the Rate and Method, which provides the means by which the City Council may annually levy the Special Taxes within Improvement Area No. 3, up to the maximum Special Tax rates, and to determine the amount of the Special Taxes that will need to be collected each fiscal year from the “**Taxable Property**” within Improvement Area No. 3. *As used in this Official Statement, Special Tax refers only to the Facilities Special Tax levied under the Rate and Method; although a Services Special Tax is also authorized to be levied under the Rate and Method, the Services Special Tax is not pledged to repay the 2023 Bonds.*

The following is a summary of the provisions of the Rate and Method, which should be read in conjunction with the complete text of the Rate and Method, including its attachments, which is attached as APPENDIX B. Capitalized terms used but not defined in this section have the meanings as set forth in APPENDIX B. *This section provides only a summary of the Rate and Method, and is qualified by more complete and detailed information contained in the entire Rate and Method attached as APPENDIX B.*

Facilities Special Tax Requirement. Annually, at the time of levying the Special Tax, the District administrator (the “**Administrator**”) will determine the minimum amount of money to be levied on Taxable Property (the “**Facilities Special Tax Requirement**”), which will be the amount required in any Fiscal Year for the following purposes:

(i) to pay principal and interest on Bonds which are due in the calendar year which begins in such Fiscal Year,

(ii) to replenish reserve funds to the extent such replenishment has not been included in the computation of the Facilities Special Tax Requirement in a previous Fiscal Year,

(iii) to cure any delinquencies in the payment of principal or interest on Bonds which have occurred in the prior Fiscal Year,

(iv) to pay Administrative Expenses, and

(v) to pay the costs of Authorized Facilities to be funded directly from Facilities Special Tax proceeds to the extent that paying directly for such costs does not increase the Facilities Special Taxes levied on Undeveloped Property.

Annual Determination of Property Categories for Administration of Special Tax. Each Fiscal Year, the Administrator will: (i) categorize each parcel of Taxable Property as Developed Property, Undeveloped Property, Taxable Owners Association Property, or Taxable Public Property, (ii) for Developed Property, categorize each Parcel as Single Family Detached Residential Property or Other Property, (iii) based on Square Footage reflected on Building Permits issued by June 30 of the prior Fiscal Year, assign each Residential Unit to the appropriate Square Footage Category, (iv) determine the Facilities Special Tax Requirement and Services Special Tax Requirement for the Fiscal Year, and (v) determine if the Trigger Event occurred in the prior Fiscal Year. In addition, the Administrator shall, on an ongoing basis, monitor Final Maps and track the Square Footage on all Building Permits that have been issued to determine if there are any proposed Land Use Changes that would change the Expected Maximum Special Tax Revenues. If the Expected Maximum Special Tax Revenues will be revised pursuant to a proposed Land Use Change, the Administrator shall apply the steps set forth in the Rate and Method, as described further below.

In any Fiscal Year, if it is determined that:

(i) a parcel map for a portion of property in Improvement Area No. 3 was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then-current tax roll),

(ii) because of the date the parcel map was recorded, the Assessor does not yet recognize the new Parcels created by the parcel map, and

(iii) one or more of the newly-created Parcels is in a different Development Class than other parcels created by the subdivision,

the Administrator will calculate the Special Tax for the property affected by recordation of the parcel map by determining the Special Tax that applies separately to the property within each Development Class, then applying the sum of the individual Special Taxes to the Parcel that was subdivided by recordation of the parcel map.

“**Trigger Event**” is defined in the Rate and Method to occur when (i) all Bonds secured by the levy and collection of Facilities Special Taxes in Improvement Area No. 3 have been fully repaid, (ii) all

Administrative Expenses from prior Fiscal Years have been paid, funded, and/or reimbursed to the City, and (iii) there are no other Authorized Facilities that the City intends to fund with Bonds and Facilities Special Taxes. In the first Fiscal Year in which the Administrator determines that the Trigger Event occurred in the prior Fiscal Year, and in each Fiscal Year thereafter, the Facilities Special Tax will cease to be levied and the maximum Services Special Tax (as defined below) will be adjusted pursuant to the Rate and Method.

Maximum Special Tax. The Maximum Special Tax for Fiscal Year 2023-24 for Parcels of Single-Family Detached Residential Property shall be the greater of (i) the Target Special Taxes set forth in Table 1 below, or, (ii) if there are Land Use Changes that would reduce debt service coverage on outstanding Bonds below the Required Coverage, the Maximum Special Tax determined pursuant to Section D of the Rate and Method.

Other Property. The Maximum Special Tax for Fiscal Year 2023-24 for Other Property is shown in Table 1. If Other Property is developed with condominium or town home units, the Administrator will apply the following steps to allocate the Maximum Special Tax to the Parcels within the condominium or town home buildings:

- Step 1:** Determine the Acreage of the underlying land Parcel on which the building(s) is located.
- Step 2:** Multiply the Acreage from Step 1 by the Maximum Special Tax for Other Property in the current Fiscal Year.
- Step 3:** Divide the product from Step 2 by the total number of townhomes or condominium units built or expected to be built on the underlying land Parcel to determine the Maximum Special Tax for each condominium or townhome unit, which amount will escalate by 2.0% in the next Fiscal Year and each following Fiscal Year.

Once a Special Tax has been levied and collected on a Parcel of Developed Property, the Maximum Special Tax applicable to that Parcel will not be reduced in future Fiscal Years regardless of changes in land use on the Parcel, except (i) in the event of a partial prepayment, and (ii) pursuant to Section D of the Rate and Method. Notwithstanding the foregoing, (i) if Bonds have yet to be issued for Improvement Area No. 3, the Parcels can be assigned to the appropriate Square Footage Category, and the Administrator will recalculate the Expected Maximum Special Tax Revenues based on the corresponding changes in revenues, and (ii) the actual Special Tax levied on the Parcel in any Fiscal Year may be less than the Maximum Special Tax if a lower Special Tax is calculated pursuant to the Rate and Method.

Undeveloped Property, Taxable Owners Association Property, and Taxable Public Property. The Maximum Special Tax for Fiscal Year 2023-24 for Undeveloped Property, Taxable Owners Association Property, and Taxable Public Property is set forth in Table 1. In addition, any amount levied on a landowner's Parcel(s) of Undeveloped Property due to such landowner's failure to make a prepayment pursuant to the Rate and Method will be added to the amount determined in the prior sentence to calculate the total Maximum Special Tax for the landowner's Parcel(s). For additional information, see APPENDIX B.

Table 1
Improvement Area No. 3 of the City of Tracy
Community Facilities District No. 2016-2 (ECFD)
Fiscal Year 2023-24 Target and Maximum Facilities Special Tax Rates

<u>Type of Property</u>	<u>Target Facilities Special Tax Prior to Trigger Event (Fiscal Year 2023-24)⁽¹⁾</u>	<u>Target Facilities Special Tax After Trigger Event (Fiscal Year 2023-24)</u>
<u>Single Family Detached Residential Property</u>		
Residential Units > 4,000 Square Feet	\$3,363.36 per Residential Unit	\$0 per Residential Unit
Residential Units 2,000 - 4,000 Square Feet	\$3,262.26 per Residential Unit	\$0 per Residential Unit
Residential Units < 2,000 Square Feet	\$2,126.22 per Residential Unit	\$0 per Residential Unit
Other Property	\$24,571.22 per Acre	\$0 per Acre
Undeveloped Property	\$24,571.22 per Acre	\$0 per Acre
Taxable Owners Association Property	\$24,571.22 per Acre	\$0 per Acre
Taxable Public Property	\$24,571.22 per Acre	\$0 per Acre

(1) Represents the Target Facilities Special Tax for Residential Units and the Maximum Facilities Special Tax for all other special tax categories. On each July 1, the target facilities special taxes shown in this table shall be increased by an amount equal to 2.0% of the amount in effect for the prior fiscal year.

Source: Goodwin Consulting Group, Inc.

Method of Special Tax Levy. Under the Rate and Method, the Administrator will determine the Facilities Special Tax Requirement and levy the Special Tax as follows:

Step 1: In the first 15 Fiscal Years in which a Special Tax is levied within Improvement Area No. 3, the Maximum Special Tax shall be levied on each Parcel of Single Family Detached Residential Property and Other Property, prior to applying any Capitalized Interest that is available in the District accounts. Any Special Tax proceeds collected that are determined by the Administrator to be Remainder Taxes shall be deposited into the Improvement Fund to pay costs associated with the acquisition of Authorized Facilities eligible to be financed by the Remainder Taxes under the Acquisition Agreement and that were not paid with Bond proceeds or Facilities Special Taxes levied in prior Fiscal Years.

Beginning in the 16th Fiscal Year in which a Special Tax is levied within Improvement Area No. 3 and continuing until the Trigger Event, the Special Tax shall be levied Proportionately on each Parcel of Single Family Detached Residential Property and Other Property up to 100% of the Maximum Special Tax for each Parcel for such Fiscal Year until the amount levied on Single Family Detached Residential Property and Other Property is equal to the Facilities Special Tax Requirement prior to applying any Capitalized Interest that is available in the District accounts.

Step 2: If additional revenue is needed after Step 1 and after applying Capitalized Interest to the Facilities Special Tax Requirement, the Special Tax shall be levied Proportionately on each Parcel of Undeveloped Property up to 100% of the Maximum Special Tax for Undeveloped Property for such Fiscal Year.

Step 3: If additional revenue is needed after Step 2, the Special Tax shall be levied Proportionately on each Parcel of Taxable Owners Association Property and Taxable Public Property, up to 100% of the Maximum Special Tax for each Parcel of Taxable Owners Association Property and Taxable Public Property, as applicable, for such Fiscal Year.

Exemptions. No Special Tax will be levied on the following:

- (i) Public Property, except Taxable Public Property, and
- (ii) Owners Association Property, except Taxable Owners Association Property.

Partial Prepayment of Special Tax. A property owner may prepay up to 80% of the Special Tax obligation applicable to a Parcel in Improvement Area No. 3, subject to certain conditions. The Prepayment Amount is calculated based on the Bond Redemption Amount plus Redemption Premium and other costs, all as specified in “APPENDIX B – Rate and Method of Apportionment of Special Tax – Section I.”

Services Special Tax. In addition to the Special Tax, taxable property in Improvement Area No. 3 is subject to a special tax for services (the “**Services Special Tax**”), pursuant to the Rate and Method. The maximum Services Special Tax for Fiscal Year 2022-23 is set forth in Table 2. Table 2 is included for information only. The Services Special Tax does not secure, and is not pledged to the payment of, the 2023 Bonds.

Table 2
Improvement Area No. 3 of the City of Tracy
Community Facilities District No. 2016-2 (ECFD)
Fiscal Year 2022-23 Maximum Services Special Tax Rates

Type of Property	Maximum Services Special Tax Prior to Trigger Event (Fiscal Year 2022-23)⁽¹⁾	Maximum Services Special Tax After Trigger Event (Fiscal Year 2022-23)
<u>Single Family Detached Residential Property</u>		
Residential Units > 4,000 Square Feet	\$1,816.92 per Residential Unit	\$2,528.36 per Residential Unit
Residential Units 2,000 - 4,000 Square Feet	\$1,453.30 per Residential Unit	\$2,144.06 per Residential Unit
Residential Units < 2,000 Square Feet	\$1,089.68 per Residential Unit	\$1,539.64 per Residential Unit
Other Property	\$5,901.58 per Acre	\$5,901.58 per Acre
Undeveloped Property	\$5,901.58 per Acre	\$5,901.58 per Acre

(1) On each July 1, the maximum services special taxes shown in this table shall be increased by an Escalation Factor as described in the Rate and Method.

Source: Goodwin Consulting Group, Inc.

Covenant to Foreclose

Sale of Property for Nonpayment of Taxes. The Fiscal Agent Agreement provides that the Special Taxes are to be collected in the same manner as ordinary *ad valorem* property taxes are collected and, except as provided in the special covenant for foreclosure described below and in the Act, is to be subject to the same penalties and the same procedure, sale and lien priority in case of delinquency as is provided for *ad valorem* property taxes. Under these procedures, if taxes are unpaid for a period of five years or more, the property is subject to sale by the County.

Foreclosure Under the Act. Under Section 53356.1 of the Act, if any delinquency occurs in the payment of the Special Tax, the City may order the institution of a Superior Court action to foreclose the lien therefor within specified time limits. In such an action, the real property subject to the unpaid amount may be sold at judicial foreclosure sale.

While judicial foreclosure is not mandatory under the Act, the City will agree in the Fiscal Agent Agreement that on or about June 30 of each Fiscal Year, the Finance Director will compare the amount of Special Taxes previously levied in Improvement Area No. 3 of the District to the amount of Special Tax Revenues received by the City, and if delinquencies have occurred, proceed as follows:

Individual Delinquencies. If the Finance Director determines that any single parcel subject to the Special Tax in Improvement Area No. 3 is delinquent in the payment of four or more installments of Special Taxes, then the Finance Director will send or cause to be sent a notice of delinquency (and a demand for immediate payment thereof) to the property owner within 45 days of such determination, and (if the delinquency remains uncured) foreclosure proceedings will be commenced by the City within 90 days of such determination.

Notwithstanding the foregoing, the Finance Director may defer any such actions with respect to a delinquent parcel if (1) Improvement Area No. 3 is then participating in the “Teeter Plan” (as defined and described below), or an equivalent procedure and (2) the amount in the 2023 Reserve Fund is at least equal to the 2023 Reserve Requirement. For additional details on the Teeter Plan, see “– *Special Tax Delinquencies; Teeter Plan*” below.

Aggregate Delinquencies. If the Finance Director determines that (i) the total amount of delinquent Special Tax for the prior Fiscal Year for the entire Improvement Area No. 3 (including the total of delinquencies described in the above two paragraphs), exceeds 5% of the total Special Tax due and payable for the prior Fiscal Year, determined by reference to the latest available secured property tax roll of the County, the Finance Director shall notify or cause to be notified property owners who are then delinquent in the payment of Special Taxes (and demand immediate payment of the delinquency) within 45 days of such determination, and shall commence foreclosure proceedings within 90 days of such determination against each parcel of land in Improvement Area No. 3 with a Special Tax delinquency.

Sufficiency of Foreclosure Sale Proceeds; Foreclosure Limitations and Delays. No assurances can be given that the real property subject to a judicial foreclosure sale will be sold or, if sold, that the proceeds of sale will be sufficient to pay any delinquent Special Tax installment. The Act does not require the City to purchase or otherwise acquire any lot or parcel of property foreclosed upon if there is no other purchaser at such sale.

Section 53356.6 of the Act requires that property sold pursuant to foreclosure under the Act be sold for not less than the amount of judgment in the foreclosure action, plus post-judgment interest and authorized costs, unless the consent of the owners of 75% of the outstanding Bonds is obtained. However, under Section 53356.5 of the Act, the City, as judgment creditor, is entitled to purchase any property sold at foreclosure using a “credit bid,” where the City could submit a bid crediting all or part of the amount required to satisfy the judgment for the delinquent amount of the Special Taxes. If the City becomes the purchaser under a credit bid, the City must pay the amount of its credit bid into the redemption fund established for the Bonds, but this payment may be made up to 24 months after the date of the foreclosure sale.

Foreclosure by court action is subject to normal litigation delays, the nature and extent of which are largely dependent on the nature of the defense, if any, put forth by the debtor and the Superior Court calendar. In addition, the ability of the City to foreclose the lien of delinquent unpaid Special Taxes may

be limited in certain instances and may require prior consent of the property owner if the property is owned by or in receivership of the Federal Deposit Insurance Corporation (the “**FDIC**”). See “**BOND OWNERS' RISKS – Bankruptcy Delays.**”

Special Tax Delinquencies; Teeter Plan. In 1949, the California Legislature enacted an alternative method for the distribution of property taxes to local agencies. This method, known as the “**Teeter Plan**,” is found in Sections 4701-4717 of the California Revenue and Taxation Code. Upon adoption and implementation of this method by a county board of supervisors, local agencies for which the county collects property taxes and certain other public agencies and taxing areas located in the county receive annually the full amount of their shares of property taxes and other levies collected on the secured roll, including delinquent property taxes which have yet to be collected. While the county bears the risk of loss on unpaid delinquent taxes, it retains the penalties associated with delinquent taxes when they are paid. In turn, the Teeter Plan provides participating local agencies with stable cash flow and the elimination of collection risk.

Once adopted, a county’s Teeter Plan will remain in effect in perpetuity unless the board of supervisors orders its discontinuance or unless, prior to the commencement of a fiscal year, a petition for discontinuance is received and joined in by resolutions of the governing bodies of not less than two-thirds of the participating districts in the county. An electing county may, however, decide to discontinue the Teeter Plan with respect to any levying agency in the county if the board of supervisors, by action taken not later than July 15 of a fiscal year, elects to discontinue the procedure with respect to such levying agency and the rate of secured tax delinquencies in that agency in any year exceeds 3% of the total of all taxes and assessments levied on the secured roll by that agency.

The Board of Supervisors of San Joaquin County adopted the Teeter Plan in Fiscal Year 1994-95. The County has elected to apply its Teeter Plan to the collection of the Special Taxes in Improvement Area No. 3. To the extent that the County’s Teeter Plan continues in existence and is carried out as adopted, and to the extent the County does not discontinue the Teeter Plan with respect to the District, the County’s Teeter Plan may help protect owners of the 2023 Bonds from the risk of delinquencies in the payment of Special Tax. *There can be no assurance that the County will not modify or eliminate its Teeter Plan, or choose to remove Improvement Area No. 3 from its Teeter Plan, while the 2023 Bonds are outstanding.*

Special Tax Fund

Deposits. Under the Fiscal Agent Agreement, the Special Tax Fund is established as a separate fund to be held by the Fiscal Agent, to the credit of which the Fiscal Agent will deposit amounts received from or on behalf of the City consisting of Special Tax Revenues and amounts transferred from the Administrative Expense Fund and the Bond Fund. The City will promptly remit any Special Tax Revenues received by it to the Fiscal Agent for deposit by the Fiscal Agent to the Special Tax Fund.

Notwithstanding the foregoing,

(i) Special Tax Revenues in an amount not to exceed the amount included in the Special Tax levy for such Fiscal Year for Administrative Expenses will be separately identified by the Finance Director and shall be deposited by the Fiscal Agent in the Administrative Expense Fund;

(ii) any Special Tax Revenues constituting the collection of delinquencies in payment of Special Taxes shall be separately identified by the Finance Director and will be disposed of by the Fiscal Agent first, for transfer to the Bond Fund to pay any past due debt service on the Bonds; second, for transfer to the 2023 Reserve Fund to the extent

needed to increase the amount then on deposit in the 2023 Reserve Fund up to the then 2023 Reserve Requirement; and third, to be held in the Special Tax Fund for use as described in “–Disbursements” below; and

(iii) any proceeds of Special Tax Prepayments will be separately identified by the Finance Director and will be deposited by the Fiscal Agent as follows (as directed in writing by the Finance Director): (a) that portion of any Special Tax Prepayment constituting a prepayment of construction costs (which otherwise could have been included in the proceeds of Parity Bonds) will be deposited by the Fiscal Agent into the Bond Proceeds Account of the Improvement Fund and (b) the remaining Special Tax Prepayment will be deposited by the Fiscal Agent in the Special Tax Prepayments Account established pursuant to the Fiscal Agent Agreement.

Disbursements. At least 7 Business Days prior to each Interest Payment Date, the Fiscal Agent will withdraw from the Special Tax Fund and transfer the following amounts in the following order of priority:

(i) to the Bond Fund an amount, taking into account any amounts then on deposit in the Bond Fund and any expected transfers from the Improvement Fund, the 2023 Reserve Fund, and the Special Tax Prepayments Account to the Bond Fund such that the amount in the Bond Fund equals the principal (including any sinking payment), premium, if any, and interest due on the Bonds on such Interest Payment Date and any past due principal or interest on the Bonds not theretofore paid from a transfer described in the Fiscal Agent Agreement,

(ii) to the 2023 Reserve Fund an amount, taking into account amounts then on deposit in the 2023 Reserve Fund, such that the amount in the 2023 Reserve Fund is equal to the 2023 Reserve Requirement, and

(iii) (A) on each October 1, beginning on October 1, 2023 and continuing through the Remainder Taxes Period, all of the moneys remaining in the Special Tax Fund will be transferred to the Remainder Taxes Account and (B) on each subsequent October 1 after the end of the Remainder Tax Period, all or a portion of the moneys remaining in the Special Tax Fund will be transferred to the Remainder Taxes Account as directed by the Finance Director.

“**Remainder Taxes Period**” is defined in the Fiscal Agent Agreement as the period through and including the earlier of (i) the end of the 15th Fiscal Year during which Special Taxes have been levied on the property in Improvement Area No. 3 or (ii) the date the City has fully satisfied its reimbursement obligations under the Acquisition Agreement.

Within 15 days after the end of each Bond Year after the Remainder Taxes Account is closed pursuant to the Fiscal Agent Agreement, and after the foregoing transfers have been made, the Fiscal Agent will transfer all amounts remaining on deposit in the Special Tax Fund for any lawful purpose, as directed by the City in an Officer’s Certificate.

Bond Fund

Deposits. The Fiscal Agent will hold the moneys in the Bond Fund for the benefit of the City and the Owners of the Bonds, and will disburse those funds for the payment of the principal of, and interest and any premium on, the Bonds as described below.

There is also created in the Bond Fund a separate account to be held by the Fiscal Agent, designated the “Special Tax Prepayments Account” to the credit of which deposits will be made as provided in the Fiscal Agent Agreement.

Disbursements. At least 10 Business Days before each Interest Payment Date, the Fiscal Agent will notify the Finance Director in writing as to the principal and premium, if any, and interest due on the Bonds on the next Interest Payment Date (whether as a result of scheduled principal of and interest on the Bonds, optional redemption of the Bonds or a mandatory sinking fund redemption). On each Interest Payment Date, the Fiscal Agent will withdraw from the Bond Fund and pay to the Owners of the Bonds the principal of, and interest and any premium, due and payable on such Interest Payment Date on the Bonds.

At least 5 Business Days prior to each Interest Payment Date, the Fiscal Agent will determine if the amounts then on deposit in the Bond Fund are sufficient to pay the Debt Service due on the Bonds on the next Interest Payment Date. In the event that amounts in the Bond Fund are insufficient for such purpose, the Fiscal Agent promptly will notify the Finance Director by telephone (and confirm in writing) of the amount of the insufficiency.

In the event that amounts in the Bond Fund are insufficient for the purpose set forth in the preceding paragraph with respect to any Interest Payment Date, the Fiscal Agent will withdraw from the 2023 Reserve Fund, in accordance with the provisions of the Fiscal Agent Agreement, to the extent of any funds or Permitted Investments therein, amounts to cover the amount of such Bond Fund insufficiency related to the 2023 Bonds and any Parity Bonds. Amounts so withdrawn from the 2023 Reserve Fund will be deposited in the Bond Fund.

If, after the foregoing transfers, there are insufficient funds in the Bond Fund to make the payments provided for in the second sentence of the first paragraph under “Bond Fund – Disbursements” above, the Fiscal Agent will apply the available funds first to the payment of interest on the Bonds, then to the payment of principal due on the Bonds other than by reason of sinking payments, if any, and then to payment of principal due on the bonds by reason of sinking payments.

Disbursements from the Special Tax Prepayments Account. Moneys in the Special Tax Prepayments Account will be transferred by the Fiscal Agent to the Bond Fund on the next date for which notice of redemption of Bonds can timely be given under the Fiscal Agent Agreement, and notice to the Fiscal Agent can timely be given under the Fiscal Agent Agreement, and will be used (together with any amounts transferred pursuant to the Fiscal Agent Agreement) to redeem Bonds on the redemption date selected in accordance the Fiscal Agent Agreement.

2023 Reserve Fund

General. In order to further secure the payment of principal of and interest on the 2023 Bonds and any Parity Bonds, certain proceeds of the 2023 Bonds will be deposited into the 2023 Reserve Fund in an amount equal to the “**2023 Reserve Requirement**” for the 2023 Bonds (as defined below). See “FINANCING PLAN.”

2023 Reserve Requirement. The “**2023 Reserve Requirement**” is defined in the Fiscal Agent Agreement to mean the amount as of any date of calculation equal to the least of (a) Maximum Annual Debt Service on the 2023 Bonds and Parity Bonds, if any, (b) 125% of average Annual Debt Service on the 2023 Bonds and Parity Bonds, if any and (c) 10% of the original principal of the 2023 Bonds and Parity Bonds, if any; provided, however:

(A) that with respect to the calculation of clause (c) above, the issue price of the 2023 Bonds or any Parity Bonds excluding accrued interest shall be used rather than the original

principal amount, if (i) the net original issue discount or premium of the 2023 Bonds or any Parity Bonds was less than 98% or more than 102% of the original principal amount of the 2023 Bonds or any Parity Bonds and (ii) using the issue price would produce a lower result than using the original principal amount;

(B) that in no event shall the amount calculated under the definition of 2023 Reserve Requirement exceed the amount on deposit in the 2023 Reserve Fund on the date of issuance of the 2023 Bonds (if they are the only Bonds covered by the 2023 Reserve Fund) or the most recently issued series of Parity Bonds except in connection with any increase associated with the issuance of Parity Bonds; and

(C) that in no event shall the amount required to be deposited into the 2023 Reserve Fund in connection with the issuance of a series of Parity Bonds exceed the maximum amount under the Tax Code that can be financed with tax-exempt bonds and invested at an unrestricted yield.

Disbursements. Except as otherwise provided in the Fiscal Agent Agreement, all amounts deposited in the 2023 Reserve Fund will be used and withdrawn by the Fiscal Agent solely for the purpose of making transfers to the Bond Fund in the event of any deficiency at any time in the Bond Fund of the amount then required for payment of the principal of, and interest and any premium on, the 2023 Bonds and any Parity Bonds or, in accordance with the provisions of the Fiscal Agent Agreement, for the purpose of redeeming 2023 Bonds and any Parity Bonds from the Bond Fund. Whenever a transfer is made from the 2023 Reserve Fund to the Bond Fund due to a deficiency in the Bond Fund for payment of the principal of, and interest and any premium on, the 2023 Bonds and any Parity Bonds, the Fiscal Agent will provide written notice thereof to the Finance Director, specifying the amount withdrawn.

Qualified Reserve Fund Credit Instruments. The City has the right at any time to direct the Fiscal Agent to release funds from the 2023 Reserve Fund, in whole or in part, by tendering to the Fiscal Agent: (i) a Qualified Reserve Account Credit Instrument (as defined in the Fiscal Agent Agreement), and (ii) an opinion of Bond Counsel stating that neither the release of such funds nor the acceptance of such Qualified Reserve Account Credit Instrument will cause interest on the 2023 Bonds or any Parity Bonds the interest on which is excluded from gross income of the owners thereof for federal income tax purposes to become includable in gross income for purposes of federal income taxation.

The City will have no obligation to replace a Qualified Reserve Account Credit Instrument or to fund the 2023 Reserve Fund with cash if, at any time that the 2023 Bonds are Outstanding, the Qualified Reserve Account Credit Instrument (or its provider) is downgraded or the provider becomes insolvent, if there is an unscheduled termination of the Qualified Reserve Account or if for any reason insufficient amounts are available to be drawn upon under the Qualified Reserve Account Credit Instrument; provided, however, that the City will reimburse the provider, in accordance with the terms of the Qualified Reserve Account Credit Instrument, for any draws made thereon.

The City and the Fiscal Agent will comply with the terms of the Qualified Reserve Account Credit Instrument as will be required to receive payments thereunder in the event and to the extent required under the Fiscal Agent Agreement.

See APPENDIX C for a complete description of the timing, purpose and manner of disbursements from the 2023 Reserve Fund.

Investment of Moneys in Funds

Moneys in any fund or account created or established by the Fiscal Agent Agreement and held by the Fiscal Agent will be invested by the Fiscal Agent in Permitted Investments, which in any event by

their terms mature prior to the date on which such moneys are required to be paid out under the Fiscal Agent Agreement. See APPENDIX C for a definition of “Permitted Investments.”

Issuance of Future Parity Bonds for Refunding Only

In addition to the 2023 Bonds, the City may issue one or more additional series of Refunding Bonds payable from the Special Tax Revenues on a parity with the 2023 Bonds (collectively, “**Parity Bonds**”), in such principal amount as may be determined by the City, under a Supplemental Agreement entered into by the City and the Fiscal Agent. Any such Parity Bonds will constitute Bonds under the Fiscal Agent Agreement and will be secured by a lien on the Special Tax Revenues and funds pledged for the payment of the Bonds under the Fiscal Agent Agreement on a parity with all other Bonds Outstanding thereunder.

“**Refunding Bonds**” is defined in the Fiscal Agent Agreement as bonds issued by the City for the District with respect to Improvement Area No. 3, the net proceeds of which are used to refund all or a portion of the then-Outstanding Bonds; provided that the principal and interest on the Refunding Bonds to their final maturity date is less than the principal and interest on the Bonds being refunded to their final maturity date, and the final maturity of the Refunding Bonds is not later than the final maturity of the Bonds being refunded.

See APPENDIX C for additional details regarding the conditions for issuing Parity Bonds.

Subordinate Bonds

Nothing in the Fiscal Agent Agreement prohibits the City from issuing any other bonds or otherwise incurring debt secured by a pledge of the Special Tax Revenues subordinate to the pledge thereof under the Fiscal Agent Agreement.

THE DISTRICT AND IMPROVEMENT AREA NO. 3

Formation and Background

Formation Proceedings. The District, Improvement Area No. 1 and the Future Annexation Area were established by the City Council under the Act on February 7, 2017, following a noticed public hearing. On December 17, 2019, the City Council approved the annexation of property into and the designation of Improvement Area No. 3, pursuant to the unanimous approval of landowners in Improvement Area No. 3 and, on the same date, an election was held in which the qualified electors within Improvement Area No. 3 approved a ballot proposition authorizing the District to incur bonded indebtedness for Improvement Area No. 3 of up to \$25,000,000 to finance the acquisition and construction of the authorized facilities, to levy the Special Taxes within Improvement Area No. 3, and to establish an appropriations limit for Improvement Area No. 3. The District is authorized to finance the construction of authorized facilities. See “FINANCING PLAN – Authorized Facilities.”

Improvement Areas; Annexation Proceedings. In addition to Improvement Area No. 3, the District includes an Improvement Area No. 1, which consists of approximately 123.69 net acres (including approximately 46.08 acres that has been subdivided into 299 single-family residential lots and approximately 74.70 acres encompassing four larger parcels expected to be developed as commercial and other uses), an Improvement Area No. 2 consisting of approximately 55.1 acres that has been subdivided into 222 single-family residential lots, and a Future Annexation Area consisting of approximately 41.80 acres. The property in the Future Annexation Area is currently expected to be annexed into a new improvement area, in which case such future improvement area will be separately

authorized to issue special tax bonds secured only by special taxes levied within the applicable improvement area.

The 2023 Bonds are secured only by the Special Taxes levied within Improvement Area No. 3. If and to the extent the Future Annexation Area is annexed as additional improvement areas, there will be no cross-collateralization between or among improvement areas. The City does not have any current plans to annex any parcels within the Future Annexation Area into Improvement Area No. 3.

Description and Location

General. The District is located in the southwestern part of the City, at the Northwest intersection of Corral Hollow and Linne Roads. The land was formerly part of the County, and was annexed to the City in 2013. Improvement Area No. 3 encompasses approximately 73.65 acres. See APPENDIX A for demographic and other information regarding the City and the County.

Boundary Map. The map showing the boundaries of Improvement Area No. 3 is set forth on the following page.

[Insert CFD Boundary Map]

Authorized Facilities

General. Under the Resolution of Formation adopted by the City Council, as the legislative body of the District, on February 7, 2017, the District (and each improvement area therein) is authorized to finance all or a portion of the costs of acquisition, construction and improvement of facilities permitted under the Act and that are required as conditions of development of property in the District, the Future Annexation Area and any other property annexed to the District (collectively, the “**Facilities**”). The Facilities include but are not limited to the following:

- Public Buildings and Facilities (excluding Aquatic or Swim Center);
- Wastewater Treatment Plant Improvements and Facilities;
- Wastewater Collection Pipeline Improvements and Facilities;
- Drainage Improvements and Facilities;
- Water Improvements and Facilities;
- Roadway Improvements and Facilities including street lights, traffic signals, landscaped parkways, landscaped medians, curb, gutter, sidewalk, pavement;
- Public Parks and Facilities (excluding Aquatic or Swim Center), including trails and bike paths; and
- Ancillary Improvements and Facilities, such as publicly-owned masonry walls and fences.

Any Facility authorized to be financed by the District and each Improvement Area as originally designated and as designated in the future in conjunction with subsequent annexations of all or any part of the Future Annexation Area or any other property may be financed through the construction and acquisition of the Facility or through the payment of fees for such Facility. The Facilities authorized to be financed may be located within or outside the boundaries of the District or any Improvement Area as originally designated and as designated in the future in conjunction with subsequent annexations of all or any part of the Future Annexation Area or any other property.

The Facilities to be financed shall include all hard and soft costs associated with the Facilities, including the costs of the acquisition of land and rights-of-way, the costs of design engineering and planning, the costs of any environmental or traffic studies, surveys, or other reports, costs related to landscaping and irrigation, soils testing, permits, plan check, and inspection fees, insurance, legal, and related overhead costs, coordination and supervision, and any other costs or appurtenances related to any of the foregoing, as further defined in one or more acquisition agreements with the developer of the property in the District and each Improvement Area therein, in each case as originally designated and as designated in the future in conjunction with subsequent annexations of all or any part of the Future Annexation Area or any other property.

Status of Construction of Facilities. All infrastructure improvements for Improvement Area No. 3 have been completed by the Master Developer or LS-Tracy LLC. LS-Tracy LLC has also completed substantially all site improvements, with only crosswalk pavers, entry monument, park and parkway landscaping remaining to be completed as of February 1, 2023. See “OWNERSHIP AND DEVELOPMENT OF IMPROVEMENT AREA NO. 3 – Status of Infrastructure for Improvement Area No. 3.”

Value of Property in Improvement Area No. 3

Appraisal. The City ordered preparation of an appraisal report dated February 21, 2023 (the “**Appraisal**”), of the estimated value of the taxable land within Improvement Area No. 3 as of a January 3, 2023 date of value. The Appraisal was prepared by Integra Realty Resources, Sacramento, California (the “**Appraiser**”). The Appraisal is set forth in APPENDIX H hereto. The description herein of the Appraisal is intended for limited purposes only; the Appraisal should be read in its entirety. The conclusions reached in the Appraisal are subject to certain assumptions, conditions and qualifications which are set forth in the Appraisal.

Parcels Appraised. The properties appraised represent various parcels within the Ellis Development. As of the date of value of the Appraisal, of the 308 assessor’s parcels representing the taxable parcels within Improvement Area No. 3 of the District, 179 have completed single-family homes, all of which do not have a complete assessed value for both land and improvements. As such, a “not-less than” estimate of market value for the smallest floor plans within each of the three product lines as appraised and assigned to each respective assessor’s parcel. The remaining 129 parcels consist of 74 finished lots and 55 homes under construction. This accounts for the entirety of Improvement Area No. 3 that is currently taxable.

Value Estimate. The Appraisal provides a market value of the appraised properties, as well as a cumulative, or aggregate, value of properties as of the January 3, 2023 date of value. The aggregate value is not the market value of the appraised properties in bulk.

The appraised valuation excludes the value of all portions of the property in Improvement Area No. 3 designated for public and quasi-public purposes, assumes the proceeds of the 2023 Bonds have been used to reimburse the completion of certain improvements associated with Improvement Area No. 3, and accounts for the impact of the lien of the Special Tax. The following estimate represents the hypothetical market value of the property to be subject to the Special Tax. The value estimate for the property as of the January 3, 2023 date of value, using the methodologies described in the Appraisal and subject to the limiting conditions and special assumptions set forth in the Appraisal, is \$191,793,000.

Value Method. Appraisers usually consider three approaches to estimating the market value of real property. These are the cost approach, sales comparison approach, and the income capitalization approach. Reconciliation of the various indications into a conclusion of value is based on an evaluation of the quantity and quality of available data in each approach and the applicability of each approach to the property type. The methodology employed in the Appraisal is the sales comparison approach.

Hypothetical Condition. The market value estimated in the Appraisal is based on a hypothetical condition that proceeds of the 2023 Bonds are available to reimburse the completion of certain improvements associated with Improvement Area No. 3.

Assumptions and Limiting Conditions. In addition to the hypothetical condition described above, the market value of the appraised parcels is subject to a number of other assumptions and conditions which affect the estimates as to value, including, among others, the following:

- The value estimate assumes that the transfer would reflect a cash transaction or terms considered to be equivalent to cash. The estimate is also premised on an assumed sale after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with buyer and seller each acting prudently, knowledgeably, for their own self-interest, and assuming that neither is under undue stress. Additionally, the estimate assumes that the appraised properties within the boundaries of the District are not marketed concurrently, which would suggest a market under duress.

- The valuation analysis did not include review of a current title report of all properties to determine any possible conditions of title affecting the properties appraised. The Appraiser accepts no responsibility for matters pertaining to title.

- The Appraiser has also assumed that there is no hazardous material on or in the property that would cause a loss in value. Should future conditions and events involving hazardous material reduce the level of permitted development or delay the completion of any projected development, the value of the undeveloped land would likely be reduced from that estimated by the Appraiser. See “BOND OWNERS’ RISKS – Property Values” and “– Hazardous Substances” below.

See “APPENDIX H – Appraisal Report” hereto for a description of certain assumptions made by the Appraiser. Accordingly, because the Appraiser arrived at an estimate of current market value based upon certain assumptions which may or may not be fulfilled, no assurance can be given that should the parcels become delinquent due to unpaid Special Taxes, and be foreclosed upon and offered for sale for the amount of the delinquency, that any bid would be received for such property or, if a bid is received, that such bid would be sufficient to pay such delinquent Special Taxes.

Limitations of Appraisal Valuation. Property values may not be evenly distributed throughout Improvement Area No. 3; thus, certain parcels may have a greater value than others. This disparity is significant because in the event of nonpayment of the Special Tax, the only remedy is to foreclose against the delinquent parcel. No assurance can be given that the foregoing valuation can or will be maintained during the period of time that the 2023 Bonds are outstanding in that the City has no control over the market value of the property within Improvement Area No. 3 or the amount of additional indebtedness that may be issued in the future by other public agencies, the payment of which, through the levy of a tax or an assessment, may be on a parity with the Special Taxes. See “BOND OWNERS’ RISKS – Other Possible Claims Upon the Value of Taxable Property” below.

For a description of certain risks that might affect the assumptions made in the Appraisal, see “BOND OWNERS’ RISKS” herein. *Neither the City nor the Underwriter makes any representation as to the accuracy or completeness of the Appraisal. See APPENDIX H for the Appraisal Report.*

Value-to-Lien Ratios

The tables below show the approximate value-to-lien ratio for the parcels in Improvement Area No. 3, based on the appraised values set forth in the Appraisal and the proposed principal amount of the 2023 Bonds. The value-to-lien ratios in the tables below are based on the proposed par amount of the 2023 Bonds only. When including the general obligation bond indebtedness shown on the overlapping debt statement, the value-to-lien ratio is 11.3:1*.

No assurance can be given that the amounts shown in these tables will conform to those ultimately realized in the event of a foreclosure action following delinquency in the payment of the Special Taxes.

Table 3
Improvement Area No. 3 of the
City of Tracy Community Facilities District No. 2016-2 (ECFD)
Estimated Property Values and Value-to-Lien Ratios
(Development Status as of January 3, 2023)⁽¹⁾

<u>Property Ownership and Development Status</u>	<u>Construction Status⁽¹⁾</u>	<u>Taxable Parcels</u>	<u>Maximum FY 2023-24 Special Tax Revenue</u>	<u>Projected FY 2023-24 Special Tax Levy</u>	<u>% of Projected Special Tax Levy</u>	<u>Appraised Value</u>	<u>Allocated 2023 Bond Debt⁽²⁾</u>	<u>Estimated Value-to-Lien Ratio*</u>
<u>Developed Property</u> ⁽³⁾								
Individual Homeowners	Completed and Sold	169	\$551,322	\$551,322	60.3%	\$148,275,000	\$10,099,811	14.7
LCG - CA Model, LLC ⁽⁴⁾	Model Homes	10	32,623	32,623	3.6	8,910,000	597,622	14.9
LS-Tracy LLC ⁽⁴⁾	Under Construction	55	179,424	179,424	19.6	14,784,000	3,286,921	4.5
<i>Subtotal</i>		234	\$763,369	\$763,369	83.5%	\$171,969,000	\$13,984,354	12.3
<u>Undeveloped Property</u>								
LS-Tracy LLC ⁽⁴⁾	Finished Lots	27	\$86,638	\$54,010	5.9%	\$7,218,000	\$989,415	7.3
LS-LCF CA, LLC ⁽⁴⁾	Finished Lots	47	155,536	96,960	10.6	12,606,000	1,766,232	7.1
<i>Subtotal</i>		74	\$242,174	\$150,969	16.5%	\$19,824,000	\$2,765,646	7.2
Total		308	\$1,005,543	\$914,338	100.0%	\$191,793,000	\$16,750,000	11.5

* Preliminary; subject to change.

(1) Ownership information and construction status based on the Appraisal Report and as of the January 3, 2023 date of value of the Appraisal.

(2) Allocated based on the projected fiscal year 2023-24 facilities special tax levy, based on development status as of January 3, 2023. The actual fiscal year 2023-24 facilities special tax levy will be based on development status as of June 30, 2023. Does not take into account overlapping bonded indebtedness secured by ad valorem taxes on the property.

(3) Under the Rate and Method, "Developed Property" includes Taxable Property for which a building permit for new construction was issued prior to June 30 of the prior fiscal year.

(4) As described below, LS-Tracy LLC, LCG-CA Model, LLC, and LS-LCF CA, LLC are each affiliated with Landsea Homes Corporation, a publicly traded homebuilder. See "OWNERSHIP AND DEVELOPMENT OF IMPROVEMENT AREA NO. 3 – Property Ownership in Improvement Area No. 3."

Source: *Integra Realty Resources; Goodwin Consulting Group, Inc.*

Table 4
Improvement Area No. 3 of the
City of Tracy Community Facilities District No. 2016-2 (ECFD)
Summary Value-to-Lien Ratios

Value to Lien	Taxable Parcels	Maximum FY 2023-24 Special Tax Revenue	Projected FY 2023-24 Special Tax Levy	% of Projected Special Tax Levy	Appraised Value	Allocated 2023 Bond Debt**⁽¹⁾	Average Value-to- Lien Ratio*
Greater than 10:1	179	\$583,945	\$583,945	63.9%	\$157,185,000	\$10,697,433	14.7
5:1 to 10:1	70	222,345	138,608	15.2	18,752,000	2,539,198	7.4
3:1 to 5:1	59	199,253	191,786	21.0	15,856,000	3,513,369	4.5
Less than 3:1	0	0	0	0.0	0	0	0.0
Total	308	\$1,005,543	\$914,338	100.0%	\$191,793,000	\$16,750,000	11.5

*Preliminary; subject to change.

(1) Allocated based on the projected fiscal year 2023-24 facilities special tax levy, based on development status as of January 3, 2023. The actual fiscal year 2023-24 facilities special tax levy will be based on development status as of June 30, 2023. Does not take not account overlapping bonded indebtedness secured by ad valorem taxes on the property.

Source: *Integra Realty Resources; Goodwin Consulting Group, Inc.*

Direct and Overlapping Governmental Obligations

Overlapping Debt Statement. Contained within the boundaries of Improvement Area No. 3 are certain overlapping local agencies providing public services. Many of these local agencies have outstanding debt. The direct and overlapping debt affecting Improvement Area No. 3 as of March 1, 2023 is shown in the table below, a direct and overlapping debt report (the "**Debt Report**") prepared by California Municipal Statistics, Inc. The Debt Report is included for general information purposes only. Neither the City nor the Underwriter has reviewed the Debt Report for completeness or accuracy and neither makes any representation in connection therewith.

The Debt Report generally includes long term obligations sold in the public credit markets by public agencies whose boundaries overlap the boundaries of Improvement Area No. 3 in whole or in part. These long-term obligations are not payable from revenues of Improvement Area No. 3 (except as indicated) nor are they necessarily obligations secured by land within Improvement Area No. 3. In many cases long term obligations issued by a public agency are payable only from the general fund or other revenues of such public agency.

The contents of the Debt Report are as follows: (1) the first column indicates the public agencies that have outstanding debt as of the date of the Debt Report and whose territory overlaps Improvement Area No. 3; (2) the second column shows the percentage of the assessed valuation of the overlapping public agency identified in column 1 which is represented by property located within Improvement Area No. 3; and (3) the third column is an apportionment of the dollar amount of each public agency's outstanding debt (which amount is not shown in the table) to property in Improvement Area No. 3, as determined by multiplying the total outstanding debt of each agency by the percentage of the public agency's assessed valuation represented in column 2.

Table 5
Improvement Area No. 3 of the
City of Tracy Community Facilities District No. 2016-2 (ECFD)
Direct and Overlapping Governmental Obligations
As of March 1, 2023

2022-23 Assessed Valuation: \$15,299,997 (Land & Improvements)

<u>DIRECT AND OVERLAPPING TAX AND ASSESSMENT DEBT:</u>	<u>% Applicable</u>	<u>Debt 3/1/23</u>
San Joaquin Delta Community College District General Obligation Bonds	0.014%	\$24,983
Tracy Unified School District General Obligation Bonds	0.059	16,973
Jefferson School District General Obligation Bonds	0.389	172,492
City of Tracy Community Facilities District No. 2016-2, I.A. No. 3	100.000	<u>..⁽¹⁾</u>
TOTAL DIRECT AND OVERLAPPING TAX AND ASSESSMENT DEBT		<u>\$214,448</u>

Ratios to 2022-23 Assessed Valuation:

Direct Debt..... **0.00%** ⁽¹⁾
Total Direct and Overlapping Tax and Assessment Debt 1.40%

(1) Excludes the 2023 Bonds.

Source: *California Municipal Statistics, Inc.*

Estimated Tax Burden on Single-Family Homes

The following table sets forth the estimated total tax burden on a developed single-family detached unit in Improvement Area No. 3, based on special tax rates for Fiscal Year 2022-23.

Table 6
Improvement Area No. 3 of the
City of Tracy Community Facilities District No. 2016-2 (ECFD)
Fiscal Year 2022-23 Illustrative Tax Bill

Assumptions

Expected Assessed Value ⁽¹⁾		\$1,008,028
Homeowner's Exemption		(\$7,000)
Net Expected Assessed Value		\$1,001,028

Ad Valorem Tax Rate⁽²⁾

County General	1.000000	\$10,010
Jefferson Elem 2010 Meas J 2011A Bond	0.024100	241
SJ Delta Coll 2004 Measure L Bond	0.014400	144
Tracy USD 2006 Measure E Bond	0.011200	112
Total Ad Valorem Taxes	1.049700	\$10,508

Direct Charges⁽³⁾

Tracy Rural Fire		\$108
SJC Mosq & VCTR Contr		9
Water Zone 2		2
CSA No 53 Haz Was		4
SJC Mosquito Abate		1
IA 3 CFD No. 2016-2 Facilities Special Tax		3,198
IA 3 CFD No. 2016-2 Services Special Tax		1,453
Total Direct Charges		\$4,776

Total Taxes and Direct Charges **\$15,284**

Percentage of Expected Assessed Value **1.52%**

(1) Based on the average base prices in the Appraisal Report.

(2) Based on the Fiscal Year 2022-23 ad valorem tax rates for the tax rate area within the District. Ad valorem tax rates are subject to change in future years.

(3) Based on the Fiscal Year 2022-23 charges identified on the San Joaquin County-issued property tax bills. Charges subject to change in future years. Does not reflect any amounts for PACE liens. Property owners in Improvement Area No. 3 may elect to have PACE assessment liens placed on their property.

Source: San Joaquin County Tax Collector's Office; Integra Realty Resources; Goodwin Consulting Group, Inc.

Special Tax Collection and Delinquency Rates

Fiscal Year 2022-23 is the first fiscal year in which the Special Tax was levied in Improvement Area No. 3, with \$671,643 being levied in such year, on Developed Property only. The first installment was due on November 1 and considered delinquent on December 10. There were no delinquencies in the payment of the first installment of Special Taxes in Improvement Area No. 3 for Fiscal Year 2022-23.

Potential Consequences of Special Tax Delinquencies

General. Delinquencies in the payment of property taxes (including the Special Taxes) with respect to property in Improvement Area No. 3 could result in draws on the 2023 Reserve Fund established for the 2023 Bonds, and perhaps, ultimately, a default in the payment on the 2023 Bonds. See “BOND OWNERS’ RISKS.”

The Board of Supervisors of San Joaquin County adopted the Teeter Plan in Fiscal Year 1994-95. The County has elected to apply its Teeter Plan to the collection of the Special Taxes in Improvement Area No. 3. To the extent that the County’s Teeter Plan continues in existence and is carried out as adopted, and to the extent the County does not discontinue the Teeter Plan with respect to Improvement Area No. 3, the County’s Teeter Plan may help protect owners of the 2023 Bonds from the risk of delinquencies in the payment of Special Tax. *There can be no assurance that the County will not modify or eliminate its Teeter Plan, or choose to remove Improvement Area No. 3 from its Teeter Plan, while the 2023 Bonds are outstanding.* See “SECURITY FOR THE 2023 BONDS – Covenant to Foreclose – Special Tax Delinquencies; Teeter Plan” for additional information.

Special Tax Enforcement and Collection Procedures. The City could receive additional funds for the payment of debt service through foreclosures sales of delinquent property, but no assurance can be given as to the amount of foreclosure sale proceeds or when foreclosure sale proceeds would be received. The City has covenanted in the Fiscal Agent Agreement to take certain enforcement actions and commence and pursue foreclosure proceedings against delinquent parcels under the terms and conditions described herein. See “SECURITY FOR THE 2023 BONDS — Covenant to Foreclose.”

Foreclosure actions would include, among other steps, formal City Council action to authorize commencement of foreclosure proceedings, mailing multiple demand letters to the record owners of the delinquent parcels advising them of the consequences of failing to pay the applicable Special Taxes and contacting secured lenders to obtain payment. If these efforts were unsuccessful, they would be followed (as needed) by the filing of an action to foreclose in superior court against each parcel that remained delinquent.

Limitations on Increases in Special Tax Levy. If owners are delinquent in the payment of Special Taxes, the City may not increase Special Tax levies to make up for delinquencies for prior Fiscal Years above the Maximum Special Tax rates specified for each category of property within Improvement Area No. 3. See “SECURITY FOR THE 2023 BONDS – Rate and Method.” In addition, Section 53321(d) of the Act provides that the special tax levied against any parcel for which an occupancy permit for private residential use has been issued may not be increased as a consequence of delinquency or default by the owner of any other parcel within a community facilities district by more than 10% above the amount that would have been levied in such Fiscal Year had there never been any such delinquencies or defaults. In cases of significant delinquency, these factors may result in defaults in the payment of principal of and interest on the 2023 Bonds. See “BOND OWNERS’ RISKS.”

OWNERSHIP AND DEVELOPMENT OF IMPROVEMENT AREA NO. 3

The information regarding the development and ownership of the Property contained under this caption, "OWNERSHIP AND DEVELOPMENT OF IMPROVEMENT AREA NO. 3," has been provided by representatives of Surland Communities LLC, a California limited liability company (as herein defined, the "Master Developer"), and LS-Tracy LLC, a Delaware limited liability company ("LS-Tracy LLC"), and has not been independently confirmed or verified by the Underwriter, the City, or the District. The Underwriter, the City, and the District make no representation as to the accuracy or adequacy of the information contained under this caption. There may be material adverse changes in this information after the date of this Official Statement. Neither the Bonds nor the Special Taxes securing the Bonds are personal obligations of the Master Developer or LS-Tracy LLC, or any affiliate thereof, or any other property owner and, in the event that any property owner defaults in the payment of its Special Taxes, the District may proceed with judicial foreclosure but has no direct recourse to the assets of any property owner or any affiliate thereof. See "BOND OWNERS' RISKS" herein.

The Ellis Project

General. The Property in Improvement Area No. 3 is part of a larger residential community referred to as the "Ellis Development" being developed by the Master Developer, which includes the Property within Improvement Area No. 3, property within Improvement Area No. 1, Improvement Area No. 2, and the Future Annexation Area, and possibly future additional property that may annex into the District. The Ellis Development plan is ultimately expected to contain approximately 2,250 single-family residential dwelling units plus other uses.

Improvement Area No. 1. The property in Improvement Area No. 1, which has been subdivided into 299 single-family residential lots and approximately 74.70 acres encompassing four larger parcels expected to be developed as commercial and other uses. As of February 1, 2023, the property in Improvement Area No. 1 was owned by individual homeowners, Woodside Homes 05N, LP, a California limited partnership ("**Woodside Homes**"), and a limited liability company affiliated with the Master Developer. Of the 299 residential lots, 296 have been conveyed to individual homeowners as of February 1, 2023 and the remaining 3 lots were owned by Woodside Homes.

Improvement Area No. 2. The property in Improvement Area No. 2 consists of approximately 55.1 acres that has been subdivided into 222 single-family residential lots. Improvement Area No. 2 was developed by Woodside Homes and all of the 222 residential lots have been conveyed to individual homeowners.

Improvement Area No. 3. See the discussion under "THE DISTRICT AND IMPROVEMENT AREA NO. 3" above for a discussion of Improvement Area No. 3.

Future Annexation Area. There is approximately 41.80 acres of Future Annexation Area. The property in the Future Annexation Area is intended to be annexed to a new improvement area (Improvement Area No. 4) at some point in the future and is anticipated to be developed as approximately 126 homes and a K-8 school.

Information on Improvement Area No. 1, Improvement Area No. 2, and the Future Annexation Area and any other land in the Ellis Development that is outside Improvement Area No. 3 is provided for informational purposes; only the taxable property in Improvement Area No. 3 is security for the 2023 Bonds.

Acquisition Agreement. The City and the Master Developer are parties to an Amended and Restated Master Acquisition Agreement, dated as of September 1, 2021 (the "**Acquisition Agreement**")

related to the financing of Facilities. The Acquisition Agreement sets forth the terms upon which the City will acquire Facilities constructed by the Master Developer or merchant builders. Among other things, the Acquisition Agreement provides that through the 15th fiscal year in which the special tax is first levied in an improvement area (including Improvement Area No. 3), the Special Tax will be levied on Developed Property (as defined in the Rate and Method) in the amount of the Maximum Facilities Special Tax (as defined in the Rate and Method) and any Remainder Taxes will be used to finance the acquisition costs of Facilities, including components thereof and development fees.

City's Growth Management Ordinance. On June 16, 1987, the City Council of the City adopted by ordinance a Residential Growth Management Plan (referred to as the "**Growth Management Ordinance**"). The Growth Management Ordinance has been amended to-date. The Growth Management Ordinance requires an annual reservation of a certain number of building permits for the Ellis Project. The Growth Management Ordinance will not limit the development in Improvement Area No. 3 since all necessary permits for satisfaction of the Growth Management Ordinance as it applies to Improvement Area No. 3 have been pulled.

Property Ownership in Improvement Area No. 3

Current Property Ownership. As of February 1, 2023, the Property was owned by individual homeowners and affiliates of Landsea Homes Corporation (as defined below) as follows:

Owner	# of Lots
Individual Homeowners	173 Residential Lots
LS-Tracy LLC	78 Residential Lots
LCG-CA Model, LLC	10 Residential Lots
LS-LCF CA, LLC	47 Residential Lots

As described in more detail in the following paragraphs, LS-Tracy LLC, LCG-CA Model, LLC, and LS-LCF CA, LLC are all affiliated through their ultimate parent company Landsea Homes Corporation (“**Landsea Homes Corporation**” and, collectively with its affiliates, “**Landsea**”).

Landsea and Affiliates. Landsea Homes Corporation is headquartered in Newport Beach, California. Homes within Improvement Area No. 3 are being marketed under the Landsea Homes brand. Landsea Homes Corporation is a residential homebuilder, publicly traded on The Nasdaq Capital Market (“**Nasdaq**”) under the symbol “LSEA” and presided over by Chief Executive Officer John Ho. Landsea Homes Corporation was formed in 2018 under the name of LF Capital Acquisition Corp. as a blank check company for the purpose of effecting a merger, capital stock exchange, asset acquisition, stock purchase, reorganization, or similar business combination with one or more businesses. On January 7, 2021, Landsea Homes Corporation consummated a business combination and changed its name from LF Capital Acquisition Corp. to “Landsea Homes Corporation.” As a result of the business combination, Landsea Homes Corporation owns 100% of the outstanding common stock of Landsea Homes Incorporated, a California-based homebuilder which commenced homebuilding operations in 2013. Landsea Homes Corporation, through its subsidiaries, designs and builds homes and sustainable master-planned communities in some of the nation’s most desirable markets. Landsea Homes Corporation has developed homes and communities in New York, Boston, New Jersey, Arizona, Florida, Texas and throughout California in Silicon Valley, Los Angeles and Orange County.

Landsea Homes Corporation is subject to the informational requirements of the Securities Exchange Act of 1934 (the “**Exchange Act**”) and in accordance therewith files reports, proxy statements, and other information, including financial statements, with the SEC. The SEC maintains an internet web site that contains reports, proxy and information statements and other information regarding registrants that file electronically with the SEC, including Landsea Homes. The address of such internet web site is www.sec.gov. All documents subsequently filed by Landsea Homes Corporation pursuant to the requirements of the Exchange Act after the date of this Official Statement will be available for inspection in such manner as the SEC prescribes. Copies of Landsea Homes Corporation’s Annual Report and each of its other quarterly and current reports, including any amendments, are available from its website at www.landseahomes.com.

The foregoing internet addresses and references to filings with the SEC are included for reference only, and the information on such internet sites and on file with the SEC are not a part of this Official Statement and are not incorporated by reference into this Official Statement. No representation is made in this Official Statement as to the accuracy or adequacy of the information contained on such sites. Neither Landsea Homes Corporation nor any of its affiliates is obligated to advance funds for construction or development or to pay ad valorem property taxes or the Special Tax, and investors should not rely on the information and financial statements contained on such internet sites in evaluating whether to buy, hold or sell the 2023 Bonds.

Examples of some of projects completed by Landsea include the following:

- Kingswood in Dublin consisting of 109 Multifamily Townhomes completed in 2017.
- Stoneyridge in Walnut Creek consisting of 30 Multifamily Townhomes completed in 2019.
- The Vale in Sunnyvale consisting of 171 Multifamily Townhomes completed in 2020.
- Abigail Place in Danville consisting of 17 Single Family homes completed in 2020.
- Catalina in Santa Clara consisting of 93 Multifamily Townhomes completed in 2021.
- Sanctuary in Newark consisting of 108 Single Family homes completed in 2021.
- Relevae in Orinda consisting of 34 Single Family homes 2022.

Projects currently under development by Landsea include the following:

- Alameda Marina in Alameda consisting of 182 Multifamily Townhomes.
- Lavender in Sunnyvale consisting of 128 Multifamily Townhomes.
- Verandah in Novato consisting of 80 Multifamily Townhomes.

LS-Tracy LLC is wholly owned by Landsea Homes-WAB LLC, a Delaware limited liability company ("**Landsea Homes-WAB LLC**"). Landsea Homes-WAB LLC is in turn wholly owned by Landsea Homes US Corporation, a Delaware corporation ("**Landsea Homes US Corporation**"). Landsea Homes US Corporation is wholly owned by Landsea Homes Corporation.

LS-LCF CA, LLC, a Delaware limited liability company ("**LS-LCF CA, LLC**"), is owned by Landsea Homes US Corporation, as managing member, and Landsea Capital Fund I, LLC a Delaware limited liability company ("**Landsea Capital Fund I, LLC**"). The members of Landsea Capital Fund I, LLC include affiliates of Landsea and other entities unaffiliated with Landsea.

LCG-CA Model, LLC, a Delaware limited liability company ("**LCG-CA Model LLC**") is owned by Landsea Capital Group, LLC, a Delaware limited liability company, as managing member, and Landsea Capital Fund I, LLC.

Improvement Area No. 3 consists of approximately 73.65 acres (41.00 net acres) expected to be developed into 308 single-family homes by Landsea. All required off-site improvements for Improvement Area No. 3 for occupancy are complete. Landsea has completed substantially all site improvements, with only crosswalk pavers, entry monument, park, and parkway landscaping remaining to be completed as of February 1, 2023. Landsea held a grand opening featuring 10 model homes on the Model Lots in September 2022. As of February 1, 2023, Landsea had pulled 266 full building permits and 42 foundation-only permits, with the remaining 42 full-building permits expected to be pulled by December 2023. As of February 1, 2023, Landsea had closed escrow on 173 residential lots to homebuyers, with an additional 28 under contract to be sold (but not yet closed), and 107 lots not yet sold or closed to individual homeowners. It should be noted that homes under contract may not result in closed escrows as sales contracts are subject to cancellation by the individual homebuyers.

Landsea has constructed or is constructing homes in three product lines known as Townsend, Kinbridge, and Hartwell. Four floor plans are available in each product line, ranging from 2,107-2,587 square feet in the Townsend product line, 2,382-2,894 square feet in the Kinbridge product line, and 2,297-3,733 square feet in the Hartwell product line. The first home closing occurred in December 2021 and the final home closing is projected to occur in September 2024. See "*– The Merchant Builder – Landsea Development Plan*" below.

Landbank Lots. The residential lots owned by LS-LCF CA, LLC ("**Landbank Lots**") are subject to a land-banking arrangement and governed by an Option Agreement dated June 27, 2022 (the

“Landbank Option Agreement”) by and between LS-LCF CA, LLC and LS-Tracy LLC. As described above, the managing member of LS-LCF CA, LLC is Landsea Homes US Corporation; Landsea affiliates and other unrelated entities are direct or indirect owners of LS-LCF CA, LLC’s other membership interests. Pursuant to the Landbank Option Agreement, LS-LCF CA, LLC acquired the Landbank Lots from LS-Tracy LLC, and LS-LCF CA, LLC granted LS-Tracy LLC an option to re-acquire the Landbank Lots (the **“Landbank Option”**). The Landbank Option Agreement required certain consideration for granting the Landbank Option, which has been paid by LS-Tracy LLC. The Landbank Option Agreement does not require any specified order or minimum takedown of the Landbank Lots, with LS-Tracy LLC having discretion as to the timing and order of any takedown(s). The term of the Landbank Option will terminate upon the first to occur of (i) LS-Tracy LLC’s uncured breach or default under the Landbank Option, (ii) LS-Tracy LLC’s acquisition of all Landbank Lots, and (iii) LS-Tracy LLC’s election to not exercise the option with respect to any Landbank Lots not already acquired by LS-Tracy LLC. During the term of the Landbank Option, LS-Tracy LLC shall be responsible for any and all homeowner’s association assessments, property taxes (including the Special Taxes), and maintenance of the Landbank Lots.

Model Lots. The residential lots owned by LCG-CA Model, LLC (**“Model Lots”**) are being leased to LS-Tracy LLC pursuant to the terms of a Model Home Purchase and Leaseback Agreement (the **“Model Home Lease Agreement”**) by and between LCG-CA Model, LLC, as purchaser/landlord, and LS-Novato, LLC, a Delaware limited liability company (**“LS-Novato, LLC”**) and LS-Tracy LLC, collectively as seller/tenant. LS-Novato is a wholly owned subsidiary of Landsea Homes of California, Inc., a Delaware corporation (**“Landsea Homes of California, Inc.”**). Landsea Homes of California, Inc. is wholly owned by Landsea Homes US Corporation. Pursuant to the Model Home Lease Agreement, LS-Tracy LLC and LS-Novato, LLC each sold certain real property described therein to LCG-CA Model, LLC, with LS-Tracy LLC leasing back certain real property, including the Model Lots. Under the Model Home Lease Agreement, LS-Tracy LLC is leasing the Model Lots for a period of 36 months during which term LS-Tracy LLC shall pay a rental amount as specified therein as well as paying all real property taxes (including the Special Taxes) on the Model Lots. During the lease term, LS-Tracy LLC shall be permitted to use the Model Lots for model homes as well as a portion of such Model Lots as a sales office, design center, and other uses consistent with the operation of model homes to facilitate home sales. At or prior to the end of the term of the Model Home Lease Agreement, it is expected that LCG-CA Model, LLC will sell the model homes to individual homeowners.

Landsea Development Plan

Landsea is underway with its planned development within Improvement Area No. 3, which includes the expected construction and sale to individual homebuyers of 308 residential homes within Improvement Area No. 3 in three product lines known as Townsend, Kinbridge, and Stanford, and the construction of street, water, wastewater, and storm improvements for Improvement Area No. 3. As of February 1, 2023, Landsea had pulled 266 full building permits and 42 foundation-only building permits, with the remaining 42 full building permits expected to be pulled by December 2023. As of February 1, 2023, LS-Tracy LLC had closed escrow on 173 residential lots to homebuyers, with an additional 28 under contract to be sold (but not yet closed), and 107 lots not yet sold or closed to individual homeowners. It should be noted that homes under contract may not result in closed escrows as sales contracts are subject to cancellation by the individual homebuyers. Completion of the project and conveyance of the final homes to homebuyers is expected to occur by September 2024.

Table 8 below summarizes the product mix of the 308 proposed homes expected to be constructed by LS-Tracy LLC within the Townsend, Kinbridge, and Hartwell product lines in Improvement Area No. 3:

**Table 8
Summary of Development
Townsend, Kinbridge, and Hartwell at Ellis
(As of February 1, 2023)**

Neighborhood	Plan	Minimum Square Footage⁽¹⁾	No. of Lots	Base Home Price⁽²⁾
Townsend				
	1	2,107 sq ft	24	\$977,735
	2	2,246 sq ft	26	\$1,073,274
	3	2,411 sq ft	26	\$949,000
	4	2,587 sq ft	<u>28</u>	\$1,037,431
Townsend Total			104	
Kinbridge				
	5	2,382 sq ft	17	\$956,277
	6	2,611sq ft	21	\$976,552
	7	2,717sq ft	24	\$997,882
	8	2,894 sq ft	<u>21</u>	\$1,026,249
Kinbridge Total			83	
Hartwell				
	9	2,297 sq ft	28	\$942,990
	10	3,231 sq ft	28	\$1,019,990
	11	3,376 sq ft	33	\$1,030,990
	12	3,733 sq ft	<u>32</u>	\$1,107,971
Hartwell Total			121	
Grand Total			308	

(1) Square footage shown excludes room options which may be offered.

(2) Base home prices shown exclude the builder's estimate of lot premiums, the sales of options and extras and any incentives, concessions, or price reductions. Based on base home sale price as of February 1, 2023 or the last homes sold.

Source: LS-Tracy LLC.

LS-Tracy LLC's development expectations described above are based on LS-Tracy LLC's current plans. These plans may change due to changes in economic and market conditions or other factors. No assurance can be given that the remaining home construction and sales will be carried out according to the plans outlined herein. No representation is made as to the ability or willingness of LS-Tracy LLC to complete its property development in Improvement Area No. 3 as currently planned and as described in this Official Statement.

COVID-19 Impact. The COVID-19 pandemic and related public health and governmental authorities' orders and actions is having a negative impact throughout the world, including in the County of San Joaquin, and could have a material adverse effect on LS-Tracy LLC's ability to complete its development within Improvement Area No. 3 in the time frame and budget, and at the sales prices, described in this Official Statement.

As of February 1, 2023, LS-Tracy LLC has experienced increases in certain construction costs, supply chain delays, labor shortages, and increased cycle time for home deliveries. However, LS-Tracy LLC has not experienced any significant development delays resulting from work stoppages, reduced attendance of workers, or the ability to obtain necessary inspections and approvals for homes, which may be attributed, directly or indirectly, to the COVID-19 pandemic. While the cost increases and delays may have been and may continue to be intermittently affected by COVID-19, the majority of cost

increases and delays can be attributable to the strength of the housing market and the result of vendors not anticipating the scale of the demand for housing materials.

Although the recent cost increases and construction delays are not currently having a significant impact on the overall development of LS-Tracy LLC's development in Improvement Area No. 3, the impacts caused by the outbreak are evolving and no prediction can be made with respect to the ultimate effects of the COVID-19 outbreak and related public health and governmental authorities' orders and actions (including, without limitation, the scope of restrictions under the current or any amended County of Joaquin or State of California orders), on LS-Tracy LLC's ability to continue to sell and close homes in Improvement Area No. 3.

See the caption "BOND OWNERS' RISKS—COVID-19 Pandemic" for certain risks associated with the outbreak of the COVID-19 Pandemic.

Status of Infrastructure for Improvement Area No. 3

All infrastructure improvements required for the sale and closing of homes within Improvement Area No. 3 have been completed by the Master Developer or LS-Tracy LLC. LS-Tracy LLC has also completed substantially all site improvements, with only crosswalk pavers, entry monument, park and parkway landscaping remaining to be completed as of February 1, 2023.

The Financing Plan in Improvement Area No. 3

LS-Tracy LLC Financing Plan. Through February 1, 2023, LS-Tracy LLC had spent approximately \$159.8 million related to its development within Improvement Area No. 3, not including land acquisition costs. As of such date, LS-Tracy LLC estimated it would spend approximately \$57 million in additional direct and indirect construction costs, permit and impact fees, and other development, marketing and sales costs (exclusive of internal financing repayment, corporate overhead and other carry costs) between February 1, 2023 and full buildout of the 308 homes expected to be constructed by LS-Tracy LLC in Improvement Area No. 3, which is expected to occur by September 2024.

Through February 1, 2023, LS-Tracy LLC had financed its land acquisition costs and various site development costs related to its property within Improvement Area No. 3 through internally generated funds, including cash generated from its homebuilding operations and through a credit facility that its parent company, Landsea, has with Western Alliance Bank (the "**Credit Facility**"). The Credit Facility is used for projects in which Landsea is involved (see, e.g., the projects listed as currently under development under the heading "OWNERSHIP AND DEVELOPMENT OF IMPROVEMENT AREA NO. 3 – The Merchant Builder"). The Credit Facility is a senior unsecured borrowing base revolving line of credit with a total loan commitment of \$675 million and an expiration date of October 6, 2025, subject to additional one-year extension options. As of February 1, 2023, approximately \$160 million was available to be borrowed under the Credit Facility, subject to the terms thereof. LS-Tracy LLC expects to use the same sources of funding to complete its development activities within Improvement Area No. 3 (including the payment of property taxes and the Special Taxes).

Although LS-Tracy LLC expects to have sufficient funds available to complete its development activities in Improvement Area No. 3 in accordance with the development timing described in this Official Statement, there can be no assurance that amounts necessary to finance the remaining development and home construction costs will be available from LS-Tracy LLC or any other source when needed. Neither LS-Tracy LLC nor any of its related entities are under any legal obligation of any kind to expend funds for the development of and construction of homes on LS-Tracy LLC's property in Improvement Area No. 3. Any contributions by LS-Tracy LLC to fund the costs of such development and home construction are entirely voluntary.

If and to the extent that internal funding, including but not limited to home sales revenues, is inadequate to pay the costs to complete the planned development by LS-Tracy LLC within Improvement Area No. 3 and other financing by LS-Tracy LLC is not put into place, there could be a shortfall in the funds required to complete the planned development by LS-Tracy LLC within Improvement Area No. 3.

Environmental Matters

Flood Hazard Map Information. According to the Federal Emergency Management Agency's flood insurance rate maps (Map Panel Number 06077C-0730F, dated October 16, 2009), the developable portions of the property in Improvement Area No. 3 are located within Flood Zone X, described as areas of minimal flooding (outside of the 100- and 500-year floodplains). Property in Improvement Area No. 3 is not subject to the Central Valley Flood Protection Plan.

Seismic Conditions. According to the Seismic Safety Commission, Improvement Area No. 3 is located within Zone 3, which is considered to be the lowest risk zone in California. There are only two zones in California: Zone 4, which is assigned to areas near major faults; and Zone 3, which is assigned to all other areas of more moderate seismic activity. In addition, Improvement Area No. 3 is not located within a Fault-Rupture Hazard Zone (formerly referred to as an Alquist-Priolo Special Study Zone), as defined by Special Publication 42 of the California Department of Conservation, Division of Mines and Geology.

Wetlands. No wetland mitigation was required for development within Improvement Area No. 3.

Environmental Status. According to the Environmental Impact Report approved in January 22, 2013 by the City, impacts of the development of land in Improvement Area No. 3 have been analyzed and addressed and no further actions are necessary in order to complete the final construction of the planned units, and continued development of the tracts in Improvement Area No. 3 will not result in any other direct or indirect adverse impacts.

Fire Hazard Zone. The property in Improvement Area No. 3 is not located within an area mapped by the California Department of Forestry and Fire Protection as a fire hazard severity zone.

Explosives Testing. The Lawrence Livermore National Laboratory ("LLNL") Experimental Test Site ("Site 300") is a restricted-access facility operated for the U.S. Department of Energy National Nuclear Security Administration ("DOE/NNSA") by Lawrence Livermore National Security, LLC. Site 300 is located approximately 6.4 miles to the southwest of the Ellis project. The Site 300 facility is used in the research, development, and testing of non-radioactive explosive materials to support DOE/NNSA stockpile stewardship, counterterrorism and counterproliferation programs. Site 300 has been in operation as an explosive testing and research facility since 1955.

Site 300 conducts explosive testing in both indoor and outdoor facilities. Explosive testing conducted at Site 300 is regulated by the San Joaquin Valley Air Pollution Control District ("SJVAPCD"). Currently, Site 300 operates under a SJVAPCD air permit that allows detonations of explosives up to 100 pounds per day and 1,000 pounds per year. To minimize noise impacts to surrounding land uses, adjacent neighbors and other sensitive receptors, Site 300 constructed the Contained Firing Facility in 2000. The concrete, 28,000 square foot facility allows Site 300 to conduct explosive tests indoors. Intermittent outdoor explosive tests (otherwise known as open detonations) are also conducted.

In the Fall of 2017, DOE/NNSA submitted a new SJVAPCD permit application and released a Draft Environmental Assessment proposing to increase the weight of explosives from the current limit of 100 lbs./day to 1,000 lbs./day, and from 1,000 lbs./year to 7,500 lbs./year. The proposed increase would allow larger single detonations and would result in more open detonations. The City and the County submitted comment letters expressing concern and questions in regards to potential increase in noise impacts. To date, the SJVAPCD has not taken any action on the permit application.

Utilities. All public utilities are available to each of the parcels within Improvement Area No. 3. Public utilities are provided by the following entities:

<u>Utility</u>	<u>Provider</u>
Electricity	Pacific Gas & Electric
Natural Gas	Pacific Gas & Electric
Sewer/Water	City of Tracy
Data/Phone	Comcast/ATT

BOND OWNERS' RISKS

The purchase of the 2023 Bonds described in this Official Statement involves a degree of risk that may not be appropriate for some investors. The following includes a discussion of some of the risks which should be considered before making an investment decision. This discussion does not purport to be comprehensive or definitive and does not purport to be a complete statement of all factors which may be considered as risks in evaluating the credit quality of the 2023 Bonds.

Limited Obligation of the City to Pay Debt Service

The City has no obligation to pay principal of and interest on the 2023 Bonds if Special Tax collections are delinquent or insufficient, other than from amounts, if any, on deposit in the 2023 Reserve Fund or funds derived from the tax sale or foreclosure and sale of parcels for Special Tax delinquencies. The City is not obligated to advance funds to pay debt service on the 2023 Bonds.

Levy and Collection of the Special Tax

General. The principal source of payment of principal of and interest on the 2023 Bonds is the proceeds of the annual levy and collection of the Special Tax against property within Improvement Area No. 3.

Limitation on Maximum Special Tax Rate. The annual levy of the Special Tax is subject to the maximum annual Special Tax rate authorized in the Rate and Method. The levy cannot be made at a higher rate even if the failure to do so means that the estimated proceeds of the levy and collection of the Special Tax, together with other available funds, will not be sufficient to pay debt service on the 2023 Bonds.

No Relationship Between Property Value and Special Tax Levy. Because the Special Tax formula set forth in the Rate and Method is not based on property value, the levy of the Special Tax will rarely, if ever, result in a uniform relationship between the value of particular parcels of Taxable Property and the amount of the levy of the Special Tax against those parcels. Thus, there will rarely, if ever, be a uniform relationship between the value of the parcels of Taxable Property and their proportionate share of debt service on the 2023 Bonds, and certainly not a direct relationship.

Factors that Could Lead to Special Tax Deficiencies. The following are some of the factors that might cause the levy of the Special Tax on any particular parcel of Taxable Property to vary from the Special Tax that might otherwise be expected:

Transfers to Governmental Entities. The number of parcels of Taxable Property could be reduced through the acquisition of Taxable Property by a governmental entity and failure of the government to pay the Special Tax based upon a claim of exemption or, in the case of the federal government or an agency thereof, immunity from taxation, thereby resulting in an increased tax burden on the remaining taxed parcels. See “– Exempt Properties” below.

Property Tax Delinquencies. Failure of the owners of Taxable Property to pay property taxes (and, consequently, the Special Tax), or delays in the collection of or inability to collect the Special Tax by tax sale or foreclosure and sale of the delinquent parcels, could result in a deficiency in the collection of Special Tax revenues. See “– Property Tax Delinquencies” below.

Delays Following Special Tax Delinquencies and Foreclosure Sales. The Fiscal Agent Agreement generally provides that the Special Tax is to be collected in the same manner as ordinary *ad valorem* property taxes are collected and, except as provided in the special covenant for foreclosure described in “SECURITY FOR THE 2023 BONDS – Covenant to Foreclose” and in the Act, is subject to the same penalties and the same procedure, sale and lien priority in case of delinquency as is provided for ordinary *ad valorem* property taxes. Under these procedures, if taxes are unpaid for a period of five years or more, the property is deeded to the State and then is subject to sale by the County.

If sales or foreclosures of property are necessary, there could be a delay in payments to owners of the 2023 Bonds pending such sales or the prosecution of foreclosure proceedings and receipt by the City of the proceeds of sale if the 2023 Reserve Fund is depleted. See “SECURITY FOR THE 2023 BONDS – Covenant to Foreclose.”

The ability of the City to collect interest and penalties specified by State law and to foreclose against properties having delinquent Special Tax installments may be limited in certain respects with regard to properties in which a federal governmental agency has or obtains an interest. See “– FDIC/Federal Government Interests in Properties” below.

Other laws generally affecting creditors’ rights or relating to judicial foreclosure may affect the ability to enforce payment of Special Taxes or the timing of enforcement of Special Taxes. For example, the Soldiers and Sailors Civil Relief Act of 1940 affords protections such as a stay in enforcement of the foreclosure covenant, a six-month period after termination of such military service to redeem property sold to enforce the collection of a tax or assessment, and a limitation on the interest rate on the delinquent tax or assessment to persons in military service if the court concludes the ability to pay such taxes or assessments is materially affected by reason of such service.

Concentration of Ownership

All of the taxable property within Improvement Area No. 3 is currently owned by LS-Tracy LLC (or its affiliates) and individual homeowners. As of January 3, 2023, and assuming no further home closings after such date, the property owned by LS-Tracy LLC (and its affiliates) is estimated to be responsible for approximately 39.7% of the projected Fiscal Year 2023-24 Facilities Special Tax levy. See “THE DISTRICT AND IMPROVEMENT AREA NO. 3 – Value-to-Lien Ratios” and “OWNERSHIP AND DEVELOPMENT OF IMPROVEMENT AREA NO. 3 – The Merchant Builder.”

The owners of property in Improvement Area No. 3 are not personally obligated to pay the Special Tax attributable to their property. Rather, the Special Tax is an obligation only against the parcel of property, secured by the amount which could be realized in a foreclosure proceeding against the property,

and not by any promise of the owner to pay. If the value of the property is not sufficient, taking into account other obligations also constituting a lien against the property, the City, Fiscal Agent and owners of the 2023 Bonds have no recourse against the owner, such as filing a lawsuit to collect money.

Failure of LS-Tracy LLC (and its affiliates) or any future merchant builder or future owner of significant property subject to the Special Taxes in Improvement Area No. 3 to pay installments of Special Taxes when due could cause the depletion of the 2023 Reserve Funds prior to reimbursement from the resale of foreclosed property or payment of the delinquent Special Tax and, consequently, result in the delinquency rate reaching a level that would cause an insufficiency in collection of the Special Tax for the City to pay debt service with respect to the 2023 Bonds.

Potential Early Redemption of Bonds from Prepayments

Property owners within Improvement Area No. 3, including LS-Tracy LLC, and individual homeowners, are permitted to prepay up to 80% of the Facilities Special Tax obligation applicable to their parcel, subject to certain notice and other provisions of the Rate and Method. Such prepayments will result in a redemption of the 2023 Bonds on the interest payment date for which timely notice may be given under the Fiscal Agent Agreement following the receipt of the prepayment. The resulting redemption of 2023 Bonds that were purchased at a price greater than par could reduce the otherwise expected yield on such 2023 Bonds.

Property Tax Delinquencies

General. Delinquencies in the payment of property taxes and, consequently, the Special Taxes, can occur because the owners of delinquent parcels may not have received property tax bills from the County in a timely manner, including situations in which the County initially sent property tax bills to the property developer or merchant builder at a time when the parcels in question had already been sold to individual homeowners. Delinquencies can also reflect economic difficulties and duress by the property owner.

Numerous future delinquencies by the owners of Taxable Property in Improvement Area No. 3 in the payment of property taxes (and, consequently, the Special Taxes, which are collected on the ordinary property tax bills) when due could result in a deficiency in Special Tax revenues necessary to pay debt service on the 2023 Bonds, which could in turn result in the depletion of the 2023 Reserve Fund, prior to reimbursement from the resale of foreclosed property or payment of the delinquent Special Tax. In that event, there could be a delay or failure in payments of the principal of and interest on the 2023 Bonds. See “SECURITY FOR THE 2023 BONDS – 2023 Reserve Fund,” and “THE DISTRICT AND IMPROVEMENT AREA NO. 3 – Potential Consequences of Special Tax Delinquencies.”

Measures to Mitigate Consequences of Continuing Delinquencies. The City intends to take certain actions designed to mitigate the impact of future delinquencies, including: enforcing the lien of the Special Taxes through collection procedures that will include foreclosure actions under certain circumstances (see “SECURITY FOR THE 2023 BONDS – Covenant to Foreclose”); and increasing the levy of Special Taxes against non-delinquent property owners in Improvement Area No. 3 to the extent permitted under the Rate and Method and the Act, and to the extent the Special Taxes are not already being levied at the maximum Special Tax rate. See “THE DISTRICT AND IMPROVEMENT AREA NO. 3 – Potential Consequences of Special Tax Delinquencies.”

Limitations on Increases in Special Tax Levy. If property owners are delinquent in the payment of the Special Tax, the City may not increase Special Tax levies to make up for delinquencies for prior fiscal years above the maximum annual Special Tax rates specified in the Rate and Method.

In addition, the City's ability to increase Special Tax levies on residential property to make up for delinquencies for prior Fiscal Years is limited by Section 53321(d) of the Act, which provides that the special tax levied against any parcel for which an occupancy permit for private residential use has been issued may not be increased as a consequence of delinquency or default by the owner of any other parcel by more than 10% above the amount that would have been levied in such Fiscal Year had there never been any such delinquencies or defaults.

In cases of significant delinquency, these factors may result in defaults in the payment of principal of and interest on the 2023 Bonds.

Risks Related to Homeowners with High Loan to Value Ratios

Any future decline in home values in Improvement Area No. 3 could result in property owner unwillingness or inability to pay mortgage payments, as well as *ad valorem* property taxes and Special Taxes, when due. Under such circumstances, bankruptcies are likely to increase. Bankruptcy by homeowners with delinquent Special Taxes would delay the commencement and completion of foreclosure proceedings to collect delinquent Special Taxes.

It is possible that laws could be enacted in the future to assist homeowners in default in the payment of mortgages and property taxes. It is further possible that federal laws could be enacted that would adversely impact the ability of the City to foreclose on parcels with delinquent Special Taxes. No assurance can be given that any such laws will be enacted, or if enacted will be effective in assisting affected homeowners.

Payment of Special Tax is Not a Personal Obligation of the Property Owners

An owner of Taxable Property is not personally obligated to pay the Special Taxes. Rather, the Special Taxes are an obligation running only against the parcels of Taxable Property. If, after a default in the payment of the Special Tax and a foreclosure sale by the City, the resulting proceeds are insufficient, taking into account other obligations also constituting a lien against the affected parcels of Taxable Property, the City has no recourse against the owner.

Appraised Values

The Appraisal summarized in APPENDIX H estimates the market value of the property that is currently Taxable Property within Improvement Area No. 3. This market value is merely the opinion of the Appraiser as of the date of value set forth in the Appraisal, and is subject to the assumptions and limiting conditions stated in the Appraisal. The City has not sought an updated opinion of value by the Appraiser subsequent to the date of value of the Appraisal, or an opinion of the value of the Taxable Property by any other appraiser. A different opinion of value might be rendered by a different appraiser.

The opinion of value assumes a sale by a willing seller to a willing buyer, each having similar information and neither being forced by other circumstances to sell or to buy. Consequently, the opinion is of limited use in predicting the selling price at a foreclosure sale, because the sale is forced and the buyer may not have the benefit of full information.

In addition, the opinion of value is made as of the date of value set forth in the Appraisal, based upon facts and circumstances existing as of the date of value. Differing facts and circumstances may lead to differing opinions of value. The appraised value is not evidence of future value because future facts and circumstances may differ significantly from the facts and circumstances at the time the Appraisal was prepared.

No assurance can be given that any of the Taxable Property in Improvement Area No. 3 could be sold for the estimated market value contained in the Appraisal if that property should become delinquent in the payment of Special Taxes and be foreclosed upon.

Property Values

The value of Taxable Property within Improvement Area No. 3 is a critical factor in determining the investment quality of the 2023 Bonds. If a property owner defaults in the payment of the Special Tax, the City's only remedy is to foreclose on the delinquent property in an attempt to obtain funds with which to pay the delinquent Special Tax. Land values could be adversely affected by economic and other factors beyond the City's control, such as a general economic downturn, relocation of employers out of the area, shortages of water, electricity, natural gas or other utilities, destruction of property caused by earthquake, flood, landslides, wildfires, or other natural disasters, environmental pollution or contamination, or unfavorable economic conditions.

The following is a discussion of specific risk factors that could affect the value of property in Improvement Area No. 3.

Natural Disasters. The value of the Taxable Property in the future can be adversely affected by a variety of natural occurrences, particularly those that may affect infrastructure and other public improvements and private improvements on the Taxable Property and the continued habitability and enjoyment of such private improvements.

The areas in and surrounding the District, like those in much of California, may be subject to unpredictable seismic activity, including earthquakes and landslides. Other natural disasters could include, without limitation, floods, landslides, wildfires, droughts or tornadoes. One or more natural disasters could occur and could result in damage to improvements of varying seriousness. The damage may entail significant repair or replacement costs and that repair or replacement may never occur either because of the cost, or because repair or replacement will not facilitate habitability or other use, or because other considerations preclude such repair or replacement. Under any of these circumstances there could be significant delinquencies in the payment of Special Taxes, and the value of the Taxable Property may well depreciate or disappear. See "OWNERSHIP AND DEVELOPMENT OF IMPROVEMENT AREA NO. 3 – Environmental Matters" for additional details on certain environmental matters.

Drought. With respect to droughts specifically, California has a history of suffering periodic drought conditions. Most recently, on May 10, 2021, the governor proclaimed a State of Emergency for 41 of the State's 58 counties (including San Joaquin County, where the District is located), citing above-average temperatures and dry conditions. In April 2022, the governor extended the State of Emergency to all counties in the State and asked all Californians to voluntarily reduce water usage by 15%. No assurance can be given that drought conditions will not continue in 2023 and future years or, subside only to return in the future, potentially impacting the development of property in Improvement Area No. 3, the value of Taxable Property within Improvement Area No. 3, or economic activity within Improvement Area No. 3.

Wildfire. In recent years, drought conditions in the State (see "– Drought above") have led to increased risk of wildfire. In particular, certain electrical operators in the State have seen their distribution/transmission lines cause billions of dollars in property damage and the loss of lives. Although the land in Improvement Area No. 3 is not in a high-risk area (or a special fire hazard severity zone) for wildfires, landslides, floods, or tornadoes, natural disasters such as these are unpredictable and may occur anywhere throughout the State, with devastating consequences, including resulting in significant delinquencies in the payment of Special Taxes, and reduction in the value of the parcels. No assurance

can be given that wildfires will not erupt in the developments being undertaken in Improvement Area No. 3 and negatively impact development of property in the Improvement Area No. 3 in the future.

Legal Requirements. Other events that may affect the value of Taxable Property include changes in the law or application of the law. Such changes may include, without limitation, local growth control initiatives, local utility connection moratoriums and local application of statewide tax and governmental spending limitation measures.

Hazardous Substances. One of the most serious risks in terms of the potential reduction in the value of Taxable Property is a claim with regard to a hazardous substance. In general, the owners and operators of Taxable Property may be required by law to remedy conditions of the parcel relating to releases or threatened releases of hazardous substances. The federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, sometimes referred to as “CERCLA” or the “Superfund Act,” is the most well-known and widely applicable of these laws, but California laws with regard to hazardous substances are also stringent and similar. Under many of these laws, the owner or operator is obligated to remedy a hazardous substance condition of property whether or not the owner or operator has anything to do with creating or handling the hazardous substance. The effect, therefore, should any of the Taxable Property be affected by a hazardous substance, is to reduce the marketability and value of the parcel by the costs of remedying the condition, because the purchaser, upon becoming owner, will become obligated to remedy the condition just as is the seller.

The property values set forth in this Official Statement do not take into account the possible reduction in marketability and value of any of the Taxable Property by reason of the possible liability of the owner or operator for the remedy of a hazardous substance condition of the parcel. Although the City is not aware that the owner or operator of any of the Taxable Property has such a current liability with respect to any of the Taxable Property, it is possible that such liabilities do currently exist and that the City is not aware of them.

Further, it is possible that liabilities may arise in the future with respect to any of the Taxable Property resulting from the existence, currently, on the parcel of a substance presently classified as hazardous but that has not been released or the release of which is not presently threatened, or may arise in the future resulting from the existence, currently on the parcel of a substance not presently classified as hazardous but that may in the future be so classified. Further, such liabilities may arise not simply from the existence of a hazardous substance but from the method of handling it. All of these possibilities could significantly affect the value of Taxable Property that is realizable upon a delinquency.

Other Possible Claims Upon the Value of Taxable Property

While the Special Taxes are secured by the Taxable Property, the security only extends to the value of such Taxable Property that is not subject to priority and parity liens and similar claims.

The tables in the sections entitled “THE DISTRICT AND IMPROVEMENT AREA NO. 3 – Direct and Overlapping Governmental Obligations” and “– Estimated Tax Burden on Single Family Homes,” show the presently outstanding amount of governmental obligations, the tax or assessment for which is or may become an obligation of one or more of the parcels of Taxable Property. The tables do not specifically identify which of the governmental obligations are secured by liens on one or more of the parcels of Taxable Property.

In addition, other governmental obligations may be authorized and undertaken or issued in the future, the tax, assessment or charge for which may become an obligation of one or more of the parcels of Taxable Property and may be secured by a lien on a parity with the lien of the Special Tax securing the 2023 Bonds. Property owners can also voluntarily add Property Assessed Clean Energy (PACE) assessment liens on their property to finance energy efficiency improvements.

In general, as long as the Special Tax is collected on the County tax roll, the Special Tax and all other taxes, assessments and charges also collected on the tax roll are on a parity, that is, are of equal priority. Questions of priority become significant when collection of one or more of the taxes, assessments or charges is sought by some other procedure, such as foreclosure and sale. In the event of proceedings to foreclose for delinquency of Special Taxes securing the 2023 Bonds, the Special Tax will be subordinate only to existing prior governmental liens, if any. Otherwise, in the event of such foreclosure proceedings, the Special Taxes will generally be on a parity with the other taxes, assessments and charges, and will share the proceeds of such foreclosure proceedings on a pro-rata basis. Although the Special Taxes will generally have priority over non-governmental liens on a parcel of Taxable Property, regardless of whether the non-governmental liens were in existence at the time of the levy of the Special Tax or not, this result may not apply in the case of bankruptcy. See “– Bankruptcy Delays” below.

Exempt Properties

Certain properties are exempt from the Special Tax in accordance with the Rate and Method and the Act, which provides that properties or entities of the state, federal or local government are exempt from the Special Tax; provided, however, that property within Improvement Area No. 3 acquired by a public entity through a negotiated transaction or by gift or devise, which is not otherwise exempt from the Special Tax, will continue to be subject to the Special Tax. See “SECURITY FOR THE 2023 BONDS – Rate and Method.”

In addition, although the Act provides that if property subject to the Special Tax is acquired by a public entity through eminent domain proceedings, the obligation to pay the Special Tax with respect to that property is to be treated as if it were a special assessment, the constitutionality and operation of these provisions of the Act have not been tested, meaning that such property could become exempt from the Special Tax. The Act further provides that no other properties or entities are exempt from the Special Tax unless the properties or entities are expressly exempted in a resolution of consideration to levy a new special tax or to alter the rate or method of apportionment of an existing special tax.

FDIC/Federal Government Interests in Properties

General. The ability of the City to foreclose the lien of delinquent unpaid Special Tax installments may be limited with regard to properties in which the FDIC, the Federal National Mortgage Association, the Drug Enforcement Agency, the Internal Revenue Service, or other federal agency has or obtains an interest.

Federal courts have held that, based on the supremacy clause of the United States Constitution, in the absence of Congressional intent to the contrary, a state or local agency cannot foreclose to collect delinquent taxes or assessments if foreclosure would impair the federal government interest.

The supremacy clause of the United States Constitution reads as follows: “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the contrary notwithstanding.”

This means that, unless Congress has otherwise provided, if a federal governmental entity owns a parcel that is subject to Special Taxes but does not pay taxes and assessments levied on the parcel (including Special Taxes), the applicable state and local governments cannot foreclose on the parcel to collect the delinquent taxes and assessments.

Moreover, unless Congress has otherwise provided, if the federal government has a mortgage interest in the parcel and the City wishes to foreclose on the parcel as a result of delinquent Special Taxes, the property cannot be sold at a foreclosure sale unless it can be sold for an amount sufficient to pay delinquent taxes and assessments on a parity with the Special Taxes and preserve the federal government's mortgage interest. In *Rust v. Johnson* (9th Circuit; 1979) 597 F.2d 174, the United States Court of Appeal, Ninth Circuit held that the Federal National Mortgage Association ("**FNMA**") is a federal instrumentality for purposes of this doctrine, and not a private entity, and that, as a result, an exercise of state power over a mortgage interest held by FNMA constitutes an exercise of state power over property of the United States.

The City has not undertaken to determine whether any federal governmental entity currently has, or is likely to acquire, any interest (including a mortgage interest) in any of the parcels subject to the Special Taxes, and therefore expresses no view concerning the likelihood that the risks described above will materialize while the 2023 Bonds are outstanding.

FDIC. In the event that any financial institution making any loan which is secured by real property within Improvement Area No. 3 is taken over by the FDIC, and prior thereto or thereafter the loan or loans go into default, resulting in ownership of the property by the FDIC, then the ability of the City to collect interest and penalties specified by State law and to foreclose the lien of delinquent unpaid Special Taxes may be limited.

The FDIC's policy statement regarding the payment of state and local real property taxes (the "**Policy Statement**") provides that property owned by the FDIC is subject to state and local real property taxes only if those taxes are assessed according to the property's value, and that the FDIC is immune from real property taxes assessed on any basis other than property value. According to the Policy Statement, the FDIC will pay its property tax obligations when they become due and payable and will pay claims for delinquent property taxes as promptly as is consistent with sound business practice and the orderly administration of the institution's affairs, unless abandonment of the FDIC's interest in the property is appropriate. The FDIC will pay claims for interest on delinquent property taxes owed at the rate provided under state law, to the extent the interest payment obligation is secured by a valid lien. The FDIC will not pay any amounts in the nature of fines or penalties and will not pay nor recognize liens for such amounts. If any property taxes (including interest) on FDIC-owned property are secured by a valid lien (in effect before the property became owned by the FDIC), the FDIC will pay those claims. The Policy Statement further provides that no property of the FDIC is subject to levy, attachment, garnishment, foreclosure or sale without the FDIC's consent. In addition, the FDIC will not permit a lien or security interest held by the FDIC to be eliminated by foreclosure without the FDIC's consent.

The Policy Statement states that the FDIC generally will not pay non-ad valorem taxes, including special assessments, on property in which it has a fee interest unless the amount of tax is fixed at the time that the FDIC acquires its fee interest in the property, nor will it recognize the validity of any lien to the extent it purports to secure the payment of any such amounts. Special taxes imposed under the Act and a special tax formula which determines the special tax due each year are specifically identified in the Policy Statement as being imposed each year and therefore covered by the FDIC's federal immunity. The Ninth Circuit has issued a ruling on August 28, 2001 in which it determined that the FDIC, as a federal agency, is exempt from Mello-Roos special taxes.

The City is unable to predict what effect the application of the Policy Statement would have in the event of a delinquency in the payment of Special Taxes on a parcel within Improvement Area No. 3 in which the FDIC has or obtains an interest, although prohibiting the lien of the Special Taxes to be foreclosed out at a judicial foreclosure sale could reduce or eliminate the number of persons willing to purchase a parcel at a foreclosure sale. Such an outcome could cause a draw on the 2023 Reserve Fund and perhaps, ultimately, if enough property were to become owned by the FDIC, a default in payment on the 2023 Bonds.

Depletion of 2023 Reserve Fund

The 2023 Reserve Fund is to be maintained at an amount equal to the Reserve Requirement for the 2023 Bonds. See "SECURITY FOR THE 2023 BONDS – 2023 Reserve Fund." The 2023 Reserve Fund will be used to pay principal of and interest on the 2023 Bonds (and any Parity Bonds) if insufficient funds are available from the proceeds of the levy and collection of the Special Tax against property within Improvement Area No. 3. If the 2023 Reserve Fund is depleted, it can be replenished from the proceeds of the levy and collection of the Special Taxes that exceed the amounts to be paid to the owners of the 2023 Bonds (and any Parity Bonds) under the Fiscal Agent Agreement. However, because the Special Tax levy is limited to the maximum annual Special Tax rates, it is possible that no replenishment would be possible if the Special Tax proceeds, together with other available funds, remain insufficient to pay all such amounts. Thus, it is possible that the 2023 Reserve Fund will be depleted and not be replenished by the levy and collection of the Special Taxes.

Bankruptcy Delays

The payment of the Special Tax and the ability of the City to foreclose the lien of a delinquent unpaid Special Tax, as discussed in "SECURITY FOR THE 2023 BONDS," may be limited by bankruptcy, insolvency or other laws generally affecting creditors' rights or by the laws of the State of California relating to judicial foreclosure. The various legal opinions to be delivered concurrently with the delivery of the 2023 Bonds (including Bond Counsel's approving legal opinion) will be qualified as to the enforceability of the various legal instruments by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights, by the application of equitable principles and by the exercise of judicial discretion in appropriate cases.

Although bankruptcy proceedings would not cause the Special Taxes to become extinguished, bankruptcy of a property owner or any other person claiming an interest in the property could result in a delay in superior court foreclosure proceedings and could result in the possibility of Special Tax installments not being paid in part or in full. Such a delay would increase the likelihood of a delay or default in payment of the principal of and interest on the 2023 Bonds.

In addition, the amount of any lien on property securing the payment of delinquent Special Taxes could be reduced if the value of the property were determined by the bankruptcy court to have become less than the amount of the lien, and the amount of the delinquent Special Taxes in excess of the reduced lien could then be treated as an unsecured claim by the court. Any such stay of the enforcement of the lien for the Special Tax, or any such delay or non-payment, would increase the likelihood of a delay or default in payment of the principal of and interest on the 2023 Bonds and the possibility of delinquent Special Taxes not being paid in full.

The chances are increased that the 2023 Reserve Fund established for the 2023 Bonds could be fully depleted during any such delay in obtaining payment of delinquent Special Taxes. As a result, sufficient moneys would not be available in the 2023 Reserve Fund to make up shortfalls resulting from delinquent payments of the Special Tax and thereby to pay principal of and interest on the 2023 Bonds on a timely basis.

Cyber Security

The City, like many other public and private entities, relies on computer and other digital networks and systems to conduct its operations. As a recipient and provider of personal, private or other sensitive electronic information, the City is potentially subject to multiple cyber threats, including without limitation hacking, viruses, ransomware, malware and other attacks. No assurance can be given that the City's efforts to manage cyber threats and attacks will be successful in all cases, or that any such attack will

not materially impact the operations or finances of the City or the District, or the administration of the 2023 Bonds. The City is also reliant on other entities and service providers in connection with the administration of the 2023 Bonds, including without limitation the County tax collector for the levy and collection of Special Taxes, the Fiscal Agent, and the Dissemination Agent. No assurance can be given that the City, the District and these other entities will not be affected by cyber threats and attacks in a manner that may affect the Bond owners.

Disclosure to Future Purchasers

The City has recorded a notice of the Special Tax lien in the Office of the County Recorder. While title companies normally refer to such notices in title reports, there can be no guarantee that such reference will be made or, if made, that a prospective purchaser or lender will consider such special tax obligation in the purchase of a parcel of land or a home in Improvement Area No. 3 or the lending of money secured by property in Improvement Area No. 3. The Act requires the subdivider of a subdivision (or its agent or representative) to notify a prospective purchaser or long-term lessor of any lot, parcel, or unit subject to a Mello-Roos special tax of the existence and maximum amount of such special tax using a statutorily prescribed form. California Civil Code Section 1102.6b requires that in the case of transfers other than those covered by the above requirement, the seller must at least make a good faith effort to notify the prospective purchaser of the special tax lien in a format prescribed by statute. Failure by an owner of the property to comply with these requirements, or failure by a purchaser or lessor to consider or understand the nature and existence of the Special Tax, could adversely affect the willingness and ability of the purchaser or lessor to pay the Special Tax when due.

No Acceleration Provisions

The 2023 Bonds do not contain a provision allowing for their acceleration in the event of a payment default or other default under the terms of the 2023 Bonds or the Fiscal Agent Agreement. Under the Fiscal Agent Agreement, a Bondholder is given the right for the equal benefit and protection of all Bondowners similarly situated to pursue certain remedies. See “APPENDIX C – Summary of Certain Provisions of the Fiscal Agent Agreement.” So long as the 2023 Bonds are in book-entry form, DTC will be the sole Bondholder and will be entitled to exercise all rights and remedies of Bond holders.

Loss of Tax Exemption

As discussed under the caption “LEGAL MATTERS – Tax Exemption,” interest on the 2023 Bonds might become includable in gross income for purposes of federal income taxation retroactive to the date the 2023 Bonds were issued as a result of future acts or omissions of the City in violation of its covenants in the Fiscal Agent Agreement. The Fiscal Agent Agreement does not contain a special redemption feature triggered by the occurrence of an event of taxability. As a result, if interest on the 2023 Bonds were to become includable in gross income for purposes of federal income taxation, the 2023 Bonds would continue to remain outstanding until maturity unless earlier redeemed pursuant to optional or mandatory redemption or redemption upon prepayment of the Special Taxes. See “THE 2023 BONDS – Redemption.”

IRS Audit of Tax-Exempt Bond Issues

The Internal Revenue Service (the “IRS”) has initiated an expanded program for the auditing of tax-exempt bond issues, including both random and targeted audits. It is possible that the 2023 Bonds will be selected for audit by the IRS. It is also possible that the market value of such 2023 Bonds might be affected as a result of such an audit of such 2023 Bonds (or by an audit of similar bonds or securities).

Impact of Legislative Proposals, Clarifications of the Tax Code and Court Decisions on Tax Exemption

Future legislative proposals, if enacted into law, clarification of the Tax Code (defined herein) or court decisions may cause interest on the 2023 Bonds to be subject, directly or indirectly, to federal income taxation or to be subject to or exempted from state income taxation, or otherwise prevent Bondowners from realizing the full current benefit of the tax status of such interest.

Voter Initiatives

Under the California Constitution, the power of initiative is reserved to the voters for the purpose of enacting statutes and constitutional amendments. Since 1978, the voters have exercised this power through the adoption of Proposition 13 and similar measures, including Proposition 218, which was approved in the general election held on November 5, 1996, and Proposition 26, which was approved on November 2, 2010.

Any such initiative may affect the collection of fees, taxes and other types of revenue by local agencies such as the City. Subject to overriding federal constitutional principles, such collection may be materially and adversely affected by voter-approved initiatives, possibly to the extent of creating cash-flow problems in the payment of outstanding obligations such as the 2023 Bonds.

Proposition 218—Voter Approval for Local Government Taxes—Limitation on Fees, Assessments, and Charges—Initiative Constitutional Amendment, added Articles XIIC and XIID to the California Constitution, imposing certain vote requirements and other limitations on the imposition of new or increased taxes, assessments and property-related fees and charges.

On November 2, 2010, California voters approved Proposition 26, entitled the “Supermajority Vote to Pass New Taxes and Fees Act”. Section 1 of Proposition 26 declares that Proposition 26 is intended to limit the ability of the State Legislature and local government to circumvent existing restrictions on increasing taxes by defining the new or expanded taxes as “fees.” Proposition 26 amended Articles XIIA and XIIC of the State Constitution. The amendments to Article XIIA limit the ability of the State Legislature to impose higher taxes (as defined in Proposition 26) without a two-thirds vote of the Legislature. Article XIIC requires that all new local taxes be submitted to the electorate before they become effective. Taxes for general governmental purposes require a majority vote and taxes for specific purposes (“special taxes”) require a two-thirds vote.

The Special Taxes and the 2023 Bonds were each authorized by not less than a two-thirds vote of the landowners within Improvement Area No. 3 who constituted the qualified electors at the time of such voted authorization. The City believes, therefore, that issuance of the 2023 Bonds does not require the conduct of further proceedings under the Act, Proposition 218 or Proposition 26.

Like their antecedents, Proposition 218 and Proposition 26 are likely to undergo both judicial and legislative scrutiny before the impact on the City and its obligations can be determined. Certain provisions of Proposition 218 and Proposition 26 may be examined by the courts for their constitutionality under both State and federal constitutional law, the outcome of which cannot be predicted.

For example, in August 2014, in *City of San Diego. v. Melvin Shapiro*, an Appellate Court invalidated an election held by the City of San Diego to authorize the levying of special taxes on hotels city-wide pursuant to a city charter ordinance creating a convention center facilities district which specifically defined the electorate to consist solely of (1) the owners of real property in the city on which a hotel is located, and (2) the lessees of real property owned by a governmental entity on which a hotel is located. The court held that such landowners and lessees are neither “qualified electors” of the city for purposes of Article XIII A, Section 4 of the California Constitution, nor a proper “electorate” under Article

XIIIC, Section 2(d) of the California Constitution. The court specifically noted that the decision did not require the Court to consider the distinct question of whether landowner voting to impose special taxes under Section 53326(b) of the Act (which was the nature of the voter approval through which the District and Improvement Area No. 3 were formed) violates the California Constitution in districts that lack sufficient registered voters to conduct an election among registered voters. Accordingly, this case should have no effect on the levy of the Special Taxes by the City

The City cannot predict the ultimate outcome or effect of any such judicial scrutiny, legislative actions, or future initiatives. These initiatives, and any future initiatives, may affect the collection of fees, taxes and other types of revenue by local agencies such as the City. Subject to overriding federal constitutional principles, such collection may be materially and adversely affected by voter-approved initiatives, possibly to the extent of creating cash-flow problems in the payment of outstanding obligations such as the 2023 Bonds.

Increasing Mortgage Interest Rates

Between approximately November 2021 and February 2023, fixed interest mortgage interest rates have increased from approximately 3.1% to 6.5%. Mortgage interest rates may continue to increase in the near term. Increases in mortgage interest rates could have a negative impact on the estimated pace of sales in Improvement Area No. 3 described herein. With respect to entry-level households, increased mortgage interest rates may adversely impact the affordability of homes and may increase mortgage payment levels for owning a lower-priced home relative to renting a residence, thereby making purchasing less attractive. With respect to move-up households, higher mortgage interest rates may impact the desire of current homeowners to move from their present home due to the fact that their present home likely has a relatively low mortgage interest rate. In addition, the new home would likely have a higher interest rate on a new mortgage loan as well as higher purchase price and property taxes. Such considerations may decrease the desire for move-up households to purchase a new home

COVID-19 Pandemic

LS-Tracy LLC's planned development within Improvement Area No. 3 is subject to disruption due to the COVID-19 pandemic and related public health and governmental authorities' orders and actions, which could have a material adverse effect on LS-Tracy LLC's ability to complete its proposed development within Improvement Area No. 3 and sell completed homes in the time frame and budget, and at the sales prices, described in this Official Statement. LS-Tracy LLC has largely continued, with certain modifications, its development in Improvement Area No. 3 to date.

As of February 1, 2023, LS-Tracy LLC has experienced increases in certain construction costs, supply chain delays, labor shortages, and increased cycle time for construction projects generally. However, LS-Tracy LLC has not experienced any significant development delays resulting from work stoppages, reduced attendance of workers, or the ability to obtain necessary inspections and approvals for homes, which may be attributed, directly or indirectly, to the COVID-19 pandemic. While the cost increases and delays may have been and may continue to be intermittently affected by COVID-19, the majority of cost increases and delays can be attributable to production backlogs due to prior shutdowns or shelter in place orders, the strength of the housing market, inflation, and the result of vendors not anticipating the scale of the demand for housing materials. See "OWNERSHIP AND DEVELOPMENT OF IMPROVEMENT AREA NO. 3 – The Merchant Builder – *COVID-19 Impact*."

The COVID-19 outbreak is ongoing and, among other things, the ultimate geographic spread of the virus, the emergence and spread of new strains or variants of COVID-19, the duration and severity of the outbreak, the availability and acceptance of effective vaccines, adequate testing and treatments and the prevalence of widespread immunity to COVID-19, and the economic and other actions that may be taken by governmental authorities to contain the outbreak or to address its impact remain uncertain.

The ultimate effects of COVID-19 on Improvement Area No. 3 and LS-Tracy LLC's operations and financial condition, homebuyers' willingness and ability to pay the Special Tax when due, and the real estate market and United States economy in general are unknown. Such effects, if and as they arise, could have a material adverse effect on the ability to complete the development within Improvement Area No. 3 and/or sell homes as planned, and no assurance can be provided that LS-Tracy LLC will be able to (a) complete in whole or in any part, or within any particular time, its development within Improvement Area No. 3; (b) avoid additional material increases in development costs or delays resulting from work stoppages, reduced attendance of workers, shortages or delays in the delivery of building materials, and/or delays in obtaining necessary inspections and approvals; or (c) sell homes, and close home sales or not experience purchase contract cancellations, due in each case to public health or governmental restrictions, further spread of COVID-19, an economic downturn driven by the pandemic, or otherwise. See "— Increasing Mortgage Interest Rates."

Secondary Market for Bonds

There can be no guarantee that there will be a secondary market for the 2023 Bonds or, if a secondary market exists, that any 2023 Bonds can be sold for any particular price. Prices of bond issues for which a market is being made will depend upon then-prevailing circumstances. Such prices could be substantially different from the original purchase price.

No assurance can be given that the market price for the 2023 Bonds will not be affected by the introduction or enactment of any future legislation (including without limitation amendments to the Internal Revenue Code), or changes in interpretation of the Internal Revenue Code, or any action of the Internal Revenue Service, including but not limited to the publication of proposed or final regulations, the issuance of rulings, the selection of the 2023 Bonds for audit examination, or the course or result of any Internal Revenue Service audit or examination of the 2023 Bonds or obligations that present similar tax issues as the 2023 Bonds.

LEGAL MATTERS

Legal Opinions

The legal opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, approving the validity of the 2023 Bonds will be made available to purchasers at the time of original delivery and is attached in substantially final form as APPENDIX G.

Jones Hall, A Professional Law Corporation, San Francisco, California, has served as Disclosure Counsel to the District. Stradling Yocca Carlson & Rauth, A Professional Corporation, Newport Beach, California, is serving as counsel to the Underwriter.

Tax Exemption

Federal Tax Status. In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, subject, however to the qualifications set forth below, under existing law, the interest on the 2023 Bonds is excluded from gross income for federal income tax purposes and such interest is not an item of tax preference for purposes of the federal alternative minimum tax. Interest on the Bonds may be subject to the corporate alternative minimum tax.

The opinions set forth in the preceding paragraph are subject to the condition that the City comply with all requirements of the Internal Revenue Code of 1986, as amended (the "**Tax Code**") that must be satisfied subsequent to the issuance of the 2023 Bonds in order that the interest thereon be, and continue to be, excludable from gross income for federal income tax purposes. The City has made certain

representations and covenants in order to comply with each such requirement. Inaccuracy of those representations, or failure to comply with certain of those covenants, may cause the inclusion of such interest in gross income for federal income tax purposes, which may be retroactive to the date of issuance of the 2023 Bonds.

Tax Treatment of Original Issue Discount and Premium. If the initial offering price to the public at which a 2023 Bond is sold is less than the amount payable at maturity thereof, then such difference constitutes "original issue discount" for purposes of federal income taxes and State of California personal income taxes. If the initial offering price to the public at which a 2023 Bond is sold is greater than the amount payable at maturity thereof, then such difference constitutes "bond premium" for purposes of federal income taxes and State of California personal income taxes.

Under the Tax Code, original issue discount is treated as interest excluded from federal gross income and exempt from State of California personal income taxes to the extent properly allocable to each owner thereof subject to the limitations described in the first paragraph of this section. The original issue discount accrues over the term to maturity of the 2023 Bond on the basis of a constant interest rate compounded on each interest or principal payment date (with straight-line interpolations between compounding dates). The amount of original issue discount accruing during each period is added to the adjusted basis of such 2023 Bonds to determine taxable gain upon disposition (including sale, redemption, or payment on maturity) of such 2023 Bond. The Tax Code contains certain provisions relating to the accrual of original issue discount in the case of purchasers of the 2023 Bonds who purchase the 2023 Bonds after the initial offering of a substantial amount of such maturity. Owners of such 2023 Bonds should consult their own tax advisors with respect to the tax consequences of ownership of 2023 Bonds with original issue discount, including the treatment of purchasers who do not purchase in the original offering to the public at the first price at which a substantial amount of such 2023 Bonds is sold to the public.

Under the Tax Code, bond premium is amortized on an annual basis over the term of the 2023 Bond (said term being the shorter of the 2023 Bond's maturity date or its call date). The amount of bond premium amortized each year reduces the adjusted basis of the owner of the 2023 Bond for purposes of determining taxable gain or loss upon disposition. The amount of bond premium on a 2023 Bond is amortized each year over the term to maturity of the 2023 Bond on the basis of a constant interest rate compounded on each interest or principal payment date (with straight-line interpolations between compounding dates). Amortized bond premium is not deductible for federal income tax purposes. Owners of premium 2023 Bonds, including purchasers who do not purchase in the original offering, should consult their own tax advisors with respect to State of California personal income tax and federal income tax consequences of owning such 2023 Bonds.

California Tax Status. In the further opinion of Bond Counsel, interest on the 2023 Bonds is exempt from California personal income taxes.

Other Tax Considerations. Current and future legislative proposals, if enacted into law, clarification of the Tax Code or court decisions may cause interest on the 2023 Bonds to be subject, directly or indirectly, to federal income taxation or to be subject to or exempted from state income taxation, or otherwise prevent beneficial owners from realizing the full current benefit of the tax status of such interest. The introduction or enactment of any such legislative proposals, clarification of the Tax Code or court decisions may also affect the market price for, or marketability of, the 2023 Bonds. It cannot be predicted whether or in what form any such proposal might be enacted or whether, if enacted, such legislation would apply to bonds issued prior to enactment.

The opinions expressed by Bond Counsel are based upon existing legislation and regulations as interpreted by relevant judicial and regulatory authorities as of the date of such opinion, and Bond Counsel has expressed no opinion with respect to any proposed legislation or as to the tax treatment of

interest on the 2023 Bonds, or as to the consequences of owning or receiving interest on the 2023 Bonds, as of any future date. Prospective purchasers of the 2023 Bonds should consult their own tax advisors regarding any pending or proposed federal or state tax legislation, regulations or litigation, as to which Bond Counsel expresses no opinion.

Owners of the 2023 Bonds should also be aware that the ownership or disposition of, or the accrual or receipt of interest on, the 2023 Bonds may have federal or state tax consequences other than as described above. Other than as expressly described above, Bond Counsel expresses no opinion regarding other federal or state tax consequences arising with respect to the 2023 Bonds, the ownership, sale or disposition of the 2023 Bonds, or the amount, accrual or receipt of interest on the 2023 Bonds.

Litigation

Dispute Regarding Development Agreement. The City is a defendant in a lawsuit that challenged the legality of an agreement entitled “Second Amendment to Amended and Restated Development Agreement By and Between the City of Tracy and Surland Communities LLC”, approved and executed in 2018 (the “**Second Amendment**”), by which the City and Surland Communities LLC (as previously defined herein, the “**Master Developer**”) had attempted to amend an agreement entitled “Amended and Restated Development Agreement” by and between the City of Tracy and Surland Communities, LLC, approved and executed in 2013 (the “**Development Agreement**”). The Development Agreement concerns property within the Ellis Specific Plan area.

The plaintiff to the lawsuit was an unrelated third party, not the Master Developer or any of its affiliates, and the Master Developer was a party to the lawsuit as real party in interest. The lawsuit claimed, among other things, that the Second Amendment was void ab initio and beyond the powers of the City because it purported to potentially allow for the Master Developer to secure rights to residential growth allotments (“**RGAs**”) outside the Ellis Specific Plan. On September 30, 2020, the Superior Court entered Judgment and issued a Writ of Mandate ruling that the Second Amendment is invalid and void ab initio and commanding the City to rescind it (“**Judgment and Writ**”). The Court of Appeal upheld the Judgment and Writ. On September 20, 2022, the City Council set aside and rescinded the Second Amendment, leaving the Development Agreement as it stood prior to the Second Amendment.

The City and the Master Developer disagree about the actions required to comply with the Judgment and Writ, as well as certain related matters. More specifically, the Development Agreement (without regard to the Second Amendment) required the Master Developer to pay the City \$10 million (the “**Payment Obligation**”) and to dedicate approximately 16 acres of land to the City for a potential aquatic center to be designed and built by the City. The dedication would be allowed to offset park fees owed by the Master Developer. Prior to the Second Amendment, the Master Developer had paid \$2 million of the total Payment Obligation. The Second Amendment sought to restructure the Payment Obligation such that the Master Developer was allowed to design and construct the aquatic center and receive reimbursements for design expenses from the \$2 million it previously paid. The remainder of the Payment Obligation was to be applied toward the construction costs. The City and the Master Developer disagree about the exact actions required as a result of the rescission of the Second Amendment with respect to the Payment Obligation and the dedication of the 16 acres. The dispute between the City and the Master Developer might impact the timing of receipt of the approximately \$9.3 million net remaining amount of the Payment Obligation, as well as the timing of the construction of the aquatic center that, when built, will serve as an additional amenity for the entire Ellis Project, including Improvement Area No. 3.

However, it is not expected that the Judgment and Writ, the City Council rescission of the Second Amendment, or the matters currently disputed between the City and the Master Developer will adversely impact the 2023 Bonds or development in or the issuance of building permits in Improvement Area No. 3 because none of the improvements necessary for the build-out of Improvement Area No. 3 relate back

to terms and conditions set forth in the Second Amendment, the Master Developer does not own property in Improvement Area No. 3, and the Master Developer is not responsible for developing or funding the remaining development of property in Improvement Area No. 3. Landsea is not responsible for the Payment Obligation and the rescission of the Second Amendment does not impose any additional costs on Landsea. Proceeds of the 2023 Bonds will reimburse costs of improvements already completed or infrastructure to be constructed by the City.

No Material Litigation Affecting the 2023 Bonds. At the time of delivery of the 2023 Bonds, the City will certify that there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending with respect to which the City has been served with process or threatened, which:

- in any way questions the powers of the City Council, City or District, or
- in any way questions the validity of any proceeding taken by the City Council in connection with the issuance of the 2023 Bonds, or
- wherein an unfavorable decision, ruling or finding could materially adversely affect the transactions contemplated by the purchase contract with respect to the 2023 Bonds, or
- which, in any way, could adversely affect the validity or enforceability of the resolutions of the City Council adopted in connection with the formation of the District and Improvement Area No. 3 or the issuance of the 2023 Bonds, the Fiscal Agent Agreement, the Continuing Disclosure Certificate or the purchase contract with respect to the 2023 Bonds, or
- to the knowledge of the City, which in any way questions the exclusion from gross income of the recipients thereof of the interest on the 2023 Bonds for federal income tax purposes, or
- in any other way questions the status of the 2023 Bonds under State tax laws or regulations.

CONTINUING DISCLOSURE

City Continuing Disclosure. The City will covenant for the benefit of owners of the 2023 Bonds to provide certain financial information and operating data relating to Improvement Area No. 3 and the 2023 Bonds by not later than nine months after the end of the City's fiscal year (currently March 31 based on the City's fiscal year end of June 30) (the "**Annual Report**") and to provide notices of the occurrence of certain listed events.

These covenants have been made in order to assist the Underwriter in complying with Securities Exchange Commission Rule 15c2-12(b)(5) (the "**Rule**"). The specific nature of the information to be contained in the Annual Report or the notices of listed events is set forth in APPENDIX E.

The City, on its own behalf and on behalf of related entities, has entered into a number of prior continuing disclosure undertakings under the Rule in connection with the issuance of long-term obligations, and has provided annual financial information and event notices in accordance with those undertakings. During the past five years, the City or its related entities have failed to comply with prior undertakings as follows:

- The audited financial statements for Fiscal Years 2017-18, 2018-19, 2019-20, and 2020-21 were not filed with the annual report, as permitted because they were unavailable at the time, and were later filed between 2 and 25 days after becoming available; and

- Certain operating and financial data for Fiscal Years 2018-19 and 2020-21 were 43 and 4 days late, respectively.
- Certain information was omitted from the operating and financial data for filed Fiscal Years 2016-17, 2017-18 and 2019-20 because it was unavailable at the time the filing was due, but that information was subsequently filed when it became available.

The City has engaged Goodwin Consulting Group to serve as its dissemination agent and assist the City in complying with its continuing disclosure undertakings. To further ensure such compliance, the City has adopted policies and procedures related thereto.

LS-Tracy LLC Continuing Disclosure. LS-Tracy LLC will covenant in a continuing disclosure certificate, the form of which is set forth in APPENDIX F (the “**Property Owner Continuing Disclosure Certificate**”), for the benefit of holders and beneficial owners of the 2023 Bonds, to provide certain information relating to itself and the status of its property within Improvement Area No. 3 on a semi-annual basis, beginning on September 30, 2023, and to provide notices of the occurrence of certain enumerated events. LS-Tracy LLC is not an obligated person as defined under the Rule.

The obligations of LS-Tracy LLC under its Property Owner Continuing Disclosure Certificate will terminate when LS-Tracy LLC owns less than 62 residential lots (or property that will be subdivided into less than 62 residential lots) in Improvement Area No. 3.

LS-Tracy LLC represents that, to the actual knowledge of LS-Tracy LLC, neither LS-Tracy LLC nor its developer affiliates has failed in any material respect to comply with any previous undertaking by it to provide periodic continuing disclosure reports or notices of material events with respect to community facilities districts or assessment districts in California within the past five years.

NO RATING

The City has not obtained a credit rating on the 2023 Bonds. Nothing should be assumed from any credit rating that the City may obtain for other purposes. Prospective purchasers of the 2023 Bonds are required to make independent determinations as to the credit quality of the 2023 Bonds and their appropriateness as an investment.

UNDERWRITING

The 2023 Bonds are being purchased by Piper Sandler & Co. (the “**Underwriter**”), at a purchase price of \$_____ (which represents the aggregate principal amount of the 2023 Bonds (\$_____)), plus an original issue premium/less an original issue discount of \$_____, less an Underwriter's discount of \$_____).

The purchase agreement relating to the 2023 Bonds provides that the Underwriter will purchase all of the 2023 Bonds, if any are purchased, the obligation to make such purchase being subject to certain terms and conditions set forth in such purchase agreement.

The Underwriter may offer and sell the 2023 Bonds to certain dealers and others at prices lower than the offering prices stated on the inside cover page hereof. The offering prices may be changed from time to time by the Underwriter.

MUNICIPAL ADVISOR

The City has retained CSG Advisors Incorporated, San Francisco, California, as Municipal Advisor for the sale of the 2023 Bonds. The Municipal Advisor is not obligated to undertake, and has not undertaken to make, an independent verification or to assume any responsibility for the accuracy, completeness or fairness of the information contained in this Official Statement.

CSG Advisors Incorporated, is an independent advisory firm and is not engaged in the business of underwriting, trading or distributing municipal or other public securities.

PROFESSIONAL FEES

In connection with the issuance of the 2023 Bonds, fees or compensation payable to certain professionals are contingent upon the issuance and delivery of the 2023 Bonds. Those professionals include:

- the Underwriter;
- Jones Hall, A Professional Law Corporation, as Bond Counsel and Disclosure Counsel;
- Stradling Yocca Carlson & Rauth, A Professional Corporation, as Underwriter's Counsel;
- A portion of the fees of CSG Advisors Incorporated, as municipal advisor;
- A portion of the fees of Goodwin Consulting Group, Inc., as special tax consultant; and
- U.S. Bank Trust Company, National Association, as Fiscal Agent.

EXECUTION

The execution and delivery of the Official Statement has been duly authorized by the City Council, acting as the legislative body of the District.

CITY OF TRACY

By: _____
Finance Director

APPENDIX A

**GENERAL INFORMATION ABOUT THE CITY OF TRACY
AND SAN JOAQUIN COUNTY**

*The following information concerning the City of Tracy (the "**City**") and San Joaquin County (the "**County**") are included only for the purpose of supplying general information regarding the community. The 2023 Bonds are not a debt of the City, the County, the State of California (the "**State**") or any of its political subdivisions, and neither the City, the County, the State nor any of its political subdivisions is liable therefor.*

Population

Population figures for the City, the County and the State for the last five years are shown in the following table.

**CITY OF TRACY, SAN JOAQUIN COUNTY AND THE STATE OF CALIFORNIA
Population Estimates
Calendar Years 2018 through 2022 as of January 1**

<u>Calendar Year</u>	<u>City of Tracy</u>	<u>San Joaquin County</u>	<u>State of California</u>
2018	92,395	752,958	39,519,535
2019	94,326	764,373	39,605,361
2020	95,861	773,505	39,648,938
2021	93,624	782,372	39,303,157
2022	94,538	784,298	39,185,605

Source: State Department of Finance estimates.

Employment and Industry

The City is included in the Stockton Metropolitan Statistical Area (“**MSA**”), which includes all of San Joaquin County. The unemployment rate in the County was 5.5% in November 2022, up from a revised 5.0% in October 2022, and below the year-ago estimate of 6.5%. This compares with an unadjusted unemployment rate of 4.0% for the State and 3.4% for the nation during the same period.

Set forth below is data from calendar years 2017 to 2021 reflecting the County’s civilian labor force, employment and unemployment. These figures are county-wide statistics and may not necessarily accurately reflect employment trends in the City.

**STOCKTON-LODI MSA
(San Joaquin County)
Annual Average Labor Force and Employment by Industry
Calendar Years 2017 through 2021
(March 2021 Benchmark)**

	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Civilian Labor Force ⁽¹⁾	323,000	324,100	327,100	334,300	334,300
Employment	300,200	304,200	307,500	295,600	305,300
Unemployment	22,700	19,900	19,600	38,700	29,000
Unemployment Rate	7.0%	6.1%	6.0%	11.6%	8.7%
<u>Wage and Salary Employment: ⁽²⁾</u>					
Agriculture	16,400	15,600	15,400	14,600	13,700
Mining and Logging	100	100	100	100	100
Construction	11,700	12,800	13,100	13,000	13,800
Manufacturing	20,300	20,600	20,600	20,200	20,900
Wholesale Trade	11,200	11,800	11,700	10,600	10,800
Retail Trade	26,800	26,700	26,200	24,600	26,100
Transportation, Warehousing and Utilities	26,200	28,400	31,300	38,800	41,700
Information	1,800	1,800	1,600	1,200	1,200
Finance and Insurance	4,900	4,800	4,700	4,600	4,600
Professional and Business Services	19,200	19,600	20,200	21,300	22,400
Educational and Health Services	38,200	38,800	39,100	37,300	38,400
Leisure and Hospitality	21,500	22,000	22,600	18,500	21,100
Other Services	7,600	7,600	7,800	6,800	7,100
Federal Government	3,100	3,100	3,200	3,300	3,100
State Government	6,600	6,700	6,800	6,800	6,000
Local Government	32,800	33,700	34,900	33,000	32,800
Total, All Industries ⁽³⁾	251,200	257,000	262,500	257,800	267,100

(1) Labor force data is by place of residence; includes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.

(2) Industry employment is by place of work; excludes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.

(3) Totals may not add due to rounding.

Source: State of California Employment Development Department.

Largest Employers

The following table lists the major employers within the County, listed in alphabetical order without regard to the number of employees, as of January 2023.

SAN JOAQUIN COUNTY Major Employers As of January 2023

<u>Employer Name</u>	<u>Location</u>	<u>Industry</u>
A Sambado & Sons Inc	Linden	Nuts-Edible
Adventist Health Lodi Memorial	Lodi	Hospitals
Amazon Fulfillment Ctr	Stockton	Mail Order Fulfillment Service
Ashley Lane LP	Stockton	Real Estate
Blue Shield of California	Lodi	Insurance
Dameron Hospital	Stockton	Hospitals
Deuel Vocational Instn Fire	Tracy	Fire Departments
Foster Care Svc	Stockton	Government Offices-County
Leprino Foods Co	Tracy	Cheese Processors (mfrs)
Lodi Health Home Health Agency	Lodi	Home Health Service
NA Chaderjian Youth	Stockton	State Govt-Correctional Institutions
Pacific Coast Producers	Lodi	Canning (mfrs)
Prima Frutta Packing Inc	Linden	Fruit & Produce Packers
Safeway Distribution Ctr	Tracy	Distribution Centers (whls)
San Joaquin County CA Pubc	Stockton	Government Offices-County
San Joaquin County Human Svc	Stockton	Government Offices-County
San Joaquin County Sch	Stockton	School Districts
San Joaquin General Hospital	French Camp	Hospitals
San Joaquin Sheriff's Office	French Camp	Government Offices-County
Sjgov	Stockton	Government Offices-County
St Joseph's Regional Health	Stockton	Hospitals
Stockton Police Dept	Stockton	Police Departments
Stockton Unified School Dist	Stockton	School Districts
Walmart Supercenter	Stockton	Department Stores
Waste Management-Lodi Transfer	Lodi	Consultants-Business NEC

Source: State of California Employment Development Department, extracted from The America's Labor Market Information System (ALMIS) Employer Database, 2023 1st Edition.

The following table lists the twenty-five principal employers within the City, by number of employees, as of June 30, 2022.

**CITY OF TRACY
Principal Employers
As of June 30, 2022**

<u>Employer Name</u>	<u>Number of Employees</u>
Amazon.com Services LLC	4,332
FedEx Ground Package System, Inc	1,607
Amazon.com Services LLC	1,297
Amazon.com Services LLC	1,043
Taylor Farms Pacific Inc	748
The Home Depot #5641	700
Medline Industries LP	668
Walmart #2025	410
Leprino Foods	341
DHL Supply Chain	293
Costco Wholesale #658	252
DHL Supply Chain	226
The Home Depot #1020	225
Pacific Medical Inc	208
Crate & Barrel	201
International Paper	192
Texas Roadhouse	171
Target Stores T738	163
Zinus Inc	155
Glassfab Tempering	145
The Permanente Medical	145
Winco Foods #103	140
Restoration Hardware #903	134
Y R C	131
Crate & Barrel	129

Source: City of Tracy Annual Comprehensive Financial Report for fiscal year ended June 30, 2022.

Commercial Activity

Summaries of historic taxable sales within the City and the County during the past five years in which data is available are shown in the following tables.

Total taxable sales during the first three quarters of calendar year 2022 in the City were \$4,455,852,282, a 4.31% increase over the total taxable sales of \$4,271,816,717 reported during the first three quarters of calendar year 2021.

CITY OF TRACY
Taxable Retail Sales
Number of Permits and Valuation of Taxable Transactions
(Dollars in Thousands)

	Retail Stores		Total All Outlets	
	Number of Permits	Taxable Transactions	Number of Permits	Taxable Transactions
2017	1,150	\$1,371,679	1,803	\$2,042,411
2018	1,192	1,489,764	1,921	2,319,543
2019	1,224	1,473,584	2,000	2,694,120
2020	1,395	1,479,810	2,284	2,854,012
2021	1,238	4,160,817	2,082	5,868,567

Source: State Department of Tax and Fee Administration.

Total taxable sales during the first three quarters of calendar year 2022 in the County were \$17,206,745,286, a 5.92% increase over the total taxable sales of \$16,245,046,367 reported during the first three quarters of calendar year 2021.

SAN JOAQUIN COUNTY
Taxable Retail Sales
Number of Permits and Valuation of Taxable Transactions
(Dollars in Thousands)

	Retail Stores		Total All Outlets	
	Number of Permits	Taxable Transactions	Number of Permits	Taxable Transactions
2017	9,506	\$7,994,473	14,758	\$12,153,268
2018	9,660	8,855,169	15,437	13,457,721
2019	9,978	9,073,238	16,144	14,383,854
2020	11,188	10,215,896	18,358	15,752,225
2021	10,642	15,153,915	17,665	22,306,576

Source: State Department of Tax and Fee Administration.

Effective Buying Income

“Effective Buying Income” is defined as personal income less personal tax and nontax payments, a number often referred to as “disposable” or “after-tax” income. Personal income is the aggregate of wages and salaries, other labor-related income (such as employer contributions to private pension funds), proprietor’s income, rental income (which includes imputed rental income of owner-occupants of non-farm dwellings), dividends paid by corporations, interest income from all sources, and transfer payments (such as pensions and welfare assistance). Deducted from this total are personal taxes (federal, state and local), nontax payments (fines, fees, penalties, etc.) and personal contributions to social insurance. According to U.S. government definitions, the resultant figure is commonly known as “disposable personal income.”

The following table summarizes the median household effective buying income for the City, the County, the State and the United States for the period 2019 through 2023.

CITY OF TRACY AND SAN JOAQUIN COUNTY Median Household Effective Buying Income 2019 through 2023

	2019	2020	2021	2022	2023
City of Tracy	\$73,172	\$76,142	\$78,492	\$89,938	\$90,240
San Joaquin County	55,534	58,141	59,914	68,971	68,912
California	62,637	65,870	67,956	77,058	77,175
United States	52,841	55,303	56,790	64,448	65,326

Source: Claritas, LLC.

Building Activity

The tables below summarize building activity in the City and the County for the past five available years.

CITY OF TRACY
Building Permit Activity
For Calendar Years 2017 through 2021
(Dollars in Thousands)

	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
<u>Permit Valuation</u>					
New Single-family	\$98,767.2	\$214,928.9	\$223,795.2	\$239,658.3	\$244,205.8
New Multi-family	9,686.4	84,832.3	0.0	0.0	945.7
Res. Alterations/Additions	<u>2,982.3</u>	<u>6,058.5</u>	<u>9,178.8</u>	<u>4,504.7</u>	<u>4,558.9</u>
Total Residential	\$111,435.9	\$305,819.7	\$232,974.0	\$244,163.0	\$249,710.4
New Commercial	\$184,438.3	\$331,633.7	\$189,205.1	\$168,307.4	\$105,916.9
New Industrial	38,978.1	74,814.4	13,881.6	526,301.0	60.8
New Other	4,769.2	8,265.5	7,006.5	4,828.5	9,099.3
Com. Alterations/Additions	<u>93,059.7</u>	<u>60,479.7</u>	<u>60,676.8</u>	<u>62,904.6</u>	<u>80,618.6</u>
Total Nonresidential	\$321,245.3	\$475,193.3	\$270,770.0	\$762,341.5	\$195,695.6
<u>New Dwelling Units</u>					
Single Family	236	534	551	692	670
Multiple Family	<u>65</u>	<u>507</u>	<u>0</u>	<u>0</u>	<u>2</u>
TOTAL	301	1,041	551	692	672

Source: Construction Industry Research Board, Building Permit Summary.

SAN JOAQUIN COUNTY
Building Permit Activity
For Calendar Years 2017 through 2021
(Dollars in Thousands)

	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
<u>Permit Valuation</u>					
New Single-family	\$652,308.1	\$883,071.1	\$843,700.9	\$870,859.6	\$1,179,358.0
New Multi-family	62,635.8	99,601.4	57,271.1	38,411.8	69,775.2
Res. Alterations/Additions	<u>86,516.1</u>	<u>95,073.4</u>	<u>98,681.9</u>	<u>40,144.4</u>	<u>108,647.1</u>
Total Residential	\$801,460.0	\$1,077,745.9	\$999,654.0	\$949,415.8	\$1,357,780.3
New Commercial	\$357,856.9	\$498,359.0	\$380,383.3	\$255,761.2	\$272,617.0
New Industrial	179,728.4	240,073.7	120,003.8	534,199.5	43,401.3
New Other	27,794.7	31,904.4	61,991.7	33,112.3	58,264.9
Com. Alterations/Additions	<u>269,172.8</u>	<u>249,142.4</u>	<u>363,840.9</u>	<u>135,285.4</u>	<u>272,064.7</u>
Total Nonresidential	\$834,552.8	\$1,019,479.5	\$926,219.7	\$958,358.4	\$646,347.9
<u>New Dwelling Units</u>					
Single Family	2,078	2,765	2,564	2,843	3,665
Multiple Family	<u>516</u>	<u>293</u>	<u>461</u>	<u>245</u>	<u>178</u>
TOTAL	2,304	2,594	3,025	3,088	3,843

Source: Construction Industry Research Board, Building Permit Summary.

APPENDIX B

**RATE AND METHOD OF APPORTIONMENT FOR
IMPROVEMENT AREA NO. 3 OF THE CITY OF TRACY
COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD)**

APPENDIX C

SUMMARY OF CERTAIN PROVISIONS OF THE FISCAL AGENT AGREEMENT

APPENDIX D

DTC AND THE BOOK-ENTRY ONLY SYSTEM

The following description of the Depository Trust Company (“DTC”), the procedures and record keeping with respect to beneficial ownership interests in the Bonds, payment of principal, interest and other payments on the 2023 Bonds (herein, the “Securities”) to DTC Participants or Beneficial Owners, confirmation and transfer of beneficial ownership interest in the Securities and other related transactions by and between DTC, the DTC Participants and the Beneficial Owners is based solely on information provided by DTC. Accordingly, no representations can be made concerning these matters and neither the DTC Participants nor the Beneficial Owners should rely on the foregoing information with respect to such matters, but should instead confirm the same with DTC or the DTC Participants, as the case may be.

Neither the issuer of the Securities (the “Issuer”) nor the trustee, fiscal agent or paying agent appointed with respect to the Securities (the “Agent”) takes any responsibility for the information contained in this Appendix.

No assurances can be given that DTC, DTC Participants or Indirect Participants will distribute to the Beneficial Owners (a) payments of interest, principal or premium, if any, with respect to the Securities, (b) certificates representing ownership interest in or other confirmation or ownership interest in the Securities, or (c) redemption or other notices sent to DTC or Cede & Co., its nominee, as the registered owner of the Securities, or that they will so do on a timely basis, or that DTC, DTC Participants or DTC Indirect Participants will act in the manner described in this Appendix. The current “Rules” applicable to DTC are on file with the Securities and Exchange Commission and the current “Procedures” of DTC to be followed in dealing with DTC Participants are on file with DTC.

1. The Depository Trust Company (“DTC”), New York, NY, will act as securities depository for the securities (the “Securities”). The Securities will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Security certificate will be issued for each issue of the Securities, each in the aggregate principal amount of such issue, and will be deposited with DTC. If, however, the aggregate principal amount of any issue exceeds \$500 million, one certificate will be issued with respect to each \$500 million of principal amount, and an additional certificate will be issued with respect to any remaining principal amount of such issue.

2. DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the

DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has a Standard & Poor’s rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com. *The information contained on this Internet site is not incorporated herein by reference.*

3. Purchases of Securities under the DTC system must be made by or through Direct Participants, which will receive a credit for the Securities on DTC’s records. The ownership interest of each actual purchaser of each Security (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Securities are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Securities, except in the event that use of the book-entry system for the Securities is discontinued.

4. To facilitate subsequent transfers, all Securities deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Securities with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Securities; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Securities are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

5. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Securities may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Securities, such as redemptions, tenders, defaults, and proposed amendments to the Security documents. For example, Beneficial Owners of Securities may wish to ascertain that the nominee holding the Securities for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

6. Redemption notices shall be sent to DTC. If less than all of the Securities within an issue are being redeemed, DTC’s practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

7. Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Securities unless authorized by a Direct Participant in accordance with DTC’s MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.’s consenting or voting rights to those Direct Participants to whose accounts Securities are credited on the record date (identified in a listing attached to the Omnibus Proxy).

8. Redemption proceeds, distributions, and dividend payments on the Securities will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from Issuer or Agent, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, Agent, or Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of Issuer or Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

9. DTC may discontinue providing its services as depository with respect to the Securities at any time by giving reasonable notice to Issuer or Agent. Under such circumstances, in the event that a successor depository is not obtained, Security certificates are required to be printed and delivered.

10. Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Security certificates will be printed and delivered to DTC.

11. The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that Issuer believes to be reliable, but Issuer takes no responsibility for the accuracy thereof.

APPENDIX E

FORM OF CONTINUING DISCLOSURE CERTIFICATE

CONTINUING DISCLOSURE CERTIFICATE

\$ _____
IMPROVEMENT AREA NO. 3 OF THE CITY OF TRACY
COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD)
SPECIAL TAX BONDS, SERIES 2023

This Continuing Disclosure Certificate (this “Disclosure Certificate”) is executed and delivered by the City of Tracy (the “City”) in connection with the issuance of the bonds captioned above (the “2023 Bonds”). The 2023 Bonds are being issued pursuant to a Fiscal Agent Agreement dated as of May 1, 2023 (the “Fiscal Agent Agreement”), by and between the City and U.S. Bank Trust Company, National Association, as fiscal agent (the “Fiscal Agent”). The City hereby covenants and agrees as follows:

Section 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the City for the benefit of the holders and beneficial owners of the 2023 Bonds and in order to assist the Participating Underwriter in complying with S.E.C. Rule 15c2-12(b)(5).

Section 2. Definitions. In addition to the definitions set forth above and in the Fiscal Agent Agreement, which apply to any capitalized term used in this Disclosure Certificate unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“*Annual Report*” means any Annual Report provided by the City pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

“*Annual Report Date*” means the date that is nine months after the end of the City's fiscal year (currently March 31 based on the City's fiscal year end of June 30).

“*Community Facilities District*” means Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD).

“*Dissemination Agent*” means Goodwin Consulting Group, Inc., or any successor Dissemination Agent designated in writing by the District and which has filed with the District a written acceptance of such designation.

“*Listed Events*” means any of the events listed in Section 5(a) of this Disclosure Certificate.

“*MSRB*” means the Municipal Securities Rulemaking Board, which has been designated by the Securities and Exchange Commission as the sole repository of disclosure information for purposes of the Rule.

“*Official Statement*” means the final official statement dated _____, 2023, executed by the District in connection with the issuance of the 2023 Bonds.

“*Participating Underwriter*” means Piper Sandler & Co., the original underwriter of the 2023 Bonds required to comply with the Rule in connection with offering of the 2023 Bonds.

“Rule” means Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as it may be amended from time to time.

Section 3. Provision of Annual Reports.

(a) The City shall, or shall cause the Dissemination Agent to, not later than the Annual Report Date, commencing March 31, 2024, with the report for the 2022-23 fiscal year, provide to the MSRB, in an electronic format as prescribed by the MSRB, an Annual Report that is consistent with the requirements of Section 4 of this Disclosure Certificate; provided, however, that the audited financial statements of the City shall be filed by March 31 of each year, or such later date that the audited financial statements become available. Not later than 15 Business Days prior to the Annual Report Date, the City shall provide the Annual Report to the Dissemination Agent (if other than the City). If by the Annual Report Date the Dissemination Agent (if other than the City) has not received a copy of the Annual Report, the Dissemination Agent shall contact the City to determine if the City is in compliance with the previous sentence. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may include by reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the City may be submitted separately from the balance of the Annual Report, and later than the Annual Report Date, if not available by that date. If the City's fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(c).

(b) If the City does not provide, or cause the Dissemination Agent to provide, an Annual Report by the Annual Report Date as required in subsection (a) above, the Dissemination Agent shall provide a notice to the MSRB, in a timely manner, in an electronic format as prescribed by the MSRB.

(c) The Dissemination Agent shall:

(i) determine each year prior to the Annual Report Date the then-applicable rules and electronic format prescribed by the MSRB for the filing of annual continuing disclosure reports; and

(ii) if the Dissemination Agent is other than the City, file a report with the City and the Participating Underwriter certifying that the Annual Report has been provided pursuant to this Disclosure Certificate, and stating the date it was provided.

Section 4. Content of Annual Reports. The City's Annual Report shall contain or incorporate by reference the following documents and information:

(a) The City's audited financial statements for the most recently completed fiscal year, prepared in accordance with Generally Accepted Accounting Principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board, together with the following statement:

THE CITY'S ANNUAL FINANCIAL STATEMENT IS PROVIDED SOLELY TO COMPLY WITH THE SECURITIES EXCHANGE COMMISSION STAFF'S INTERPRETATION OF RULE 15c2-12. NO FUNDS OR ASSETS OF THE CITY, OTHER THAN SPECIAL TAX REVENUES, ARE REQUIRED TO BE USED TO PAY DEBT SERVICE ON THE 2023 BONDS, AND THE CITY IS NOT OBLIGATED TO ADVANCE AVAILABLE FUNDS TO COVER ANY DELINQUENCIES. INVESTORS SHOULD NOT RELY ON THE FINANCIAL CONDITION OF THE CITY IN EVALUATING WHETHER TO BUY, HOLD OR SELL THE 2023 BONDS.

If the City's audited financial statements are not available by the time the Annual Report is required to be filed, the audited financial statements shall be filed in the same manner as the Annual Report when they become available.

(b) To the extent not included in the audited financial statements, the following information:

(i) Total assessed value (per the San Joaquin County Assessor's records) of all parcels currently subject to the Special Tax within Improvement Area No. 3, showing the total secured assessed valuation for all property subject to the Special Tax.

(ii) Tables showing the owners of property in Improvement Area No. 3 and value-to-lien ratios based on the San Joaquin County Assessor's last equalized tax roll available to the City based on the most recent special tax levy, substantially in the form of the Table 3 in the Official Statement, excluding information regarding maximum special taxes at buildout and construction status.

(iii) The amount of prepayments of the Special Tax for the prior Fiscal Year.

(iv) A table showing a history of special tax collections and delinquencies within Improvement Area No. 3 for the prior Fiscal Year.

(v) Any change to the County's Teeter Plan affecting Improvement Area No. 3.

(vi) The principal amount of the 2023 Bonds outstanding and the balance in the 2023 Reserve Fund (along with a statement of the 2023 Reserve Requirement) as of the September 30 next preceding the Annual Report Date, including the issuance date and principal amount of any additional bonds or obligations issued under the Fiscal Agent Agreement on a parity with the 2023 Bonds.

(vii) Any changes to the Rate and Method of Apportionment of Special Tax for Improvement Area No. 3.

(c) In addition to any of the information expressly required to be provided under paragraph (b) above, the City shall provide such further information, if any, as may be necessary to make the specifically required statements, in the light of the circumstances under which they are made, not misleading.

(d) Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the City or related public entities, which are available to the public on the MSRB's Internet web site or filed with the Securities and Exchange Commission. The District shall clearly identify each such other document so included by reference.

Section 5. Reporting of Listed Events.

(a) The City shall give, or cause to be given, notice of the occurrence of any of the following Listed Events with respect to the 2023 Bonds:

(1) Principal and interest payment delinquencies.

(2) Non-payment related defaults, if material.

- (3) Unscheduled draws on debt service reserves reflecting financial difficulties.
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties.
- (5) Substitution of credit or liquidity providers, or their failure to perform.
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the 2023 Bonds, or other material events affecting the tax status of the 2023 Bonds.
- (7) Modifications to rights of security holders, if material.
- (8) Bond calls, if material, and tender offers.
- (9) Defeasances.
- (10) Release, substitution, or sale of property securing repayment of the securities, if material.
- (11) Rating changes.
- (12) Bankruptcy, insolvency, receivership or similar event of the City.
- (13) The consummation of a merger, consolidation, or acquisition involving the City, or the sale of all or substantially all of the assets of the City (other than in the ordinary course of business), the entry into a definitive agreement to undertake such an action, or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.
- (14) Appointment of a successor or additional Fiscal Agent or the change of name of the Fiscal Agent, if material.
- (15) Incurrence of a financial obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the obligated person, any of which affect security holders, if material.
- (16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the obligated person, any of which reflect financial difficulties.

(b) Upon the occurrence of a Listed Event, the City shall, or shall cause the Dissemination Agent (if not the City) to, file a notice of such occurrence with the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of 10 Business Days after the occurrence of the Listed Event. Notwithstanding the foregoing, notice of Listed Events described in subsection (a)(8) above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to holders of affected Bonds under the Fiscal Agent Agreement.

(c) The City acknowledges that the events described in subparagraphs (a)(2), (a)(7), (a)(8) (if the event is a bond call), (a)(10), (a)(13), (a)(14), and (a)(15) of this Section 5 contain the qualifier "if material" and that subparagraph (a)(6) also contains the qualifier "material" with respect to certain notices, determinations or other events affecting the tax status of the 2023 Bonds. The City shall cause a notice to be filed as set forth in paragraph (b) above with respect to any such event only to the extent that it determines the event's occurrence is material for purposes of U.S. federal securities law. Upon occurrence of any of these Listed Events, the City will as soon as possible determine if such event would be material under applicable federal securities law. If such event is determined to be material, the City will cause a notice to be filed as set forth in paragraph (b) above.

(d) For purposes of this Disclosure Certificate, any event described in paragraph (a)(12) above is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

(e) For purposes of Section 5(a)(15) and (16), "financial obligation" means a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). The term financial obligation shall not include municipal securities as to which a final official statement has been provided to the Municipal Securities Rulemaking Board consistent with the Rule.

Section 6. Identifying Information for Filings with the MSRB. All documents provided to the MSRB under the Disclosure Certificate shall be accompanied by identifying information as prescribed by the MSRB.

Section 7. Termination of Reporting Obligation. The City's obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior redemption or payment in full of all of the 2023 Bonds. If such termination occurs prior to the final maturity of the 2023 Bonds, the City shall give notice of such termination in the same manner as for a Listed Event under Section 5(c).

Section 8. Dissemination Agent. The City may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Agent, with or without appointing a successor Dissemination Agent. The initial Dissemination Agent will be Goodwin Consulting Group, Inc.

Section 9. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the City may amend this Disclosure Certificate, and any provision of this Disclosure Certificate may be waived, provided that the following conditions are satisfied:

(a) if the amendment or waiver relates to the provisions of Sections 3(a), 4 or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of an obligated person with respect to the 2023 Bonds, or type of business conducted;

(b) the undertakings herein, as proposed to be amended or waived, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the

primary offering of the 2023 Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) the proposed amendment or waiver either (i) is approved by holders of the 2023 Bonds in the manner provided in the Fiscal Agent Agreement for amendments to the Fiscal Agent Agreement with the consent of holders, or (ii) does not, in the opinion of the Fiscal Agent or nationally recognized bond counsel, materially impair the interests of the holders or beneficial owners of the 2023 Bonds.

If the annual financial information or operating data to be provided in the Annual Report is amended pursuant to the provisions hereof, the first annual financial information filed pursuant hereto containing the amended operating data or financial information shall explain, in narrative form, the reasons for the amendment and the impact of the change in the type of operating data or financial information being provided.

If an amendment is made to the undertaking specifying the accounting principles to be followed in preparing financial statements, the annual financial information for the year in which the change is made shall present a comparison between the financial statements or information prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles. The comparison shall include a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of the financial information, in order to provide information to investors to enable them to evaluate the ability of the City to meet its obligations. To the extent reasonably feasible, the comparison shall be quantitative. A notice of the change in the accounting principles shall be filed in the same manner as for a Listed Event under Section 5(c).

Section 10. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the City chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the City shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 11. Default. In the event of a failure of the City to comply with any provision of this Disclosure Certificate, the Participating Underwriter or any holder or beneficial owner of the 2023 Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an Event of Default under the Fiscal Agent Agreement, and the sole remedy under this Disclosure Certificate in the event of any failure of the City to comply with this Disclosure Certificate shall be an action to compel performance.

Section 12. Duties, Immunities and Liabilities of Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and the City agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The Dissemination Agent shall have no duty or obligation to review any information provided to it hereunder and shall not be deemed to be acting in any fiduciary capacity for the City, the Property Owner, the Fiscal Agent, the 2023 Bond owners or any other party. The obligations

of the City under this Section shall survive resignation or removal of the Dissemination Agent and payment of the 2023 Bonds.

Section 13. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the City, the Fiscal Agent, the Dissemination Agent, the Participating Underwriter and holders and beneficial owners from time to time of the 2023 Bonds, and shall create no rights in any other person or entity.

Section 14. Counterparts. This Disclosure Certificate may be executed in several counterparts, each of which shall be regarded as an original, and all of which shall constitute one and the same instrument.

Date: _____, 2023

CITY OF TRACY

By: _____
Sara Cowell,
Finance Director

AGREED AND ACCEPTED:
Goodwin Consulting Group, Inc.,
as Dissemination Agent

By: _____
Name: _____
Title: _____

APPENDIX F

FORM OF PROPERTY OWNER CONTINUING DISCLOSURE CERTIFICATE

CONTINUING DISCLOSURE CERTIFICATE
(LS-Tracy LLC)

\$ _____
IMPROVEMENT AREA NO. 3 OF THE CITY OF TRACY
COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD)
SPECIAL TAX BONDS, SERIES 2023

Dated: _____, 2023

This Continuing Disclosure Certificate (LS-Tracy LLC) (this “Disclosure Certificate”) is executed and delivered by LS-Tracy LLC, a Delaware limited liability company (the “Property Owner”), in connection with the issuance by the City of Tracy (the “City”) of the bonds captioned above (the “2023 Bonds”). The 2023 Bonds are being issued under a Fiscal Agent Agreement dated as of May 1, 2023 (the “Fiscal Agent Agreement”), by and between the City and U.S. Bank Trust Company, National Association, as fiscal agent (the “Fiscal Agent”). The Property Owner covenants and agrees as follows:

Section 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the Property Owner for the benefit of the holders and beneficial owners of the 2023 Bonds.

Section 2. Definitions. In addition to the definitions set forth above and in the Fiscal Agent Agreement, which apply to any capitalized term used in this Disclosure Certificate unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“*Affiliate*” means any Person presently directly (or indirectly through one or more intermediaries) under managerial control of the Property Owner, and about whom information could be material to potential investors in their investment decision regarding the 2023 Bonds (including without limitation information relevant to the proposed development of the Property or to the Property Owner’s ability to pay the Special Taxes levied on the Property prior to delinquency).

“*Assumption Agreement*” means an undertaking of a Major Owner, for the benefit of the holders and beneficial owners of the 2023 Bonds, containing terms substantially similar to this Disclosure Certificate (as modified for such Major Owner’s development and financing plans with respect to the District), whereby such Major Owner agrees to provide semi-annual reports and notices of significant events, setting forth the information described in sections 4 and 5 hereof, respectively, with respect to the portion of the property in Improvement Area No. 3 owned by such Major Owner and agrees to indemnify the Dissemination Agent (if any) pursuant to a provision substantially in the form of Section 12 hereof.

“*Dissemination Agent*” means the Property Owner, or any successor Dissemination Agent designated in writing by the Property Owner, with the written consent of the City, and which has filed with the Property Owner and the City a written acceptance of such designation, and which is experienced in providing dissemination agent services such as those required under this Disclosure Certificate.

“*District*” means the City of Tracy Community Facilities District No. 2016-2 (ECFD).

“*Improvement Area No. 3*” means Improvement Area No. 3 of the District.

“*Landbank Owner*” means LS-LCF CA, LLC, a Delaware limited liability company, the landbank for the Property Owner pursuant to the Option Agreement.

“*Listed Events*” means any of the events listed in Section 5(a) of this Disclosure Certificate.

“*Major Owner*” means, as of any Report Date, a Person that, together with the Person’s Affiliates, owns 62 or more residential lots (or property intended to be subdivided into 62 or more residential lots) in Improvement Area No. 3.

“*MSRB*” means the Municipal Securities Rulemaking Board, which has been designated by the Securities and Exchange Commission as the sole repository of disclosure information.

“*Official Statement*” means the final Official Statement dated _____, 2023, executed by the City in connection with the issuance of the 2023 Bonds.

“*Option Agreement*” means the Option Agreement dated June 27, 2022 by and between the Landbank Owner and the Property Owner.

“*Participating Underwriter*” means Piper Sandler & Co., the original underwriter of the 2023 Bonds.

“*Person*” means an individual, a corporation, a partnership, a limited liability company, an association, a joint stock company, a trust, any unincorporated organization or a government or political subdivision thereof.

“*Property*” means (i) the property owned by the Property Owner in Improvement Area No. 3 as of the Report Date, (ii) during the term of the Option Agreement, the property owned by the Landbank Owner in Improvement Area No. 3 as of the date for which information is provided in the Semi-Annual Report, and (iii) the property in Improvement Area No. 3 that the Property Owner sold to a Major Owner who has not assumed the undertakings of this Disclosure Certificate under Section 7(b) that is owned by such Major Owner.

“*Report Date*” means (a) September 30 of each year, and (b) March 31 of each year.

“*Semi-Annual Report*” means any Semi-Annual Report provided by the Property Owner pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

“*Special Taxes*” means the special taxes for facilities levied by the City on the Property.

Section 3. Provision of Semi-Annual Reports.

(a) So long as the Property Owner’s obligations under this Disclosure Certificate have not been terminated pursuant to Section 7 herein, the Property Owner shall, or upon written direction of the Property Owner the Dissemination Agent shall, not later than the Report Date, commencing September 30, 2023, provide to the MSRB, in an electronic format as prescribed by the MSRB, a Semi-Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate with a copy to the Participating Underwriter and the City. Not later than 15 calendar days prior to the Report Date, the Property Owner shall provide the Semi-Annual Report to the Dissemination Agent (if different from the

Property Owner). The Property Owner shall provide a written certification with (or included as a part of) each Semi-Annual Report furnished to the Dissemination Agent (if different from the Property Owner), Participating Underwriter and the City to the effect that such Semi-Annual Report constitutes the Semi-Annual Report required to be furnished by it under this Disclosure Certificate. The Dissemination Agent, the Participating Underwriter and the City may conclusively rely upon such certification of the Property Owner and shall have no duty or obligation to review the Semi-Annual Report. The Semi-Annual Report may be submitted as a single document or as separate documents comprising a package, and may incorporate by reference other information as provided in Section 4 of this Disclosure Certificate.

(b) If the Dissemination Agent does not receive a Semi-Annual Report by 15 calendar days prior to the Report Date, the Dissemination Agent shall send a reminder notice to the Property Owner that the Semi-Annual Report has not been provided as required under Section 3(a) above. The reminder notice shall instruct the Property Owner to determine whether its obligations under this Disclosure Certificate have terminated (pursuant to Section 7 below) and, if so, to provide the Dissemination Agent with a notice of such termination in the same manner as for a Listed Event (pursuant to Section 5 below). If the Property Owner does not provide, or cause the Dissemination Agent to provide, a Semi-Annual Report to the MSRB by the Report Date as required in subsection (a) above, the Dissemination Agent shall provide a notice to the MSRB, in an electronic format as prescribed by the MSRB.

(c) The Dissemination Agent shall:

(i) determine prior to each Report Date the then-applicable rules and electronic format prescribed by the MSRB for the filing of continuing disclosure reports; and;

(ii) to the extent the Semi-Annual Report has been furnished to it, file a report with the Property Owner (if the Dissemination Agent is other than the Property Owner), the City and the Participating Underwriter certifying that the Semi-Annual Report has been provided pursuant to this Disclosure Certificate, and stating the date it was provided.

Section 4. Content of Semi-Annual Reports. The Property Owner's Semi-Annual Report shall contain or incorporate by reference the information set forth in Exhibit A, any or all of which may be included by specific reference to other documents, including official statements of debt issues of the Property Owner or related public entities, which are available to the public on the MSRB's Internet web site or filed with the Securities and Exchange Commission. The Property Owner shall clearly identify each such other document so included by reference.

In addition to any of the information expressly required to be provided in Exhibit A, each Semi-Annual Report shall include such further information, if any, as may be necessary to make the specifically required statements, in the light of the circumstances under which they are made, not misleading.

Section 5. Reporting of Significant Events.

(a) So long as the Property Owner's obligations under this Disclosure Certificate have not been terminated pursuant to Section 7 herein, the Property Owner shall give, or cause to be given, notice of the occurrence of any of the following Listed Events with respect to itself or the Property, if material:

(i) bankruptcy or insolvency proceedings commenced by or against the Property Owner and, if known, any bankruptcy or insolvency proceedings commenced by or against any Affiliate of the Property Owner;

(ii) failure to pay any taxes, special taxes (including the Special Taxes) or assessments due with respect to the Property prior to the delinquency date, to the extent such failure is not promptly cured by the Property Owner upon discovery thereof;

(iii) filing of a lawsuit against the Property Owner or, if known, an Affiliate of the Property Owner, seeking damages which, if successful, could have a material and adverse impact on the Property Owner's ability to pay Special Taxes prior to delinquency or to sell or develop the Property;

(iv) material damage to or destruction of any of the improvements on the Property;

(v) material default by the Property Owner under the Option Agreement to which the Property Owner has been provided a notice of default; and

(vi) any payment default or other material default by the Property Owner that continues to exist beyond any applicable notice and cure periods on any loan with respect to the construction of improvements on the Property.

(b) Whenever the Property Owner obtains knowledge of the occurrence of a Listed Event, the Property Owner shall as soon as possible determine if such event would be material under applicable Federal securities law.

(c) If the Property Owner determines that knowledge of the occurrence of a Listed Event would be material under applicable Federal securities law, the Property Owner shall, or shall cause the Dissemination Agent to, promptly file a notice of such occurrence with the MSRB, in an electronic format as prescribed by the MSRB, with a copy to the City and the Participating Underwriter.

Section 6. Identifying Information for Filings with the MSRB. All documents provided to the MSRB under the Disclosure Certificate shall be accompanied by identifying information as prescribed by the MSRB.

Section 7. Duration of Reporting Obligation.

(a) All of the Property Owner's obligations hereunder shall commence on the date hereof and shall terminate (except as provided in Section 12) on the earliest to occur of the following:

(i) upon the legal defeasance, prior redemption or payment in full of all the 2023 Bonds, or

(ii) when the Property owned by the Property Owner (or which the Property Owner has an option to purchase under the Option Agreement) is fewer than 62 residential lots (or property that will be subdivided into fewer than 62 residential lots), or

(iii) the date on which the Property Owner prepays in full all of the Special Taxes attributable to the Property.

The Property Owner shall give notice of the termination of its obligations under this Disclosure Certificate in the same manner as for a Listed Event under Section 5.

(b) If a portion of the Property is conveyed to a person or entity that, upon such conveyance, will be a Major Owner, the obligations of the Property Owner hereunder with respect to the property conveyed to such Major Owner may be assumed by such Major Owner and the Property Owner's obligations hereunder with respect to the property conveyed will be terminated. In order to effect such assumption, such Major Owner shall enter into an Assumption Agreement in form and substance equivalent to this Disclosure Certificate or as otherwise satisfactory to the City and the Participating Underwriter. However, a Major Owner shall not be required to enter into an Assumption Agreement if such Major Owner is already a party to a continuing disclosure certificate in form and substance similar to this Disclosure Certificate with respect to the 2023 Bonds, and under which the property conveyed to such Major Owner will become subject to future Semi-Annual Reports.

Section 8. Dissemination Agent. The Property Owner may, from time to time, with the written consent of the City, appoint or engage a Dissemination Agent to assist the Property Owner in carrying out its obligations under this Disclosure Certificate, and may discharge any such Dissemination Agent, with the written consent of the City, with or without appointing a successor Dissemination Agent. The Dissemination Agent may resign by providing 30 days' written notice to the City and the Property Owner.

Section 9. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the Property Owner may amend this Disclosure Certificate, and any provision of this Disclosure Certificate may be waived, provided that the following conditions are satisfied (provided, however, that the Dissemination Agent shall not be obligated under any such amendment that modifies or increases its duties or obligations hereunder without its written consent thereto):

(a) if the amendment or waiver relates to the provisions of sections 3(a), 4 or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, or change in law;

(b) the proposed amendment or waiver either (i) is approved by holders of the 2023 Bonds in the manner provided in the Fiscal Agent Agreement with the consent of holders, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the holders or beneficial owners of the 2023 Bonds.

Section 10. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the Property Owner from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Semi-Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the Property Owner chooses to include any information in any Semi-Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the Property Owner shall have no obligation under this Disclosure Certificate to update such information or include it in any future Semi-Annual Report or notice of occurrence of a Listed Event.

Section 11. Default. In the event of a failure of the Property Owner to comply with any provision of this Disclosure Certificate, the Fiscal Agent shall (upon written direction and only to the extent indemnified to its satisfaction from any liability, cost or expense, including fees and expenses of its attorneys), and the Participating Underwriter and any holder or beneficial owner of the 2023 Bonds may, take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Property Owner to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an Event of Default under the Fiscal Agent Agreement, and the sole remedy under this Disclosure Certificate in the event of

any failure of the Property Owner to comply with this Disclosure Certificate shall be an action to compel performance. Neither the Property Owner nor the Dissemination Agent shall have any liability to any holder or beneficial owner of the 2023 Bonds or any other party for monetary damages or financial liability of any kind whatsoever arising from or relating to this Disclosure Certificate.

Section 12. Duties, Immunities and Liabilities of Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and the Property Owner agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the reasonable costs and expenses (including attorneys' fees) of defending against any claim of liability, but excluding (i) losses, expenses and liabilities due to the Dissemination Agent's, and its officers, directors, employees, and agents' negligence or willful misconduct, or failure to perform its duties hereunder, and (ii) losses, expenses and liabilities due to the failure of the City to pay the fees and expenses of the Dissemination Agent. The Dissemination Agent shall be paid compensation for its services provided hereunder from the Administrative Expense Fund established under the Fiscal Agent Agreement in accordance with the Dissemination Agent's schedule of fees as amended from time to time, which schedule, as amended, shall be reasonably acceptable, and all reasonable expenses, reasonable legal fees and advances made or incurred by the Dissemination Agent in the performance of its duties hereunder. The Dissemination Agent shall have no duty or obligation to review any information provided to it hereunder and shall not be deemed to be acting in any fiduciary capacity for the City, the Property Owner, the Fiscal Agent, the 2023 Bond owners, or any other party. The obligations of the Property Owner under this Section shall survive resignation or removal of the Dissemination Agent and payment of the 2023 Bonds, but shall be assumed by a Major Owner from and after the date of such assumption when property is sold to a Major Owner and such Major Owner enters into an assumption agreement.

Section 13. Notices. Any notice or communications to be among any of the parties to this Disclosure Certificate may be given by electronic, overnight, or regular mail as follows:

To the Issuer: City of Tracy
333 Civic Plaza
Tracy, CA 95376
Email: financedept@cityoftracy.org

To the Participating Underwriter: Piper Sandler & Co.
3626 Fair Oaks Boulevard
Sacramento, California 95864
Email: Dennis.McGuire@psc.com

To the Property Owner: LS-Tracy LLC

_____, California _____
Attn: _____
Email: _____

Any person may, by written notice to the other persons listed above, designate a different address or telephone number(s) to which subsequent notices or communications should be sent.

Section 14. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the City, the Property Owner (its successors and assigns), the Fiscal Agent, the Dissemination Agent, the Participating Underwriter and holders and beneficial owners from time to time of the 2023 Bonds, and

shall create no rights in any other person or entity. All obligations of the Property Owner hereunder shall be assumed by any legal successor to the obligations of the Property Owner as a result of a sale, merger, consolidation or other reorganization.

Section 15. Counterparts. This Disclosure Certificate may be executed in several counterparts, each of which shall be regarded as an original, and all of which shall constitute one and the same instrument.

LS-TRACY LLC,
A Delaware limited liability company

By: Landsea Homes-WAB LLC, a Delaware
limited liability company
Its: Manager

By: _____

Name: _____

Title: _____

EXHIBIT A

SEMI-ANNUAL REPORT

[MARCH 31, ____ / SEPTEMBER 30, ____]

**\$ _____
IMPROVEMENT AREA NO. 3 OF THE CITY OF TRACY
COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD)
SPECIAL TAX BONDS, SERIES 2023**

This Semi-Annual Report is hereby submitted under Section 4 of the Continuing Disclosure Certificate (LS-Tracy LLC) (the "Disclosure Certificate") dated as of _____, 2023, executed by the undersigned (the "Property Owner") in connection with the issuance by the City of Tracy (the "City") of the bonds captioned above (the "2023 Bonds") for Improvement Area No. 3 ("Improvement Area No. 3") of the City of Tracy Community Facilities District No. 2016-2 (ECFD) (the "District").

Capitalized terms used in this Semi-Annual Report but not otherwise defined have the meanings given to them in the Disclosure Certificate.

I. Property Ownership and Development

The information in this section is provided as of _____ (this date must be not more than 60 days before the date of this Semi-Annual Report).

A. Description of the Property currently owned by the Property Owner, or for which the Property Owner has an option to purchase under the Option Agreement, in Improvement Area No. 3 of the District (the "Property"), in substance and form similar to such information in the Official Statement for the 2023 Bonds:

B. Updated information regarding land development and home construction activities with respect to the Property described in the Official Statement for the 2023 Bonds or the Semi-Annual Report last filed in accordance with the Disclosure Certificate:

C. Status of building permits and any material changes to the description of land use or development entitlements for the Property described in the Official Statement for the 2023 Bonds or the Semi-Annual Report last filed in accordance with the Disclosure Certificate:

D. Status of any land purchase contracts with regard to the Property, whether acquisition of land in Improvement Area No. 3 by the Property Owner under the Option Agreement or sales of land to other property owners (other than individual homeowners).

II. Legal and Financial Status of Property Owner

Unless such information has previously been included or incorporated by reference in a Semi-Annual Report, describe any material change in the legal structure of the Property Owner or the financial condition and financing plan of the Property Owner that would materially and adversely interfere with its ability to complete the development plan with respect to the Property described in the Official Statement. To the extent that the ownership of the Property Owner has changed, describe all material terms of the new ownership structure.

III. Change in Development or Financing Plans

Unless such information has previously been included or incorporated by reference in a Semi-Annual Report, describe any development plans or financing plans relating to the Property *that are materially different from* the proposed development and financing plan for the Property described in the Official Statement or in a previous Semi-Annual Report.

IV. Official Statement Updates

Unless such information has previously been included or incorporated by reference in a Semi-Annual Report, describe any other significant changes in the information relating to the Property Owner or the Property contained in the Official Statement under the heading "OWNERSHIP AND DEVELOPMENT OF IMPROVEMENT AREA NO. 3" that would materially and adversely interfere with the Property Owner's ability to develop and sell the Property as described in the Official Statement.

V. Status of Tax Payments

Describe status of payment of taxes, special taxes (including the Special Taxes) or assessments due with respect to the Property owned by the Property Owner and its Affiliates.

VI. Other Material Information

In addition to any of the information expressly required above, provide such further information, if any, with respect to the Property and the Property Owner as may be necessary to make the specifically required statements, in the light of the circumstances under which they are made, not misleading.

Certification

On behalf of the Property Owner, the undersigned Authorized Representative, based on actual knowledge after reasonable inquiry of employees of Property Owner and its affiliates, hereby certifies that this Semi-Annual Report constitutes the Semi-Annual Report required to be furnished by the Property Owner under the Disclosure Certificate.

ANY OTHER STATEMENTS REGARDING THE PROPERTY OWNER, THE DEVELOPMENT OF THE PROPERTY, THE PROPERTY OWNER'S FINANCING PLAN OR FINANCIAL CONDITION, OR THE 2023 BONDS, OTHER THAN STATEMENTS MADE BY THE PROPERTY OWNER IN AN OFFICIAL RELEASE, OR FILED WITH THE MUNICIPAL SECURITIES RULEMAKING BOARD, ARE NOT AUTHORIZED BY THE PROPERTY OWNER. THE PROPERTY OWNER IS NOT RESPONSIBLE FOR THE ACCURACY, COMPLETENESS OR FAIRNESS OF ANY SUCH UNAUTHORIZED STATEMENTS.

THE PROPERTY OWNER HAS NO OBLIGATION TO UPDATE THIS SEMI-ANNUAL REPORT OTHER THAN AS EXPRESSLY PROVIDED IN THE DISCLOSURE CERTIFICATE.

Dated: _____

LS-TRACY LLC,
A Delaware limited liability company

By: Landsea Homes-WAB LLC, a Delaware limited liability
company
Its: Manager

By: _____

Name: _____

Title: _____

APPENDIX G

FORM OF OPINION OF BOND COUNSEL

April __, 2023

City Council
City of Tracy
333 Civic Center Plaza
Tracy, California 95376

OPINION: \$ _____ Improvement Area No. 3 of the City of Tracy Community Facilities
District No. 2016-2 (ECFD) Special Tax Bonds, Series 2023

Members of the Council:

We have acted as bond counsel to the City of Tracy (the "City") in connection with the issuance by the City of the special tax bonds captioned above, dated as of the date first written above (the "Bonds"). In such capacity, we have examined such law and such certified proceedings, opinions, certifications and other documents as we have deemed necessary to render this opinion.

The Bonds are issued pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, being sections 53311 et seq. of the California Government Code (the "Act"), a resolution of the City Council adopted on _____, 2023 (the "Resolution"), and a Fiscal Agent Agreement dated as of May 1, 2023 (the "Fiscal Agent Agreement"), between the City and U.S. Bank Trust Company, National Association, as fiscal agent (the "Fiscal Agent").

Under the Fiscal Agent Agreement, the City has pledged certain revenues ("Special Tax Revenues") for the payment of principal, premium (if any) and interest on the Bonds when due.

Regarding questions of fact material to our opinion, we have relied on representations of the City contained in the Fiscal Agent Agreement, and in the certified proceedings and other certifications of public officials furnished to us, without undertaking to verify the same by independent investigation.

Based on the foregoing, we are of the opinion that, under existing law:

1. The City is a duly created and validly existing municipal corporation and general law city with the power to adopt the Resolution, enter into the Fiscal Agent Agreement and perform the agreements on its part contained therein, and issue the Bonds.
2. The Fiscal Agent Agreement has been duly authorized, executed and delivered by the City, and constitutes a valid and binding obligation of the City, enforceable against the City.
3. The Fiscal Agent Agreement creates a valid lien on the Special Tax Revenues and other funds pledged by the Fiscal Agent Agreement for the security of the Bonds, on a parity with other bonds (if any) issued or to be issued in accordance with the Fiscal Agent Agreement.

4. The Bonds have been duly authorized and executed by the City and are valid and binding limited obligations of the City, payable solely from the Special Tax Revenues and other funds provided therefor in the Fiscal Agent Agreement.

5. The interest on the Bonds is excluded from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax. It should be noted however that interest on the Bonds may be subject to the corporate alternative minimum tax. The opinions set forth in the preceding sentences are subject to the condition that the City comply with all requirements of the Internal Revenue Code of 1986, as amended, that must be satisfied subsequent to the issuance of the Bonds in order that the interest thereon be, and continue to be, excludable from gross income for federal income tax purposes. The City has made certain representations and covenants in order to comply with each such requirement. Inaccuracy of those representations, or failure to comply with certain of those covenants, may cause the inclusion of such interest in gross income for federal income tax purposes, which may be retroactive to the date of issuance of the Bonds.

6. The interest on the Bonds is exempt from personal income taxation imposed by the State of California.

We express no opinion regarding any other tax consequences arising with respect to the ownership, sale or disposition of, or the amount, accrual or receipt of interest on, the Bonds.

The rights of the owners of the Bonds and the enforceability of the Bonds and the Fiscal Agent Agreement are limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, and by equitable principles, whether considered at law or in equity.

This opinion is given as of the date hereof, and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention, or any changes in law that may hereafter occur. Moreover, our opinions are not a guarantee of a particular result, and are not binding on the Internal Revenue Service or the courts; rather, our opinions represent our legal judgment based upon our review of existing law that we deem relevant to such opinions and in reliance upon the representations, covenants and opinions referenced above. Our engagement with respect to this matter has terminated as of the date hereof.

Respectfully submitted,

A Professional Law Corporation

APPENDIX H
APPRAISAL REPORT

FISCAL AGENT AGREEMENT

by and between the

CITY OF TRACY

and

**U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION
as Fiscal Agent**

Dated as of April 1, 2023

Relating to:

**\$ _____
Improvement Area No. 3 of the
City of Tracy
Community Facilities District No. 2016-2 (ECFD)
Special Tax Bonds, Series 2023**

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EXHIBIT A:	FORM OF 2023 BOND
EXHIBIT B:	OFFICER'S CERTIFICATE REQUESTING DISBURSEMENT FROM IMPROVEMENT FUND
EXHIBIT C:	OFFICER'S CERTIFICATE REQUESTING DISBURSEMENT FROM COSTS OF ISSUANCE FUND
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FISCAL AGENT AGREEMENT

THIS FISCAL AGENT AGREEMENT (the "Agreement") is made and entered into as of April 1, 2023, by and between the CITY OF TRACY, a municipal corporation and general law city organized and existing under the laws of the State of California (the "City") for and on behalf of the "City of Tracy Community Facilities District No. 2016-2 (ECFD)" (the "CFD") with respect to its "Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD)" ("Improvement Area No. 3"), and U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association duly organized and existing under the laws of the United States of America with a corporate trust office located in San Francisco, California, as fiscal agent (the "Fiscal Agent").

WITNESSETH:

WHEREAS, the City Council of the City has formed the CFD, including Improvement Area No. 3, under the provisions of the Mello-Roos Community Facilities Act of 1982, as amended (section 53311 *et seq.* of the California Government Code) (the "Act"); and

WHEREAS, the City Council, as the legislative body with respect to the CFD, is authorized under the Act to levy special taxes within Improvement Area No. 3 to pay for the costs of facilities and to authorize the issuance of bonds secured by said special taxes under the Act; and

WHEREAS, on _____, 2023, the City Council adopted Resolution No. 2023-____ (the "Resolution") authorizing the issuance of special tax bonds (the "2023 Bonds") on behalf of the CFD with respect to Improvement Area No. 3; and

WHEREAS, it is in the public interest and for the benefit of the City, the CFD, Improvement Area No. 3 and the persons responsible for the payment of special taxes that the City enter into this Agreement to provide for the issuance of the Bonds (as defined below) hereunder to finance the acquisition and construction of facilities for the City and to provide for the disbursement of proceeds of the Bonds, the disposition of the special taxes securing the Bonds and the administration and payment of the Bonds; and

WHEREAS, the City has determined that all things necessary to cause the 2023 Bonds, when authenticated by the Fiscal Agent and issued as provided in the Act, the Resolution and this Agreement, to be legal, valid, binding and limited obligations in accordance with their terms, and all things necessary to cause the creation, authorization, execution and delivery of this Agreement and the creation, authorization, execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized.

NOW, THEREFORE, in consideration of the covenants and provisions herein set forth and for other valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

ARTICLE I

AUTHORITY AND DEFINITIONS

Section 1.01. Authority for this Agreement. This Agreement is entered into pursuant to the Act (as herein defined) and the Resolution.

Section 1.02. Agreement for Benefit of Owners of the Bonds. The provisions, covenants and agreements herein set forth to be performed by or on behalf of the City shall be for the equal benefit, protection and security of the Owners of the Bonds. All of the Bonds, without regard to the time or times of their issuance or maturity, shall be of equal rank without preference, priority or distinction of any of the Bonds over any other thereof, except as expressly provided in or permitted by this Agreement.

Section 1.03. Definitions. Unless the context otherwise requires, the terms defined in this Section 1.03 shall, for all purposes of this Agreement, of any Supplemental Agreement, and of any certificate, opinion or other document herein mentioned, have the meanings herein specified. All references herein to “Articles,” “Sections” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Agreement, and the words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or subdivision hereof.

“Acquisition Agreement” means that certain Amended and Restated Master Acquisition Agreement, dated as of September 1, 2021, by and between the City and the Developer.

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, being sections 53311 *et seq.* of the California Government Code.

“Administrative Expenses” means costs directly related to the administration of the CFD consisting of: the actual costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by a City employee or consultant or both) and the actual costs of collecting the Special Taxes (whether by the County or otherwise); the actual costs of remitting the Special Taxes to the Fiscal Agent; actual costs of the Fiscal Agent (including its legal counsel) in the discharge of its duties under this Agreement; the actual costs of the City or its designee of complying with the disclosure provisions of the Act and this Agreement, including those related to public inquiries regarding the Special Tax and disclosures to Owners of the Bonds and the Original Purchaser; costs of the dissemination agent, whether for the City or another party that has undertaken to provide continuing disclosure; the actual costs of the City or its designee related to an appeal of the Special Tax; any amounts required to be rebated to the federal government; an allocable share of the salaries of the City staff directly related to the foregoing and a proportionate amount of City general administrative overhead related thereto. Administrative Expenses shall also include amounts advanced by the City for any administrative purpose of the CFD, including costs related to prepayments of Special Taxes, recordings related to such prepayments and satisfaction of Special Taxes, amounts advanced to ensure maintenance of tax exemption, and the costs of prosecuting foreclosure of delinquent Special Taxes, which amounts advanced are subject to reimbursement from other sources, including proceeds of foreclosure.

“Administrative Expense Fund” means the fund designated the “Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD) Administrative Expense Fund” established and administered under Section 4.06.

“Agreement” means this Fiscal Agent Agreement, as it may be amended or supplemented from time to time by any Supplemental Agreement adopted pursuant to the provisions hereof.

“Annual Debt Service” means, for each Bond Year, the sum of (i) the interest due on the Outstanding Bonds in such Bond Year, assuming that the Outstanding Bonds are retired as scheduled, and (ii) the principal amount of the Outstanding Bonds due in such Bond Year (including any mandatory sinking payment due in such Bond Year).

“Auditor” means the auditor/controller of the County, or such other official at the County who is responsible for preparing property tax bills.

“Authorized Officer” means the Mayor, City Manager, Assistant City Manager, Finance Director, City Clerk or any other officer or employee authorized by the City Council of the City or by an Authorized Officer to undertake the action referenced in this Agreement as required to be undertaken by an Authorized Officer.

“Bond” or “Bonds” means the 2023 Bonds and, if the context requires, any Parity Bonds, at any time Outstanding under this Agreement or any Supplemental Agreement.

“Bond Counsel” means Jones Hall, A Professional Law Corporation or any other attorney or firm of attorneys acceptable to the City and nationally recognized for expertise in rendering opinions as to the legality and tax-exempt status of securities issued by public entities.

“Bond Fund” means the fund designated the “Improvement Area No. 3 of the City of Tracy, Community Facilities District No. 2016-2 (ECFD) Special Tax Bonds, Bond Fund” established and administered under Section 4.04.

“Bond Proceeds Account” means the account of that name within the Improvement Fund to be established and administered by the Fiscal Agent under Section 4.07.

“Bond Year” means the one-year period beginning on September 2nd in each year and ending on September 1 in the following year, except that the first Bond Year shall begin on the Closing Date and shall end on September 1, 2023.

“Business Day” means any day other than (i) a Saturday or a Sunday or (ii) a day on which banking institutions in the state in which the Fiscal Agent has its principal corporate trust office are authorized or obligated by law or executive order to be closed.

“CDIAC” means the California Debt and Investment Advisory Commission of the Office of the State Treasurer, or any successor agency, board or commission.

“CFD” means the “City of Tracy Community Facilities District No. 2016-2 (ECFD)” formed under the Resolution of Formation.

“City” means the City of Tracy, and any successor thereto.

“City Attorney” means any attorney or firm of attorneys employed by the City in the capacity of general counsel.

“City Council” means the City Council of the City, in its capacity as the legislative body of the CFD.

“Closing Date” means the date upon which there is a physical delivery of the applicable series of Bonds in exchange for the amount representing the purchase price of such Bonds by the Original Purchaser.

“Continuing Disclosure Certificate” means that certain Continuing Disclosure Certificate executed by the City and dated the date of issuance and delivery of the 2023 Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

“Costs of Issuance” means items of expense payable or reimbursable directly or indirectly by the City and related to the authorization, sale, delivery and issuance of the Bonds, which items of expense shall include, but not be limited to, printing costs, costs of reproducing and binding documents, closing costs, appraisal costs, filing and recording fees, fees and expenses of counsel to the City, initial fees and charges of the Fiscal Agent including its first annual administration fees and its legal fees and charges, including the allocated costs of in-house attorneys, expenses incurred by the City in connection with the issuance of the Bonds, Bond (underwriter’s) discount, legal fees and charges, including bond counsel, and counsel to any financial consultant, financial consultant’s fees, charges for execution, authentication, transportation and safekeeping of the Bonds and other costs, charges and fees in connection with the foregoing.

“Costs of Issuance Fund” means the fund designated the “Improvement Area No. 3 of the City of Tracy, Community Facilities District No. 2016-2 (ECFD) Special Tax Bonds, Costs of Issuance Fund” established and administered under Section 4.02.

“County” means the County of San Joaquin, California.

“Dated Date” means April __, 2023, the dated date of the 2023 Bonds, which is the Closing Date of the 2023 Bonds.

“Debt Service” means the scheduled amount of interest and amortization of principal payable on the 2023 Bonds under Sections 2.02 and 2.03 and the scheduled amount of interest and amortization of principal payable on any Parity Bonds during the period of computation, in each case excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

“Depository” means (a) initially, DTC, and (b) any other Securities Depository acting as Depository for book-entry under Section 2.10.

“Developer” means Surland Communities, LLC, a California limited liability company, and its successors and assigns.

“DTC” means The Depository Trust Company, New York, New York, and its successors and assigns.

“Fair Market Value” means with respect to the Bonds the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm’s length transaction

(determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Tax Code) and, otherwise, the term “Fair Market Value” means the acquisition price in a bona fide arm’s length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Tax Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Tax Code, (iii) the investment is a United States Treasury Security—State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) any commingled investment fund in which the City and related parties do not own more than a 10% beneficial interest if the return paid by such fund is without regard to the source of the investment.

“Federal Securities” means: (a) any direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), the payment of principal of and interest on which are unconditionally and fully guaranteed by the United States of America; and (b) any obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

“Finance Director” means the official of the City, or such official's designee, who acts in the capacity as the chief financial officer of the City, including the controller or other financial officer.

“Fiscal Agent” means U.S. Bank Trust Company, National Association, the Fiscal Agent appointed by the City and acting as an independent fiscal agent with the duties and powers herein provided, its successors and assigns, and any other corporation or association which may at any time be substituted in its place, as provided in Section 7.01.

“Fiscal Year” means the twelve-month period extending from July 1 in a calendar year to June 30 of the succeeding year, both dates inclusive.

“Improvement Area No. 3” means “Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD)” formed under the Act and in accordance with the Resolution of Formation.

“Improvement Fund” means the fund designated “Improvement Area No. 3 of the City of Tracy, Community Facilities District No. 2016-2 (ECFD), Special Tax Bonds, Improvement Fund,” established under Section 4.07.

“Independent Financial Consultant” means any consultant or firm of such consultants appointed by the City or the Treasurer, and who, or each of whom:

(i) is judged by the Treasurer to have experience in matters relating to the issuance and/or administration of bonds under the Act;

(ii) is in fact independent and not under the domination of the City;

(iii) does not have any substantial interest, direct or indirect, with or in the City, or any owner of real property in Improvement Area No. 3, or any real property in Improvement Area No. 3; and

(iv) is not connected with the City as an officer or employee of the City, but who may be regularly retained to make reports to the City.

“Interest Payment Date” means each September 1 and March 1 of every calendar year, commencing with September 1, 2023.

“Maximum Annual Debt Service” means the largest Annual Debt Service for any Bond Year after the calculation is made through the final maturity date of any Outstanding Bonds.

“Moody’s” means Moody’s Investors Service, Inc., and its successors.

“MSRB” means the Municipal Securities Rulemaking Board, through its EMMA system, and, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such services providing information with respect to called bonds as the City may designate in an Officer’s Certificate delivered to the Fiscal Agent.

“Officer’s Certificate” means a written certificate of the City signed by an Authorized Officer of the City.

“Ordinance” means any ordinance of the City Council of the City levying the Special Taxes, including but not limited to Ordinance No. 1230 introduced by the City Council on February 7, 2017, and adopted by the City Council on February 21, 2017.

“Original Purchaser” means Piper Sandler & Co., the first purchaser of the 2023 Bonds from the City.

“Outstanding,” when used as of any particular time with reference to Bonds, means (subject to the provisions of Section 8.04) all Bonds except (i) Bonds theretofore canceled by the Fiscal Agent or surrendered to the Fiscal Agent for cancellation; (ii) Bonds paid or deemed to have been paid within the meaning of Section 9.03; and (iii) Bonds in lieu of or in substitution for which other Bonds shall have been authorized, executed, issued and delivered by the City under this Agreement or any Supplemental Agreement.

“Owner” or “Bondowner” means any person who shall be the registered owner of any Outstanding Bond.

“Parity Bonds” means additional bonds issued and payable on a parity with the Bonds under Section 3.06.

“Participating Underwriter” shall have the meaning ascribed thereto in the Continuing Disclosure Certificate.

“Permitted Investments” means the following, but only to the extent that the same are acquired at Fair Market Value:

- (a) Federal Securities.

(b) any of the following direct or indirect obligations of the following agencies of the United States of America: (i) direct obligations of the Export-Import Bank; (ii) certificates of beneficial ownership issued by the Farmers Home Administration; (iii) participation certificates issued by the General Services Administration; (iv) mortgage-backed bonds or pass-through obligations issued and guaranteed by the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or the Federal Housing Administration; (v) project notes issued by the United States Department of Housing and Urban Development; and (vi) public housing notes and bonds guaranteed by the United States of America;

(c) interest-bearing demand or time deposits (including certificates of deposit), including those placed by a third party pursuant to a separate agreement between the City and the Fiscal Agent, banking deposit products, trust funds, trust accounts, overnight bank deposits, interest bearing deposits, interest bearing money market accounts or deposit accounts in federal or state chartered savings and loan associations or in federal or State of California banks (including the Fiscal Agent, its parent, if any, and affiliates), provided that (i) the unsecured short-term obligations of such commercial bank or savings and loan association shall be rated in the highest short-term rating category by any Rating Agency, or (ii) such demand or time deposits shall be fully insured by the Federal Deposit Insurance Corporation;

(d) commercial paper rated at the time of purchase in the highest short-term rating category by any Rating Agency, issued by corporations which are organized and operating within the United States of America, and which matures not more than 180 days following the date of investment therein;

(e) bankers acceptances, consisting of bills of exchange or time drafts drawn on and accepted by a commercial bank, including its parent (if any), affiliates and subsidiaries, whose short-term obligations are rated in the highest short-term rating category by any Rating Agency, or whose long-term obligations are rated A or better by any Rating Agency, which mature not more than 270 days following the date of investment therein;

(f) obligations the interest on which is excludable from gross income pursuant to Section 103 of the Tax Code and which are either (a) rated A or better by any Rating Agency, or (b) fully secured as to the payment of principal and interest by Federal Securities;

(g) obligations issued by any corporation organized and operating within the United States of America having assets in excess of \$500,000,000, which obligations are rated A or better by any Rating Agency;

(h) money market mutual funds (including money market funds for which the Fiscal Agent, its affiliates or subsidiaries provide investment advisory, transfer agency, custodial or other management services for which it receives and retains a fee for such services to the fund) which invest in Federal Securities or which are rated in the highest short-term rating category by any Rating Agency including those funds for which the Fiscal Agent or an affiliate receives and retains a fee for

services provided to the fund, whether as a custodian, transfer agent, investment advisor or otherwise; and

(i) any investment agreement representing general unsecured obligations of a financial institution rated A or better by any Rating Agency, by the terms of which the Fiscal Agent is permitted to withdraw all amounts invested therein in the event any such rating falls below A.

(j) the Local Agency Investment Fund established pursuant to Section 16429.1 of the Government Code of the State of California, *provided, however*, that the Fiscal Agent shall be permitted to make investments and withdrawals in its own name and the Fiscal Agent may restrict investments in the such fund if necessary to keep moneys available for the purposes of this Fiscal Agent Agreement.

(k) the California Asset Management Program.

"Principal Office" means such corporate trust office of the Fiscal Agent as may be designated from time to time by written notice from the Fiscal Agent to the City, initially being at the address set forth in Section 9.06, or such other office designated by the Fiscal Agent from time to time.

"Proceeds" when used with reference to the Bonds, means the face amount of the Bonds, plus any accrued interest and premium, less any original issue and/or underwriter's discount.

"Project" means those items described as the "Facilities" in the Resolution of Formation.

"Qualified Reserve Account Credit Instrument" means an irrevocable standby or direct-pay letter of credit, insurance policy, or surety bond issued by a commercial bank or insurance company and deposited with the Fiscal Agent, provided that all of the following requirements are met at the time of acceptance thereof by the Fiscal Agent: (a) in the case of a commercial bank, the long-term credit rating of such bank at the time of delivery of the irrevocable standby or direct-pay letter of credit is at least "A" from S&P or "A" from Moody's and, in the case of an insurance company, the claims paying ability of such insurance company at the time of delivery of the insurance policy or surety bond is at least "A" from S&P, or "A" from Moody's or, if not rated by S&P or Moody's but is rated by A.M. Best & Company, is rated at the time of delivery in the highest rating category by A.M. Best & Company; (b) such letter of credit, insurance policy or surety bond has a term of at least 12 months; (c) such letter of credit or surety bond has a stated amount at least equal to the portion of the 2023 Reserve Requirement with respect to which funds are proposed to be released; and (d) the Fiscal Agent is authorized pursuant to the terms of such letter of credit, insurance policy or surety bond to draw thereunder an amount equal to any deficiencies which may exist from time to time in the Bond Fund for the purpose of making payments with respect to the 2023 Bonds and any Parity Bonds.

"Rate and Method" means the Rate and Method of Apportionment of the Special Taxes for Improvement Area No. 3.

"Record Date" means the fifteenth day of the calendar month next preceding the applicable Interest Payment Date, whether or not such day is a Business Day.

“Refunding Bonds” means bonds issued by the City for the CFD with respect to Improvement Area No. 3, the net proceeds of which are used to refund all or a portion of the then-Outstanding Bonds and for other lawful purposes; provided that the principal and interest on the Refunding Bonds to their final maturity date is less than the principal and interest on the Bonds being refunded to their final maturity date, and the final maturity of the Refunding Bonds is not later than the final maturity of the Bonds being refunded.

“Regulations” means temporary and permanent regulations promulgated under the Tax Code.

“Remainder Taxes” means the Special Taxes available for disbursement pursuant to Section 4.05(B)(iii).

“Remainder Taxes Account” means the account of that name within the Improvement Fund to be established and administered by the Fiscal Agent under Section 4.07.

“Remainder Taxes Period” means the period through and including the date that is the earlier of (i) the end of the 15th Fiscal Year during which Special Taxes have been levied on the property in Improvement Area No. 3 or (ii) the date the City has fully satisfied its reimbursement obligations under the Acquisition Agreement.

“Resolution” or “Resolution of Issuance” has the meaning given that term in the recitals hereof.

“Resolution of Formation” means (i) Resolution No. 2017-021, entitled “Resolution of Formation of Community Facilities District,” adopted by the City Council on February 7, 2017, forming the CFD and (ii) to the extent applicable with respect to Improvement Area No. 3, Resolution No. 2019-244, entitled “Confirming Annexation of Property (Ellis Phase 3 Town and Country Neighborhood) Into Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD) and Confirming, Ordering and Directing Other Related Matters,” adopted by the City Council on December 17, 2019.

“S&P” means S&P Global, a division of McGraw-Hill, and its successors and assigns.

“Securities Depositories” means DTC and, in accordance with then current guidelines of the Securities and Exchange Commission, such other securities depositories as the City may designate in an Officer’s Certificate delivered to the Fiscal Agent.

“Special Tax Fund” means the special fund designated “Improvement Area No. 3 of the City of Tracy, Community Facilities District No. 2016-2 (ECFD), Special Tax Fund” established and administered under Section 4.05.

“Special Tax Prepayments” means the proceeds of any Special Tax prepayments received by the City, as calculated pursuant to the Rate and Method, less any administrative fees or penalties collected as part of any such prepayment.

“Special Tax Prepayments Account” means the account by that name established within the Bond Fund under Section 4.04(A).

“Special Tax Revenues” means the proceeds of the Special Taxes received by the City, including any scheduled payments thereof and any Special Tax Prepayments, interest thereon

and proceeds of the redemption or sale of property sold as a result of foreclosure of the lien of the Special Taxes to the amount of said lien and interest thereon, but shall not include any interest in excess of the interest due on the Bonds or any penalties collected in connection with any such foreclosure.

“Special Taxes” means the Facilities Special Tax levied by the City Council within Improvement Area No. 3 under the Act, the Rate and Method, the Ordinance and this Agreement.

“State” means the State of California.

“Supplemental Agreement” means an agreement the execution of which is authorized by a resolution which has been duly adopted by the City under the Act and which agreement is amendatory of or supplemental to this Agreement, but only if and to the extent that such agreement is specifically authorized hereunder.

“Tax Code” means the Internal Revenue Code of 1986 as in effect on the date of issuance of the Bonds or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the date of issuance of the Bonds, together with applicable temporary and final regulations promulgated, and applicable official public guidance published, under the Tax Code.

“Tax Consultant” means an independent financial or tax consultant retained by the City for the purpose of computing the Special Taxes.

“Term Bonds” means the (i) 2023 Bonds maturing on September 1, 20__, September 1, 20__, September 1, 20__, and September 1, 20__ and (ii) Parity Bonds identified as term bonds in a Supplemental Agreement.

“2023 Bonds” means the Bonds so designated and authorized to be issued under Section 2.01 hereof.

“2023 Reserve Fund” means the fund designated the “Improvement Area No. 3 of the City of Tracy, Community Facilities District No. 2016-2 (ECFD), Special Tax Bonds, Reserve Fund” established and administered under Section 4.03.

“2023 Reserve Requirement” means the amount as of any date of calculation equal to the least of (a) Maximum Annual Debt Service on the 2023 Bonds and Parity Bonds, if any, (b) 125% of average Annual Debt Service on the 2023 Bonds and Parity Bonds, if any and (c) 10% of the original principal of the 2023 Bonds and Parity Bonds, if any; provided, however:

(A) that with respect to the calculation of clause (c), the issue price of the 2023 Bonds or any Parity Bonds excluding accrued interest shall be used rather than the original principal amount, if (i) the net original issue discount or premium of the 2023 Bonds or any Parity Bonds was less than 98% or more than 102% of the original principal amount of the 2023 Bonds or any Parity Bonds and (ii) using the issue price would produce a lower result than using the original principal amount;

(B) that in no event shall the amount calculated hereunder exceed the amount on deposit in the 2023 Reserve Fund on the date of issuance of the 2023 Bonds (if they are the only Bonds covered by the 2023 Reserve Fund) or the most recently issued series of Parity Bonds except in connection with any increase associated with the issuance of Parity Bonds; and

(C) that in no event shall the amount required to be deposited into the 2023 Reserve Fund in connection with the issuance of a series of Parity Bonds exceed the maximum amount under the Tax Code that can be financed with tax-exempt bonds and invested at an unrestricted yield.

ARTICLE II
THE BONDS

Section 2.01. Principal Amount; Designation. Bonds in the aggregate principal amount of \$25,000,000 are hereby authorized to be issued by the City for the CFD with respect to Improvement Area No. 3 under and subject to the terms of the Act, the Resolution, this Agreement and other applicable laws of the State of California. For the avoidance of doubt, Refunding Bonds shall not count against the limit set forth in the previous sentence.

The 2023 Bonds shall be designated as the “Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD) Special Tax Bonds, Series 2023,” and shall be in the initial principal amount of \$_____.

Section 2.02. Terms of the 2023 Bonds.

(A) Form; Denominations. The 2023 Bonds shall be issued as fully registered Bonds without coupons. The 2023 Bonds shall be lettered and numbered in a customary manner as determined by the City. The 2023 Bonds shall be issued in the denominations of \$5,000 or any integral multiple of \$5,000 in excess thereof.

(B) Date of 2023 Bonds. The 2023 Bonds shall be dated the Closing Date.

(C) CUSIP Identification Numbers. “CUSIP” identification numbers may, at the election of the Original Purchaser of the Bonds, be imprinted on the Bonds, but such numbers shall not constitute a part of the contract evidenced by the Bonds and any error or omission with respect thereto shall not constitute cause for refusal of any purchaser to accept delivery of and pay for the Bonds. In addition, failure on the part of the City or the Fiscal Agent to use such CUSIP numbers in any notice to Owners shall not constitute an event of default or any violation of the City’s contract with such Owners and shall not impair the effectiveness of any such notice.

(D) Maturities; Interest Rates. The 2023 Bonds shall mature and become payable on each September 1, and shall bear interest at the rates per annum indicated in the below table.

<u>Maturity</u> <u>(September 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
	\$	%

* Term Bond

(E) Interest. The 2023 Bonds shall bear interest at the rates set forth above payable on the Interest Payment Dates in each year. Interest on all Bonds shall be calculated on the basis of a 360-day year composed of twelve 30-day months. Each Bond shall bear interest from the Interest Payment Date next preceding the date of authentication thereof unless

(i) it is authenticated on an Interest Payment Date, in which event it shall bear interest from such date of authentication, or

(ii) it is authenticated prior to an Interest Payment Date and after the close of business on the Record Date preceding such Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or

(iii) it is authenticated on or before the Record Date preceding the first Interest Payment Date, in which event it shall bear interest from the Dated Date;

provided, however, that if at the time of authentication of a Bond, interest is in default thereon, such Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

(F) Method of Payment. Interest on the Bonds (including the final interest payment upon maturity or earlier redemption), is payable on the applicable Interest Payment Date by check of the Fiscal Agent mailed by first class mail to the registered Owner thereof at such registered Owner's address as it appears on the registration books maintained by the Fiscal Agent at the close of business on the Record Date preceding the Interest Payment Date, or by wire transfer to an account located in the United States made on such Interest Payment Date upon written instructions of any Owner of \$1,000,000 or more in aggregate principal amount of Bonds delivered to the Fiscal Agent prior to the applicable Record Date, which shall continue in effect until revoked in writing, or until such Bonds are transferred to a new Owner.

The principal of the Bonds and any premium on the Bonds are payable in lawful money of the United States of America upon surrender of the Bonds at the Principal Office of the Fiscal Agent. All Bonds paid by the Fiscal Agent pursuant to this Section shall be canceled by the Fiscal Agent. The Fiscal Agent shall destroy the canceled Bonds and, upon request of the City, issue a certificate of destruction of such Bonds to the City.

Section 2.03. Redemption.

(A) Redemption Provisions.

(i) **Optional Redemption.** The 2023 Bonds maturing on or after September 1, 20__, are subject to optional redemption as directed by the City, from sources of funds other than prepayments of Special Taxes, prior to their stated maturity on any date on or after September 1, 20__ as a whole or in part, at a redemption price (expressed as a percentage of the principal amount of the Bonds to be redeemed), as set forth below, together with accrued interest thereon to the date fixed for redemption:

<u>Redemption Dates</u>	<u>Redemption Price</u>
September 1, 20__ through August 31, 20__	%
September 1, 20__ through August 31, 20__	
September 1, 20__ through August 31, 20__	
September 1, 20__ and any date thereafter	

(ii) **Mandatory Sinking Fund Redemption.** The Term Bond maturing on September 1, 20__, is subject to mandatory redemption in part by lot, from sinking fund payments made by the City from the Bond Fund, at a redemption price equal to the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts all as set forth in the following table:

Sinking Fund Redemption Date (September 1)	Sinking Fund Payments
20__	\$
20__	
20__	
20__	
20__ (maturity)	

The Term Bond maturing on September 1, 20__, is subject to mandatory redemption in part by lot, from sinking fund payments made by the City from the Bond Fund, at a redemption price equal to the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts all as set forth in the following table:

Sinking Fund Redemption Date (September 1)	Sinking Fund Payments
20__	\$
20__	
20__	
20__	
20__ (maturity)	

The Term Bond maturing on September 1, 20__, is subject to mandatory redemption in part by lot, from sinking fund payments made by the City from the Bond Fund, at a redemption price equal to the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts all as set forth in the following table:

Sinking Fund Redemption Date (September 1)	Sinking Fund Payments
20__	\$
20__	
20__	
20__	
20__ (maturity)	

The Term Bond maturing on September 1, 20__, is subject to mandatory redemption in part by lot, from sinking fund payments made by the City from the Bond Fund, at a redemption price equal to the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts all as set forth in the following table:

Sinking Fund Redemption Date (September 1)	Sinking Fund Payments
20__	\$
20__	
20__	
20__	
20__ (maturity)	

Provided, however, if some but not all of the Term Bonds of a given maturity have been redeemed under subsection (i) above or subsection (iii) below, the total amount of all future Sinking Fund Payments relating to such maturity shall be reduced by the

aggregate principal amount of Term Bonds of such maturity so redeemed, to be allocated among such Sinking Fund Payments on a pro rata basis in integral multiples of \$5,000 as determined by the City, notice of which shall be given by the City to the Fiscal Agent and the notice shall include a revised sinking fund schedule.

(iii) **Redemption from Special Tax Prepayments.** Special Tax Prepayments and any corresponding transfers from the 2023 Reserve Fund pursuant to Section 4.03(F) shall be used to redeem 2023 Bonds on the next Interest Payment Date for which notice of redemption can timely be given under Section 2.03(D), among series and maturities so as to maintain substantially the same debt service profile for the Bonds as in effect prior to such redemption and by lot within a maturity, at a redemption price (expressed as a percentage of the principal amount of the 2023 Bonds to be redeemed), as set forth below, together with accrued interest to the date fixed for redemption:

<u>Redemption Dates</u>	<u>Redemption Price</u>
Any Interest Payment Date on or before March 1, 20__	%
September 1, 20__ and March 1, 20__	
September 1, 20__ and March 1, 20__	
September 1, 20__ and any Interest Payment Date thereafter	

(B) **Notice to Fiscal Agent.** The City shall give the Fiscal Agent written notice of its intention to redeem Bonds under subsection (A)(i) and (A)(iii) not less than 45 days prior to the applicable redemption date or such lesser number of days as shall be acceptable to the Fiscal Agent.

(C) **Purchase of Bonds in Lieu of Redemption.** In lieu of redemption under Section 2.03(A), moneys in the Bond Fund may be used and withdrawn by the Fiscal Agent for purchase of Outstanding 2023 Bonds, upon the filing with the Fiscal Agent of an Officer's Certificate requesting such purchase, at public or private sale as and when, and at such prices (including brokerage and other charges) as such Officer's Certificate may provide, but in no event may 2023 Bonds be purchased at a price in excess of the principal amount thereof, plus interest accrued to the date of purchase and any premium which would otherwise be due if such 2023 Bonds were to be redeemed in accordance with this Agreement.

(D) Redemption Procedure by Fiscal Agent.

(i) **Notices.** The Fiscal Agent shall cause notice of any redemption to be mailed by first class mail, postage prepaid, or posted, at least twenty (20) days but not more than sixty (60) days prior to the date fixed for redemption, to the Securities Depositories and to the respective registered Owners of any Bonds designated for redemption, at their addresses appearing on the Bond registration books in the Principal Office of the Fiscal Agent; but such mailing shall not be a condition precedent to such redemption and failure to mail or to receive any such notice, or any defect therein, shall not affect the validity of the proceedings for the redemption of such Bonds. In addition, the Fiscal Agent shall file each notice of redemption with the MSRB through its EMMA system.

(ii) **Contents of Notices.** Such notice shall state the redemption date and the redemption price and, if less than all of the then Outstanding Bonds are to be called for redemption shall state as to any Bond called in part the principal amount thereof to be redeemed, and shall require that such Bonds be then surrendered at the Principal Office

of the Fiscal Agent for redemption at the said redemption price, and shall state that further interest on such Bonds will not accrue from and after the redemption date. The cost of mailing any such redemption notice and any expenses incurred by the Fiscal Agent in connection therewith shall be paid by the City.

Any redemption notice may be conditioned upon the receipt of moneys by the City sufficient to cause such redemption. The City has the right to rescind any notice of the optional redemption of Bonds by written notice to the Fiscal Agent on or prior to the date fixed for redemption. Any notice of redemption shall be cancelled and annulled if for any reason funds will not be or are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation shall not constitute a default under this Agreement. The City and the Fiscal Agent have no liability to the Owners or any other party related to or arising from such rescission of redemption. The Fiscal Agent shall mail notice of such rescission of redemption in the same manner as the original notice of redemption was sent under this Section.

(iii) **Selection of Bonds for Redemption.** Whenever provision is made in this Agreement for the redemption of less than all of the Bonds of any maturity or any given portion thereof, the Fiscal Agent shall select the Bonds to be redeemed by lot in any manner which the Fiscal Agent in its sole discretion deems appropriate.

(iv) **New Bonds.** Upon surrender of Bonds redeemed in part only, the City shall execute and the Fiscal Agent shall authenticate and deliver to the registered Owner, at the expense of the City, a new Bond or Bonds, of the same series and maturity, of authorized denominations in aggregate principal amount equal to the unredeemed portion of the Bond or Bonds of such registered Owner.

(E) Effect of Redemption. From and after the date fixed for redemption, if funds available for the payment of the principal of, and interest and any premium on, the Bonds so called for redemption shall have been deposited in the Bond Fund, such Bonds so called shall cease to be entitled to any benefit under this Agreement other than the right to receive payment of the redemption price, and no interest shall accrue thereon on or after the redemption date specified in the notice of redemption. All Bonds redeemed and purchased by the Fiscal Agent under this Section 2.03 shall be canceled by the Fiscal Agent. The Fiscal Agent shall destroy the canceled Bonds in accordance with the Fiscal Agent's retention policy then in effect.

Section 2.04. Form of Bonds. The 2023 Bonds, the Fiscal Agent's certificate of authentication and the assignment, to appear thereon, shall be substantially in the forms, respectively, set forth in Exhibit A attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Agreement, the Resolution and the Act.

Section 2.05. Execution and Authentication of Bonds.

(A) Execution. The Bonds shall be executed on behalf of the City by the manual or facsimile signatures of its Mayor and its City Clerk who are in office on the date of execution of this Agreement or at any time thereafter. If any officer whose signature appears on any Bond ceases to be such officer before delivery of the Bonds to the Owner, such signature shall nevertheless be as effective as if the officer had remained in office until the delivery of the Bonds to the Owner. Any Bond may be signed and attested on behalf of the City by such persons as at the actual date of the execution of such Bond shall be the proper officers of the City although at the nominal date of such Bond any such person shall not have been such officer of the City.

(B) Authentication. Only such Bonds as shall bear thereon a certificate of authentication in substantially the form set forth in Exhibit A, executed and dated by the Fiscal Agent, shall be valid or obligatory for any purpose or entitled to the benefits of this Agreement, and such certificate of authentication of the Fiscal Agent shall be conclusive evidence that the Bonds registered hereunder have been duly authenticated, registered and delivered hereunder and are entitled to the benefits of this Agreement.

Section 2.06. Transfer or Exchange of Bonds. Any Bond may, in accordance with its terms, be transferred, upon the books required to be kept under the provisions of Section 2.07 by the person in whose name it is registered, in person or by such person's duly authorized attorney, upon surrender of such Bond for cancellation, accompanied by delivery of a duly written instrument of transfer in a form acceptable to the Fiscal Agent. Bonds may be exchanged at the Principal Office of the Fiscal Agent solely for a like aggregate principal amount of Bonds of authorized denominations and of the same maturity. The cost for any services rendered or any expenses incurred by the Fiscal Agent in connection with any such transfer or exchange shall be paid by the City. The Fiscal Agent shall collect from the Owner requesting such transfer or exchange any tax or other governmental charge required to be paid with respect to such transfer or exchange. Whenever any Bond or Bonds shall be surrendered for transfer or exchange, the City shall execute and the Fiscal Agent shall authenticate and deliver a new Bond or Bonds, for a like aggregate principal amount. No transfers or exchanges of Bonds shall be required to be made (i) fifteen days prior to the date established by the Fiscal Agent for selection of Bonds for redemption or (ii) with respect to a Bond after such Bond has been selected for redemption; or (iii) between a Record Date and the succeeding Interest Payment Date.

Section 2.07. Bond Register. The Fiscal Agent will keep, or cause to be kept, at its Principal Office sufficient books for the registration and transfer of the Bonds which books shall show the series number, date, amount, rate of interest and last known owner of each Bond and shall at all times be open to inspection by the City during regular business hours upon reasonable notice; and, upon presentation for such purpose, the Fiscal Agent shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, the ownership of the Bonds as hereinbefore provided. The City and the Fiscal Agent will treat the Owner of any Bond whose name appears on the Bond register as the absolute Owner of such Bond for any and all purposes, and the City and the Fiscal Agent shall not be affected by any notice to the contrary. The City and the Fiscal Agent may rely on the address of the Owner as it appears in the Bond register for any and all purposes.

Section 2.08. Temporary Bonds. The Bonds may be initially issued in temporary form exchangeable for definitive Bonds when ready for delivery. The temporary Bonds may be printed, lithographed or typewritten, shall be of such authorized denominations as may be determined by the City, and may contain such reference to any of the provisions of this Agreement as may be

appropriate. Every temporary Bond shall be executed by the City upon the same conditions and in substantially the same manner as the definitive Bonds. If the City issues temporary Bonds, it will execute and furnish definitive Bonds without delay and thereupon the temporary Bonds shall be surrendered, for cancellation, in exchange for the definitive Bonds at the Principal Office of the Fiscal Agent or at such other location as the Fiscal Agent shall designate, and the Fiscal Agent shall authenticate and deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds of authorized denominations. Until so exchanged, the temporary Bonds shall be entitled to the same benefits under this Agreement as definitive Bonds authenticated and delivered hereunder.

Section 2.09. Bonds Mutilated, Lost, Destroyed or Stolen.

(A) Mutilated. If any Bond shall become mutilated, at the expense of the Owner of such Bond, the City shall execute and the Fiscal Agent shall authenticate and deliver a replacement Bond of like tenor and principal amount in exchange and substitution for the Bond so mutilated, but only upon surrender to the Fiscal Agent of the Bond so mutilated. Every mutilated Bond so surrendered to the Fiscal Agent shall be canceled by it and destroyed by the Fiscal Agent, in accordance with the Fiscal Agent's retention policy then in effect.

(B) Destroyed or Stolen. If any Bond shall be lost, destroyed or stolen, the City shall execute and the Fiscal Agent shall authenticate and deliver a replacement Bond of like tenor and principal amount in lieu of and in substitution for the Bond so lost, destroyed or stolen, at the expense of the Owner, but only following provision by the Owner to the Fiscal Agent of indemnity for the City and the Fiscal Agent satisfactory to the Fiscal Agent and the City. The City may require payment of a sum not exceeding the actual cost of preparing each replacement Bond delivered under this Section and the City and the Fiscal Agent may require payment of the expenses which may be incurred by the City and the Fiscal Agent for the preparation, execution, authentication and delivery thereof. Any Bond delivered under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the City whether or not the Bond so alleged to be lost, destroyed or stolen is at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Agreement with all other Bonds issued under this Agreement.

(C) Additional Stock. If the Fiscal Agent has an insufficient stock of unauthenticated printed Bonds for such purpose, it shall communicate with the Finance Director with respect to the printing of an additional stock of Bonds, in such quantities and as otherwise approved in writing by the Finance Director.

Section 2.10. Book-Entry Only System. DTC shall act as the initial Depository for the Bonds. One Bond for each maturity of the Bonds shall be initially executed, authenticated, and delivered as set forth herein with a separate fully registered certificate (in print or typewritten form). Upon initial execution, authentication, and delivery, the ownership of the Bonds shall be registered in the Bond register kept by the Fiscal Agent for the Bonds in the name of Cede & Co., as nominee of DTC or such nominee as DTC shall appoint in writing.

The Authorized Officers of the City and the Fiscal Agent are hereby authorized to take any and all actions as may be necessary and not inconsistent with this Agreement to qualify the Bonds for the Depository's book-entry system, including the execution of the Depository's required representation letter.

With respect to Bonds registered in the Bond register in the name of Cede & Co., as nominee of DTC, neither the City nor the Agent shall have any responsibility or obligation to any broker-dealer, bank, or other financial institution for which DTC holds Bonds as Depository from time to time (the "DTC Participants") or to any person for which a DTC Participant acquires an interest in the Bonds (the "Beneficial Owners"). Without limiting the immediately preceding sentence, neither the City nor the Fiscal Agent shall have any responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co., or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant, any Beneficial Owner, or any other person, other than DTC, of any notice with respect to the Bonds, including any Bonds to be redeemed in the event the City elects to redeem the Bonds, in part, (iii) the selection by the Depository of the beneficial interests in the Bonds to be redeemed in the event the City elects to redeem the Bonds in part, (iv) the payments to any DTC Participant, any Beneficial Owner, or any person, other than DTC, of any amount with respect to the principal of or interest or premium on the Bonds, or (v) any consent given or other action taken by the Depository as Owner of the Bonds.

Except as set forth above, the City and the Fiscal Agent may treat as and deem DTC to be the absolute Owner of each Bond, for which DTC is acting as Depository for the purpose of payment of the principal of and premium and interest on such Bonds, for the purpose of giving notices of redemption and other matters with respect to such Bonds, for the purpose of registering transfers with respect to such Bonds, and for all purposes whatsoever. The Fiscal Agent on behalf of the City shall pay all principal of and premium and interest on the Bonds only to or upon the order of the Owners as shown on the Bond register, and all such payments shall be valid and effective to fully satisfy and discharge all obligations with respect to the principal of and premium and interest on the Bonds to the extent of the sums or sums so paid.

No person other than an Owner, as shown on the Bond register, shall receive a physical Bond. Upon delivery by DTC to the City and the Fiscal Agent of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the transfer provisions in Section 2.06 hereof, references to "Cede & Co." in this Section 2.10 shall refer to such new nominee of DTC.

DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving written notice to the City and to the Fiscal Agent during any time that the Bonds are Outstanding, and discharging its responsibilities with respect thereto under applicable law. The City may terminate the services of DTC with respect to the Bonds if it determines that DTC is unable to discharge its responsibilities with respect to the Bonds or that continuation of the system of book-entry transfer through DTC is not in the best interest of the Beneficial Owners, and the City shall mail notice of such termination to the Fiscal Agent.

Upon termination of the services of DTC as provided in the previous paragraph, and if no substitute Depository willing to undertake the functions hereunder can be found which is willing to undertake such functions upon reasonable or customary terms, or if the City determines that it is in the best interest of the Beneficial Owners of the Bonds that they be able to obtain certified Bonds, the Bonds shall no longer be restricted to being registered in the Bond register of the Fiscal Agent in the name of Cede & Co., as nominee of DTC, but may be registered in whatever name or names the Owners shall designate at that time, in accordance with Section 2.06.

To the extent that the Beneficial Owners are designated as the transferee by the Owners, in accordance with Section 2.06, the Bonds will be delivered to such Beneficial Owners.

ARTICLE III

ISSUANCE OF BONDS

Section 3.01. Issuance and Delivery of 2023 Bonds. At any time after the execution of this Agreement, the City may issue the 2023 Bonds for the CFD with respect to Improvement Area No. 3 in the aggregate principal amount set forth in Section 2.01 and deliver the 2023 Bonds to the Fiscal Agent for authentication and delivery to the Original Purchaser. The Authorized Officers of the City are hereby authorized and directed to execute and deliver any and all documents and instruments necessary to cause the issuance of the 2023 Bonds in accordance with the provisions of the Act, the Resolution and this Agreement, to authorize the payment of Costs of Issuance and costs of the Project by the Fiscal Agent from the proceeds of the 2023 Bonds and to do and cause to be done any and all acts and things necessary or convenient for the timely delivery of the 2023 Bonds to the Original Purchaser. The Fiscal Agent is hereby authorized and directed to authenticate the 2023 Bonds and deliver them to the Original Purchaser, upon receipt of the purchase price for the 2023 Bonds.

Section 3.02. Pledge of Special Tax Revenues. The Bonds shall be secured by a first pledge (which pledge shall be effected in the manner and to the extent herein provided) of all of the Special Tax Revenues and all moneys deposited in the Bond Fund (including the Special Tax Prepayments Account), and, until disbursed as provided herein, in the Special Tax Fund. The Special Tax Revenues and all moneys deposited into such funds (except as otherwise provided herein) are hereby dedicated to the payment of the principal of, and interest and any premium on, the Bonds as provided herein and in the Act until all of the Bonds have been paid and retired or until moneys or Federal Securities have been set aside irrevocably for that purpose under Section 9.03.

The 2023 Bonds and all Parity Bonds shall be secured by a first pledge (which pledge shall be effected in the manner and to the extent herein provided) of all moneys deposited in the 2023 Reserve Fund. The moneys in the 2023 Reserve Fund (except as otherwise provided herein) are hereby dedicated to the payment of the principal of, and interest and any premium on, the 2023 Bonds and all Parity Bonds as provided herein and in the Act until all of the 2023 Bonds and all Parity Bonds have been paid and retired or until moneys or Federal Securities have been set aside irrevocably for that purpose under Section 9.03.

Amounts in the Improvement Fund (and the accounts therein), the Administrative Expense Fund and the Costs of Issuance Fund are not pledged to the repayment of the Bonds. The Project is not pledged to the repayment of the Bonds, nor are the proceeds of any condemnation or insurance award received by the City with respect to the Project.

Section 3.03. Limited Obligation. All obligations of the City under this Agreement and the Bonds shall not be general obligations of the City, but shall be limited obligations, payable solely from the Special Tax Revenues and the funds pledged therefor hereunder. Neither the faith and credit nor the taxing power of the City (except to the limited extent set forth herein) or of the State of California or any political subdivision thereof is pledged to the payment of the Bonds.

Section 3.04. No Acceleration. The principal of the Bonds shall not be subject to acceleration hereunder. Nothing in this Section shall in any way prohibit the redemption of Bonds

under Section 2.03, or the defeasance of the Bonds and discharge of this Agreement under Section 9.03.

Section 3.05. Validity of Bonds. The validity of the authorization and issuance of the Bonds shall not be dependent upon the completion of the acquisition of the Project or upon the performance by any person of his obligation with respect to the Project.

Section 3.06. Parity Bonds. In addition to the 2023 Bonds, the City may issue Refunding Bonds as Parity Bonds in such principal amount as shall be determined by the City, under a Supplemental Agreement entered into by the City and the Fiscal Agent. Any such Parity Bonds shall constitute Bonds hereunder and shall be secured by a lien on the Special Tax Revenues and funds pledged for the payment of the Bonds hereunder on a parity with all other Bonds Outstanding hereunder. The City may issue such Parity Bonds subject to the following specific conditions precedent:

(A) Compliance. Following issuance of the Parity Bonds, the City shall be in compliance with all covenants set forth in this Agreement and all Supplemental Agreements, and issuance of the Parity Bonds shall not cause the City to exceed the bonded indebtedness limit of Improvement Area No. 3.

(B) Same Payment Dates. The Supplemental Agreement providing for the issuance of such Parity Bonds shall provide that interest thereon shall be payable on the Interest Payment Dates, and principal thereof shall be payable on September 1 (provided that there shall be no requirement that any Parity Bonds pay interest on a current basis).

(C) Debt Service Reserve Fund. The Supplemental Agreement providing for issuance of the Parity Bonds shall provide for a deposit to the 2023 Reserve Fund in an amount necessary such that the amount deposited therein shall equal the 2023 Reserve Requirement following issuance of the Parity Bonds.

(D) Certificates. The City shall deliver to the Fiscal Agent an Officer's Certificate certifying that the conditions precedent to the issuance of such Parity Bonds set forth in subsections (A), (B), and (C) of this Section 3.06 have been satisfied.

Nothing in this Section 3.06 shall prohibit the City from issuing any other bonds or otherwise incurring debt secured by a pledge of the Special Tax Revenues subordinate to the pledge thereof under Section 3.02 of this Agreement.

ARTICLE IV

PROCEEDS, FUNDS AND ACCOUNTS

Section 4.01. Application of 2023 Bond Proceeds. The Proceeds of the 2023 Bonds received from the Original Purchaser in the amount of \$_____ (which is equal to the initial principal amount of the 2023 Bonds, *plus* an original issue premium of \$_____, *less* an underwriter's discount in the amount of \$_____) shall be paid to the Fiscal Agent, which shall deposit the Proceeds on the Closing Date as follows:

- (i) \$_____ into the Costs of Issuance Fund;
- (ii) \$_____ into the 2023 Reserve Fund equaling the initial 2023 Reserve Requirement; and
- (iii) \$_____ into the Bond Proceeds Account of the Improvement Fund.

The Fiscal Agent may, in its discretion, establish a temporary fund or account to facilitate the foregoing deposits.

Section 4.02. Costs of Issuance Fund.

(A) Establishment of Costs of Issuance Fund. The Costs of Issuance Fund is hereby established as a separate fund to be held by the Fiscal Agent, to the credit of which a deposit shall be made as required by Section 4.01. Moneys in the Costs of Issuance Fund shall be held by the Fiscal Agent for the benefit of the City and shall be disbursed as provided in subsection (B) of this Section for the payment or reimbursement of Costs of Issuance.

(B) Disbursement. Amounts in the Costs of Issuance Fund shall be disbursed from time to time to pay Costs of Issuance, as set forth in a requisition substantially in the form of Exhibit C hereto, executed by the Finance Director, containing respective amounts to be paid to the designated payees and delivered to the Fiscal Agent. Each such requisition shall be sufficient evidence to the Fiscal Agent of the facts stated therein and the Fiscal Agent shall have no duty to confirm the accuracy of such facts.

(C) Investment. Moneys in the Costs of Issuance Fund shall be invested and deposited by the Fiscal Agent under Section 6.01. Interest earnings and profits resulting from such investment shall be retained by the Fiscal Agent in the Costs of Issuance Fund to be used for the purposes of such fund.

(D) Closing of Fund. The Fiscal Agent shall maintain the Costs of Issuance Fund for a period of 90 days from the Closing Date and then the Fiscal Agent shall transfer any moneys remaining therein, including any investment earnings thereon, to the Bond Proceeds Account of the Improvement Fund and used for the purposes thereof.

Section 4.03. 2023 Reserve Fund.

(A) Establishment of Fund. The 2023 Reserve Fund is hereby established as a separate fund to be held by the Fiscal Agent to the credit of which a deposit shall be made as required by Section 4.01, which deposit, as of the Closing Date, is equal to the initial 2023 Reserve Requirement with respect to the 2023 Bonds, and deposits shall be made as provided in Sections 3.06(C) and 4.05(A) and (B). Moneys in the 2023 Reserve Fund shall be held by the Fiscal Agent for the benefit of the Owners of the 2023 Bonds and any Parity Bonds as a reserve for the payment of the principal of, and interest and any premium on, the 2023 Bonds and any Parity Bonds and shall be subject to a lien in favor of the Owners of the 2023 Bonds and any Parity Bonds.

(B) Use of Reserve Fund. Except as otherwise provided in this Section, all amounts deposited in the 2023 Reserve Fund shall be used and withdrawn by the Fiscal Agent solely for the purpose of making transfers to the Bond Fund in the event of any deficiency at any time in the Bond Fund of the amount then required for payment of the principal of, and interest and any premium on, the 2023 Bonds and any Parity Bonds or, in accordance with the provisions of this Section, for the purpose of redeeming 2023 Bonds and any Parity Bonds from the Bond Fund. Whenever a transfer is made from the 2023 Reserve Fund to the Bond Fund due to a deficiency in the Bond Fund for payment of the principal of, and interest and any premium on, the 2023 Bonds and any Parity Bonds, the Fiscal Agent shall provide written notice thereof to the Finance Director, specifying the amount withdrawn.

(C) Transfer of Excess of Reserve Requirement. Whenever, on or before any Interest Payment Date, or on any other date at the request of the Finance Director, the amount in the 2023 Reserve Fund exceeds the 2023 Reserve Requirement, the Fiscal Agent shall transfer an amount equal to the excess from the 2023 Reserve Fund to the Bond Fund, to be used to pay interest on the 2023 Bonds and any Parity Bonds on the next Interest Payment Date.

(D) Transfer for Rebate Purposes. Amounts in the 2023 Reserve Fund shall be withdrawn for purposes of making payment to the federal government to comply with Section 5.11, upon receipt by the Fiscal Agent of an Officer's Certificate specifying the amount to be withdrawn and to the effect that such amount is needed for rebate purposes; *provided, however*, that no amounts in the 2023 Reserve Fund shall be used for rebate unless the amount in the 2023 Reserve Fund following such withdrawal equals the 2023 Reserve Requirement.

(E) Transfer When Balance Exceeds Outstanding Bonds. Whenever the balance in the 2023 Reserve Fund exceeds the amount required to redeem or pay the Outstanding 2023 Bonds and all Outstanding Parity Bonds, including interest accrued to the date of payment or redemption and premium, if any, due upon redemption, the Fiscal Agent shall, upon the written request of the Finance Director, transfer any cash or Permitted Investments in the 2023 Reserve Fund to the Bond Fund to be applied, on the redemption date to the payment and redemption, in accordance with Section 4.04 or 2.03 and the provisions of the Supplemental Agreement related to the Parity Bonds, as applicable, of all of the Outstanding 2023 Bonds and Outstanding Parity Bonds. In the event that the

amount so transferred from the 2023 Reserve Fund to the Bond Fund exceeds the amount required to pay and redeem the Outstanding 2023 Bonds and Outstanding Parity Bonds, the balance in the 2023 Reserve Fund shall be transferred to the Finance Director to be used by the City for any lawful purpose.

Notwithstanding the provisions of the first paragraph of this Section 4.03(E), no amounts shall be transferred from the 2023 Reserve Fund under this Section 4.03(E) until after: (i) the calculation of any amounts due to the federal government under Section 5.11 and withdrawal of any such amount under Section 4.03(D) for purposes of making such payment to the federal government; and (ii) payment of any fees and expenses due to the Fiscal Agent.

(F) Transfer Upon Special Tax Prepayment. Whenever Special Taxes are prepaid and 2023 Bonds or any Parity Bonds are to be redeemed with the proceeds of such prepayment pursuant to Section 2.03(A)(iii) or a Supplemental Agreement related to any Parity Bonds, any resulting reduction in the 2023 Reserve Requirement shall be transferred on the Business Day prior to the redemption date by the Fiscal Agent to the Bond Fund to be applied to the redemption of the 2023 Bonds pursuant to Section 2.03(A)(iii) or a Supplemental Agreement related to any Parity Bonds. The Finance Director shall deliver to the Fiscal Agent an Officer's Certificate specifying any amount to be so transferred, and the Fiscal Agent may rely on any such Officer's Certificate.

(G) Investment. Moneys in the 2023 Reserve Fund shall be invested by the Fiscal Agent under Section 6.01.

(H) Qualified Reserve Account Credit Instruments. The City shall have the right at any time to direct the Fiscal Agent to release funds from the 2023 Reserve Fund, in whole or in part, by tendering to the Fiscal Agent: (i) a Qualified Reserve Account Credit Instrument, and (ii) an opinion of Bond Counsel stating that neither the release of such funds nor the acceptance of such Qualified Reserve Account Credit Instrument will cause interest on the 2023 Bonds or any Parity Bonds the interest on which is excluded from gross income of the owners thereof for federal income tax purposes to become includable in gross income for purposes of federal income taxation. Upon tender of such items to the Fiscal Agent, and upon delivery by the City to the Fiscal Agent of a written calculation of the amount permitted to be released from the 2023 Reserve Fund (upon which calculation the Fiscal Agent may conclusively rely), the Fiscal Agent shall transfer such funds from the 2023 Reserve Fund to the Bond Proceeds Account of the Improvement Fund to be used for the purposes thereof. The Fiscal Agent shall comply with all documentation relating to a Qualified Reserve Account Credit Instrument as shall be required to maintain such Qualified Reserve Account Credit Instrument in full force and effect and as shall be required to receive payments thereunder in the event and to the extent required to make any payment when and as required under this Section. Upon the scheduled expiration of any Qualified Reserve Account Credit Instrument, the City shall either (i) replace such Qualified Reserve Account Credit Instrument with a new Qualified Reserve Account Credit Instrument, or (ii) deposit or cause to be deposited with the Fiscal Agent an amount of funds equal to the 2023 Reserve Requirement, to be derived from the first available Special Tax Revenues. If the 2023 Reserve Requirement is being maintained partially in cash and partially with a Qualified Reserve Account Credit

Instrument, the cash shall be first used to meet any deficiency which may exist from time to time in the Bond Fund with respect to the 2023 Bonds and any Parity Bonds. If the 2023 Reserve Requirement is being maintained with two or more Qualified Reserve Account Credit Instruments, any draw to meet a deficiency which may exist from time to time in the Bond Fund with respect to the 2023 Bonds and any Parity Bonds shall be pro-rata with respect to each such instrument.

In the event that a Qualified Reserve Account Credit Instrument is available to be drawn upon for only one or more particular series of Bonds, a separate subaccount in the 2023 Reserve Fund may be established for such series, and the calculation of the 2023 Reserve Requirement with respect to any Bonds shall exclude the debt service on such issue of Bonds.

The City will have no obligation to replace a Qualified Reserve Account Credit Instrument or to fund the 2023 Reserve Fund with cash if, at any time that the 2023 Bonds are Outstanding, the Qualified Reserve Account Credit Instrument (or its provider) is downgraded or the provider becomes insolvent, if there is an unscheduled termination of the Qualified Reserve Account or if for any reason insufficient amounts are available to be drawn upon under the Qualified Reserve Account Credit Instrument; provided, however, that the City shall reimburse the provider, in accordance with the terms of the Qualified Reserve Account Credit Instrument, for any draws made thereon.

The City and the Fiscal Agent shall comply with the terms of the Qualified Reserve Account Credit Instrument as shall be required to receive payments thereunder in the event and to the extent required under this Section.

Section 4.04. Bond Fund.

(A) Establishment of Bond Fund. The Bond Fund is hereby established as a separate fund to be held by the Fiscal Agent to the credit of which deposits shall be made as required by Section 4.07, Section 4.05 and Section 4.03 and as otherwise set forth in this Agreement. Moneys in the Bond Fund shall be held by the Fiscal Agent for the benefit of the City and the Owners of the Bonds, and shall be disbursed for the payment of the principal of, and interest and any premium on, the Bonds as provided below.

There is also hereby created in the Bond Fund a separate account to be held by the Fiscal Agent, designated the "Special Tax Prepayments Account," to the credit of which deposits shall be made as provided in clause (iii) of the second paragraph of Section 4.05(A).

(B) Disbursements. At least 10 Business Days before each Interest Payment Date, the Fiscal Agent shall notify the Finance Director in writing as to the principal and premium, if any, and interest due on the Bonds on the next Interest Payment Date (whether as a result of scheduled principal of and interest on the Bonds, optional redemption of the Bonds or a mandatory sinking fund redemption). On each Interest Payment Date, the Fiscal Agent shall withdraw from the Bond Fund and pay to the Owners of the Bonds the principal of, and interest and any premium, due and payable on such Interest Payment Date on the Bonds.

At least 5 Business Days prior to each Interest Payment Date, the Fiscal Agent shall determine if the amounts then on deposit in the Bond Fund are sufficient to pay the Debt Service due on the Bonds on the next Interest Payment Date. In the event that amounts in the Bond Fund are insufficient for such purpose, the Fiscal Agent promptly shall notify the Finance Director by telephone (and confirm in writing) of the amount of the insufficiency.

In the event that amounts in the Bond Fund are insufficient for the purpose set forth in the preceding paragraph with respect to any Interest Payment Date, the Fiscal Agent shall withdraw from the 2023 Reserve Fund, in accordance with the provisions of Section 4.03, to the extent of any funds or Permitted Investments therein, amounts to cover the amount of such Bond Fund insufficiency related to the 2023 Bonds and any Parity Bonds. Amounts so withdrawn from the 2023 Reserve Fund shall be deposited in the Bond Fund.

If, after the foregoing transfers, there are insufficient funds in the Bond Fund to make the payments provided for in the second sentence of the first paragraph of this Section 4.04(B), the Fiscal Agent shall apply the available funds first to the payment of interest on the Bonds, then to the payment of principal due on the Bonds other than by reason of sinking payments, if any, and then to payment of principal due on the Bonds by reason of sinking payments.

(C) Disbursements from the Special Tax Prepayments Account. Moneys in the Special Tax Prepayments Account shall be transferred by the Fiscal Agent to the Bond Fund on the next date for which notice of redemption of Bonds can timely be given under Section 2.03(A)(iii), and notice to the Fiscal Agent can timely be given under Section 2.03(B), and shall be used (together with any amounts transferred pursuant to Section 4.03(F)) to redeem Bonds on the redemption date selected in accordance with Section 2.03.

(D) Investment. Moneys in the Bond Fund and the Special Tax Prepayments Account shall be invested under Section 6.01. Interest earnings and profits resulting from such investment shall be retained in the Bond Fund.

(E) Deficiency. If at any time it appears to the Fiscal Agent that there is a danger of deficiency in the Bond Fund and that the Fiscal Agent may be unable to pay Debt Service on the Bonds in a timely manner, the Fiscal Agent shall report to the Finance Director such fact. The City covenants to increase the levy of the Special Taxes in the next Fiscal Year (subject to the maximum amount authorized by the Resolution of Formation) in accordance with the procedures set forth in the Act for the purpose of curing Bond Fund deficiencies.

(F) Excess. Any excess moneys remaining in the Bond Fund following the payment of Debt Service on the Bonds on any September 1, shall be transferred to the Special Tax Fund.

Section 4.05. Special Tax Fund.

(A) Establishment of Special Tax Fund. The Special Tax Fund is hereby established as a separate fund to be held by the Fiscal Agent, to the credit

of which the Fiscal Agent shall deposit amounts received from or on behalf of the City consisting of Special Tax Revenues and amounts transferred from the Administrative Expense Fund and the Bond Fund. The City shall promptly remit any Special Tax Revenues received by it to the Fiscal Agent for deposit by the Fiscal Agent to the Special Tax Fund.

Notwithstanding the foregoing,

(i) Special Tax Revenues in an amount not to exceed the amount included in the Special Tax levy for such Fiscal Year for Administrative Expenses shall be separately identified by the Finance Director and shall be deposited by the Fiscal Agent in the Administrative Expense Fund;

(ii) any Special Tax Revenues constituting the collection of delinquencies in payment of Special Taxes shall be separately identified by the Finance Director and shall be disposed of by the Fiscal Agent first, for transfer to the Bond Fund to pay any past due Debt Service on the Bonds; second, for transfer to the 2023 Reserve Fund to the extent needed to increase the amount then on deposit in the 2023 Reserve Fund up to the then 2023 Reserve Requirement; and third, to be held in the Special Tax Fund for use as described in Section 4.05(B) below; and

(iii) any proceeds of Special Tax Prepayments shall be separately identified by the Finance Director and shall be deposited by the Fiscal Agent as follows (as directed in writing by the Finance Director): (a) that portion of any Special Tax Prepayment constituting a prepayment of construction costs (which otherwise could have been included in the proceeds of Parity Bonds) shall be deposited by the Fiscal Agent to the Bond Proceeds Account of the Improvement Fund and (b) the remaining Special Tax Prepayment shall be deposited by the Fiscal Agent in the Special Tax Prepayments Account established pursuant to Section 4.04(A).

(B) Disbursements. At least 7 Business Days prior to each Interest Payment Date, the Fiscal Agent shall withdraw from the Special Tax Fund and transfer the following amounts in the following order of priority:

(i) to the Bond Fund an amount, taking into account any amounts then on deposit in the Bond Fund and any expected transfers from the Improvement Fund, the 2023 Reserve Fund and the Special Tax Prepayments Account to the Bond Fund such that the amount in the Bond Fund equals the principal (including any sinking payment), premium, if any, and interest due on the Bonds on such Interest Payment Date and any past due principal or interest on the Bonds not theretofore paid from a transfer described in subparagraph (ii) of the second paragraph of Section 4.05(A),

(ii) to the 2023 Reserve Fund an amount, taking into account amounts then on deposit in the 2023 Reserve Fund, such that the amount in the 2023 Reserve Fund is equal to the 2023 Reserve Requirement, and

(iii) (A) on each October 1, beginning on October 1, 2023 and continuing through the Remainder Taxes Period, all of the moneys remaining in the Special Tax Fund shall be transferred to the Remainder Taxes Account and (B) on each subsequent October 1 after the end of the Remainder Tax Period, all or a portion of the moneys remaining in the Special Tax Fund shall be transferred to the Remainder Taxes Account as directed by the Finance Director.

Within 15 days after the end of each Bond Year after the Remainder Taxes Account is closed pursuant to Section 4.07, and after the foregoing transfers have been made, the Fiscal Agent shall transfer all amounts remaining on deposit in the Special Tax Fund for any lawful purpose, as directed by the City in an Officer's Certificate.

(C) Investment. Moneys in the Special Tax Fund shall be invested and deposited by the Fiscal Agent under Section 6.01. Interest earnings and profits resulting from such investment and deposit shall be retained in the Special Tax Fund to be used for the purposes thereof.

Section 4.06. Administrative Expense Fund.

(A) Establishment of Administrative Expense Fund. The Administrative Expense Fund is hereby established as a separate fund to be held by the Fiscal Agent, to the credit of which deposits shall be made as required by Section 4.05(A). Moneys in the Administrative Expense Fund shall be held by the Fiscal Agent for the benefit of the City, and shall be disbursed as provided below.

(B) Disbursement. Amounts in the Administrative Expense Fund shall be withdrawn by the Fiscal Agent and paid to the City or its order upon receipt by the Fiscal Agent of an Officer's Certificate, in substantially the form of Exhibit D hereto, stating the amount to be withdrawn, that such amount is to be used to pay an Administrative Expense or a Cost of Issuance and the nature of such Administrative Expense or such Cost of Issuance.

Annually, on the last day of each Fiscal Year, the Fiscal Agent shall withdraw from the Administrative Expense Fund and transfer to the Special Tax Fund any amount in excess of that which is needed to pay any Administrative Expenses incurred but not yet paid, and which are not otherwise encumbered, as identified by the Finance Director in an Officer's Certificate.

(C) Investment. Moneys in the Administrative Expense Fund shall be invested by the Fiscal Agent under Section 6.01. Interest earnings and profits resulting from such investment shall be retained by the Fiscal Agent in the Administrative Expense Fund to be used for the purposes of such fund.

(D) Order of Expenditure. Proceeds of the 2023 Bonds deposited into the Administrative Expense Fund (if any) shall be spent before any other moneys in the Administrative Expense Fund.

Section 4.07. Improvement Fund.

(A) Establishment of Improvement Fund. The Improvement Fund is hereby established as a separate fund to be held by the Fiscal Agent and to the credit of which fund deposits shall be made as required by Sections 4.01, 4.02(D) and 4.05(A). The Remainder Taxes Account and the Bond Proceeds Account are hereby established as separate accounts within the Improvement Fund to be held by the Fiscal Agent.

Moneys in the Improvement Fund shall be disbursed, except as otherwise provided in subsections (B) and (D) of this Section, for the payment or reimbursement of costs of the Project.

(B) Procedure for Disbursement. Disbursements from the Improvement Fund shall be made by the Fiscal Agent upon receipt of an Officer's Certificate substantially in the form of Exhibit B attached hereto which shall:

(i) set forth the amount required to be disbursed, the purpose for which the disbursement is to be made (which shall be for payment of a Project cost or to reimburse expenditures of the City or any other party for Project costs previously paid), and the person to which the disbursement is to be paid; and

(ii) certify that no portion of the amount then being requested to be disbursed was set forth in any Officers Certificate previously filed requesting disbursement.

Each such requisition shall be sufficient evidence to the Fiscal Agent of the facts stated therein and the Fiscal Agent shall have no duty to confirm the accuracy of such facts.

Disbursements for the payment or reimbursement of costs of the Project shall be made from the Bond Proceeds Account and the Remainder Taxes Account in the following order:

First: payments or reimbursements shall be made from the Bond Proceeds Account so long as there are moneys available therein and such costs can be paid from Bond proceeds without violating the covenants set forth in Sections 5.09-5.14 and

Second: payments or reimbursements shall be made from the Remainder Taxes Account (1) even if Bond proceeds remain in the Bond Proceeds Account, if such payment or reimbursement would violate the covenants set forth in Sections 5.09-5.14 and (2) when no Bond proceeds remain in the Bond Proceeds Account.

At the direction of the Finance Director, and so long as such amounts have not been previously approved for payment of a Project cost, the Fiscal Agent shall transfer amounts from the Remainder Taxes Account to the Bond Fund to pay Debt Service on the Bonds, Administrative Expense Fund to pay Administrative Expenses and 2023 Reserve Fund to increase the amount therein to the 2023 Reserve Requirement.

(C) Investment. Moneys in the Improvement Fund shall be invested in accordance with Section 6.01. Interest earnings and profits from such investment shall be retained in the Improvement Fund to be used for the purpose of such fund.

(D) Closing of Fund. When the City believes that the Project has been completed, it shall provide a written notice to the Developer that the City believes the Project has been completed and that the Improvement Fund, Bond Proceeds Account and Remainder Taxes Account should be closed. The Developer shall have 30 days after receipt of such notice to dispute the City's finding or to concur that the Project is complete. If the Developer concurs that the Project is complete, or fails to respond to the notice by the end of the 30-day period, the City may file an Officer's Certificate directing the Fiscal Agent to close the Improvement Fund, Bond Proceeds Account and Remainder Taxes Account.

Upon the filing of an Officer's Certificate stating that the Project has been completed and that all costs of the Project have been paid or are not required to be paid from the Improvement Fund, Bond Proceeds Account and Remainder Taxes Account, the Fiscal Agent shall transfer the amount, if any, remaining in the Improvement Fund, Bond Proceeds Account and Remainder Taxes Account to the Bond Fund for application to Debt Service payments due on the next succeeding Interest Payment Date and the Improvement Fund, Bond Proceeds Account and Remainder Taxes Account shall be closed. Moneys transferred from the Improvement Fund to the Bond Fund shall be used to pay Debt Service on the Bonds in the manner specified by the City in an Officer's Certificate.

ARTICLE V
COVENANTS

Section 5.01. Collection of Special Tax Revenues. The City shall comply with all requirements of the Act so as to assure the timely collection of Special Tax Revenues, including without limitation, the enforcement of delinquent Special Taxes.

(A) Processing. On or within five (5) Business Days of each June 1, the Fiscal Agent shall provide the Finance Director with a notice stating (i) the amount then on deposit in the Bond Fund and the 2023 Reserve Fund, and (ii) if the amount in the 2023 Reserve Fund is less than the 2023 Reserve Requirement, informing the City that replenishment of the 2023 Reserve Fund is necessary. The receipt of or failure to receive such notice by the Finance Director shall in no way affect the obligations of the Finance Director under the following two paragraphs and the Fiscal Agent shall not be liable for failure to provide such notices to the Finance Director. Upon receipt of such notice, the Finance Director shall communicate with the Auditor to ascertain the relevant parcels on which the Special Taxes are to be levied, taking into account any parcel splits or combinations during the preceding and then current year.

(B) Levy. The Finance Director shall effect the levy of the Special Taxes each Fiscal Year in accordance with the Ordinance by each August 1 that the Bonds are outstanding, or otherwise such that the computation of the levy is complete before the final date on which Auditor will accept the transmission of the Special Tax amounts for the parcels within Improvement Area No. 3 for inclusion on the next real property tax roll. Upon the completion of the computation of the amounts of the levy, the Finance Director shall prepare or cause to be prepared, and shall transmit to the Auditor, such data as the Auditor requires to include the levy of the Special Taxes on the next real property tax roll.

(C) Computation. The Finance Director shall fix and levy the amount of Special Taxes within Improvement Area No. 3 required to pay the following amounts, taking into account the balances in the applicable funds established under this Agreement: (i) the principal of and interest on any outstanding Bonds of the CFD with respect to Improvement Area No. 3 becoming due and payable during the ensuing calendar year, (ii) any necessary replenishment or expenditure of the 2023 Reserve Fund, to the extent such replenishment has not been included in the computation of the Special Taxes in a previous Fiscal Year, (iii) the Administrative Expenses, including amounts necessary to discharge any rebate obligation, during such year, (iv) an amount to cure delinquencies in the payment of principal or interest on Bonds that occurred in the previous Fiscal Year, and (v) any Project costs to be paid from Special Taxes to the extent that paying for such costs does not increase the Special Taxes levied on Undeveloped Property (as defined in the Rate and Method). During the Remainder Taxes Period, the Finance Director shall fix and levy the Special Taxes at the Maximum Special Tax rate on Developed Property before considering any Capitalized Interest (as those terms are defined in the Rate and Method). The Special Taxes so levied shall not exceed

the authorized amounts as provided in the proceedings under the Resolution of Formation.

(D) Collection. Except as set forth in the Ordinance, Special Taxes shall be payable and be collected in the same manner and at the same time and in the same installment as the general taxes on real property are payable, and have the same priority, become delinquent at the same time and in the same proportionate amounts and bear the same proportionate penalties and interest after delinquency as do the ad valorem taxes on real property.

Section 5.02. Covenant to Foreclose. Under the Act, the City hereby covenants with and for the benefit of the Owners of the Bonds that it will order, and cause to be commenced as hereinafter provided, and thereafter diligently prosecute to judgment (unless such delinquency is theretofore brought current), an action in the superior court to foreclose the lien of any Special Tax or installment thereof not paid when due as provided in the following two paragraphs. The Finance Director shall notify the City Attorney of any such delinquency of which the Finance Director is aware, and the City Attorney shall commence, or cause to be commenced, such proceedings.

On or about June 30 of each Fiscal Year, the Finance Director shall compare the amount of Special Taxes theretofore levied in Improvement Area No. 3 to the amount of Special Tax Revenues theretofore received by the City, and:

(A) Individual Delinquencies. If the Finance Director determines that any single parcel subject to the Special Tax in Improvement Area No. 3 is delinquent in the payment of Special Taxes in the aggregate amount of \$5,000 or more, then the Finance Director shall send or cause to be sent a notice of delinquency (and a demand for immediate payment thereof) to the property owner within 45 days of such determination, and (if the delinquency remains uncured) foreclosure proceedings shall be commenced by the City within 90 days of such determination. Notwithstanding the foregoing, the Finance Director may defer any such actions with respect to a delinquent parcel if (1) Improvement Area No. 3 is then participating in the Alternative Method of Distribution of Tax Levies and Collections described in Revenue & Taxation Code Section 4701 et seq., or an equivalent procedure and (2) the amount in the 2023 Reserve Fund is at least equal to the 2023 Reserve Requirement.

(B) Aggregate Delinquencies. If the Finance Director determines that (i) the total amount of delinquent Special Tax for the prior Fiscal Year for the entire Improvement Area No. 3 (including the total of delinquencies under subsection (A) above), exceeds 5% of the total Special Tax due and payable for the prior Fiscal Year, determined by reference to the latest available secured property tax roll of the County, the Finance Director shall notify or cause to be notified property owners who are then delinquent in the payment of Special Taxes (and demand immediate payment of the delinquency) within 45 days of such determination, and shall commence foreclosure proceedings within 90 days of such determination against each parcel of land in Improvement Area No. 3 with a Special Tax delinquency.

(C) Individual Owner Delinquencies. As to any owner of more than one parcel within Improvement Area No. 3, if the Finance Director determines that

the aggregate amount of delinquent Special Taxes for all preceding tax years on all parcels owned by such owner (whether such parcels are owned solely by such owner or jointly by such owner and one or more others) exceeds \$10,000, then the Finance Director shall send or cause to be sent a notice of delinquency (and a demand for immediate payment thereof) to the property owner within 45 days of such determination, and (if the delinquency remains uncured) shall commence foreclosure proceedings within 90 days of such determination, regardless of when such delinquencies occurred.

The Finance Director and the City Attorney, as applicable, are hereby authorized to employ counsel to conduct any such foreclosure proceedings. The fees and expenses of any such counsel (including a charge for City staff time) in conducting foreclosure proceedings shall be an Administrative Expense hereunder.

Section 5.03. Punctual Payment. The City will punctually pay or cause to be paid the principal of, and interest and any premium on, the Bonds when and as due in strict conformity with the terms of this Agreement and any Supplemental Agreement, and it will faithfully observe and perform all of the conditions covenants and requirements of this Agreement and all Supplemental Agreements and of the Bonds.

Section 5.04. Extension of Time for Payment. In order to prevent any accumulation of claims for interest after maturity, the City shall not, directly or indirectly, extend or consent to the extension of the time for the payment of any claim for interest on any of the Bonds and shall not, directly or indirectly, be a party to the approval of any such arrangement by purchasing or funding said claims for interest or in any other manner. In case any such claim for interest shall be extended or funded, whether or not with the consent of the City, such claim for interest so extended or funded shall not be entitled, in case of default hereunder, to the benefits of this Agreement, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest which shall not have been so extended or funded.

Section 5.05. Against Encumbrances. The City will not encumber, pledge or place any charge or lien upon any of the Special Tax Revenues or other amounts pledged to the Bonds superior to or on a parity with the pledge and lien herein created for the benefit of the Bonds, or their Owners, except as permitted by this Agreement.

Section 5.06. Books and Records.

(A) City. The City will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the City, in which complete and correct entries shall be made of all transactions relating to the Special Tax Revenues. Such books of record and accounts shall at all times during business hours be subject to the inspection of the Fiscal Agent (who shall have no duty to inspect) and the Owners of not less than 10% of the principal amount of the Bonds then Outstanding, or their representatives duly authorized in writing.

(B) Fiscal Agent. The Fiscal Agent will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the Fiscal Agent, in which complete and correct entries shall be made of all transactions made by it relating to the expenditure of amounts disbursed from the funds, and, if any, accounts in such funds held by the Fiscal Agent hereunder. Such books of record and accounts shall at all times during business hours be

subject to the inspection of the City and the Owners of not less than 10% of the principal amount of the Bonds then Outstanding, or their representatives duly authorized in writing upon reasonable prior notice.

Section 5.07. Protection of Security and Rights of Owners. The City will preserve and protect the security of the Bonds and the rights of the Owners, and will warrant and defend their rights against all claims and demands of all persons. From and after the delivery of any of the Bonds by the City, the Bonds shall be incontestable by the City.

Section 5.08. Further Assurances. The City will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Agreement, and for the better assuring and confirming unto the Owners of the rights and benefits provided in this Agreement.

Section 5.09. Private Activity Bond Limitations. The City shall assure that the proceeds of the 2023 Bonds are not so used as to cause the 2023 Bonds to satisfy the private business tests of section 141(b) of the Tax Code or the private loan financing test of section 141(c) of the Code.

Section 5.10. Federal Guarantee Prohibition. The City shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the 2023 Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Tax Code.

Section 5.11. Rebate Requirement. The City shall take any and all actions necessary to assure compliance with section 148(f) of the Tax Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the 2023 Bonds. The Finance Director shall take note of any investment of monies hereunder in excess of the yield on the 2023 Bonds, and shall take such actions as are necessary to ensure compliance with this Section 5.11, such as increasing the portion of the Special Tax levy for Administrative Expenses as appropriate to have funds available in the Administrative Expense Fund to satisfy any rebate liability under this Section. If necessary to satisfy its obligations under this Section 5.11, the City may use:

- (A) Amounts in the 2023 Reserve Fund if the amount on deposit in the 2023 Reserve Fund, following the proposed transfer, is at least equal to the 2023 Reserve Requirement;
- (B) Amounts on deposit in the Administrative Expense Fund; and
- (C) Any other funds available to the City, including amounts advanced by the City, in its sole discretion, to be repaid as soon as practicable from amounts described in the preceding clauses (A) and (B).

Section 5.12. No Arbitrage. The City shall not take, or permit or suffer to be taken by the Fiscal Agent or otherwise, any action with respect to the proceeds of the 2023 Bonds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the 2023 Bonds would have caused the 2023 Bonds to be “arbitrage bonds” within the meaning of section 148 of the Tax Code.

Section 5.13. Yield of the 2023 Bonds. In determining the yield of the 2023 Bonds to comply with Sections 5.11 and 5.12, the City will take into account redemption (including premium, if any) in advance of maturity based on the reasonable expectations of the City, as of the Closing Date, regarding prepayments of Special Taxes and use of prepayments for redemption of the 2023 Bonds, without regard to whether or not prepayments are received or 2023 Bonds redeemed.

Section 5.14. Maintenance of Tax-Exemption; Record Retention; Compliance with Tax Certificates. The City shall take all actions necessary to assure the exclusion of interest on the 2023 Bonds from the gross income of the Owners of the 2023 Bonds to the same extent as such interest is permitted to be excluded from gross income under the Tax Code as in effect on the date of issuance of the 2023 Bonds.

The City will retain its records of all accounting and monitoring it carries out with respect to the 2023 Bonds for at least 3 years after the 2023 Bonds mature or are redeemed (whichever is earlier); however, if the 2023 Bonds are redeemed and refunded, the City will retain its records of accounting and monitoring at least 3 years after the earlier of the maturity or redemption of the obligations that refunded the 2023 Bonds.

The City will comply with the provisions of the Certificate as to Arbitrage and the Certificate Regarding Use of Proceeds with respect to the 2023 Bonds. The covenants of this paragraph will survive payment in full or defeasance of the 2023 Bonds.

Section 5.15. Continuing Disclosure. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Agreement, failure of the City to comply with the Continuing Disclosure Certificate shall not be considered an event of default for the purposes of this Agreement. However, any Owner or Beneficial Owner of the 2023 Bonds may take such actions as may be necessary and appropriate to compel performance, including seeking mandate or specific performance by court order.

One or more owners of the real property in Improvement Area No. 3 as of the Closing Date may also have executed a continuing disclosure agreement for the benefit of the Bondowners and Beneficial Owners of the 2023 Bonds. Any Participating Underwriter or Bondowner or Beneficial Owner may take such actions as may be necessary and appropriate directly against any such landowner to compel performance by it of its obligations thereunder, including seeking mandate or specific performance by court order; however the City shall have no obligation whatsoever to enforce any obligations under any such agreement.

Section 5.16. Limits on Special Tax Waivers and Bond Tenders. The City covenants not to exercise its rights under the Act to waive delinquency and redemption penalties related to the Special Taxes or to declare a Special Tax penalties amnesty program if to do so would materially and adversely affect the interests of the Owners of the Bonds and further covenants not to permit the tender of Bonds in payment of any Special Taxes except upon receipt of a certificate of an Independent Financial Consultant that to accept such tender will not result in the City having insufficient Special Tax Revenues to pay the principal of and interest on the Bonds and any Parity Bonds remaining Outstanding following such tender.

Section 5.17. City Bid at Foreclosure Sale. The City will not bid at a foreclosure sale of property in respect of delinquent Special Taxes, unless it expressly agrees to take the property

subject to the lien for Special Taxes imposed by the City and that the Special Taxes levied on the property are payable while the City owns the property.

Section 5.18. Amendment of Rate and Method.

(A) General. The City shall not initiate proceedings under the Act to modify the Rate and Method if such modification would adversely affect the security for the Bonds. If an initiative is adopted that purports to modify the Rate and Method in a manner that would adversely affect the security for the Bonds, the City shall, to the extent permitted by law, commence and pursue reasonable legal actions to prevent the modification of the Rate and Method in a manner that would adversely affect the security for the Bonds.

(B) Exception. Notwithstanding clause (A) of this section, the City may initiate proceedings to reduce the maximum Special Tax rates under the Rate and Method, if, in connection therewith: (i) the City receives a certificate from one or more Independent Financial Consultants which, when taken together, certify that, on the basis of the parcels of land and improvements existing in Improvement Area No. 3 as of the July 1 preceding the reduction, the maximum amount of the Special Tax which may be levied on then-existing Taxable Property (as such term is defined in the Rate and Method) in each Bond Year for any Bonds and Parity Bonds Outstanding will equal at least the sum of the estimated Administrative Expenses and 110% of the Debt Service in each Bond Year on all Bonds and Parity Bonds to remain Outstanding after the reduction is approved; (ii) the reduction does not adversely affect the financing of the Project and (iii) the City is not delinquent in the payment of the principal of or interest on the Bonds or any Parity Bonds. For purposes of estimating Administrative Expenses for the foregoing calculation, the Independent Financial Consultants will compute the Administrative Expenses for the current Fiscal Year and escalate such amounts by 2% in each subsequent Fiscal Year.

Section 5.19. Determination of Required Coverage. The City hereby determines that Required Coverage (as that term is defined in the Rate and Method) for each Fiscal Year is 110% of (A) the total Annual Debt Service of the then Outstanding Bonds for the Bond Year that commences in such Fiscal Year and (B) estimated Administrative Expenses for such Fiscal Year”?

ARTICLE VI

INVESTMENTS; LIABILITY OF THE CITY

Section 6.01. Deposit and Investment of Moneys in Funds.

(A) **General.** Moneys in any fund or account created or established by this Agreement and held by the Fiscal Agent shall be invested by the Fiscal Agent in Permitted Investments, which in any event by their terms mature prior to the date on which such moneys are required to be paid out hereunder, as directed pursuant to an Officer's Certificate filed with the Fiscal Agent at least two Business Days in advance of the making of such investments. In the absence of any such Officer's Certificate, the Fiscal Agent shall hold such funds uninvested. The Finance Director shall make note of any investment of funds hereunder in excess of the yield on the Bonds so that appropriate actions can be taken to assure compliance with Section 5.11. Interest earnings on moneys invested in each fund or account created or established by this Agreement shall be credited to such fund or account, unless otherwise required by this Agreement.

(B) **Moneys in Funds.** Moneys in any fund or account created or established by this Agreement and held by the Finance Director shall be invested by the Finance Director in any Permitted Investment or in any other lawful investment for City funds, which in any event by its terms matures prior to the date on which such moneys are required to be paid out hereunder. Obligations purchased as an investment of moneys in any fund shall be deemed to be part of such fund or account, subject, however, to the requirements of this Agreement for transfer of interest earnings and profits resulting from investment of amounts in funds and accounts. Whenever in this Agreement any moneys are required to be transferred by the City to the Fiscal Agent, such transfer may be accomplished by transferring a like amount of Permitted Investments.

(C) **Actions of Officials.** The Fiscal Agent and its affiliates or the Finance Director may act as sponsor, advisor, depository, principal or agent in the acquisition or disposition of any investment. Neither the Fiscal Agent nor the Finance Director shall incur any liability for losses arising from any investments made pursuant to this Section. The Fiscal Agent shall not be required to determine the legality of any investments.

(D) **Valuation of Investments.** Except as otherwise provided in the next sentence, all investments of amounts deposited in any fund or account created by or pursuant to this Agreement, or otherwise containing gross proceeds of the Bonds (within the meaning of section 148 of the Tax Code) shall be acquired, disposed of, and valued (as of the date that valuation is required by this Agreement or the Tax Code) at Fair Market Value. Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under the applicable provisions of the Tax Code and (unless valuation is undertaken at least annually) investments in the subaccounts within the 2023 Reserve Fund shall be valued at their present value (within the meaning of section 148 of the Tax Code). The Fiscal Agent shall not be liable for verification of the application of such sections of the Tax Code or for any determination of Fair Market Value or present value and may conclusively rely upon an Officer's Certificate as to such valuations.

(E) **Commingled Money.** Investments in any and all funds and accounts may be commingled in a separate fund or funds for purposes of making, holding and disposing of investments, notwithstanding provisions herein for transfer to or holding in or to the credit of particular funds or accounts of amounts received or held by the Fiscal Agent or the Finance

Director hereunder, provided that the Fiscal Agent or the Finance Director, as applicable, shall at all times account for such investments strictly in accordance with the funds and accounts to which they are credited and otherwise as provided in this Agreement.

(F) Confirmations Waiver. The City acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the City the right to receive brokerage confirmations of security transactions as they occur, the City specifically waives receipt of such confirmations to the extent permitted by law. The Fiscal Agent will furnish the City periodic cash transaction statements which include shall detail for all investment transactions made by the Fiscal Agent hereunder.

(G) Sale of Investments. The Fiscal Agent or the Finance Director, as applicable, shall sell at Fair Market Value, or present for redemption, any investment security whenever it shall be necessary to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund or account to which such investment security is credited and neither the Fiscal Agent nor the Finance Director shall be liable or responsible for any loss resulting from the acquisition or disposition of such investment security in accordance herewith.

Section 6.02. Liability of City.

(A) General. The City shall not incur any responsibility or liability in respect of the Bonds or this Agreement other than in connection with the duties or obligations explicitly herein or in the Bonds assigned to or imposed upon it. The City shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful default. The City shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, conditions, covenants or agreements of the Fiscal Agent herein or of any of the documents executed by the Fiscal Agent in connection with the Bonds, or as to the existence of a default or event of default thereunder.

(B) Reliance. In the absence of bad faith, the City, including the Finance Director, may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the City by the Fiscal Agent or an Independent Financial Consultant and conforming to the requirements of this Agreement. The City, including the Finance Director, shall not be liable for any error of judgment made in good faith unless it shall be proved that it was negligent in ascertaining the pertinent facts. The City may rely and shall be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, report, warrant, bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or proper parties. The City may consult with counsel, who may be the City Attorney, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

(C) No General Liability. No provision of this Agreement shall require the City to expend or risk its own general funds or otherwise incur any financial liability (other than with respect to the Special Tax Revenues) in the performance of any of its obligations hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(D) Owner of Bonds. The City shall not be bound to recognize any person as the Owner of a Bond unless and until such Bond is submitted for inspection, if required, and his title thereto satisfactorily established, if disputed.

Section 6.03. Employment of Agents by City. In order to perform its duties and obligations hereunder, the City may employ such persons or entities as it deems necessary or advisable. The City shall not be liable for any of the acts or omissions of such persons or entities employed by it in good faith hereunder, and shall be entitled to rely, and shall be fully protected in doing so, upon the opinions, calculations, determinations and directions of such persons or entities.

ARTICLE VII

THE FISCAL AGENT

Section 7.01. The Fiscal Agent.

(A) **Appointment.** The Fiscal Agent is hereby appointed as the fiscal, authentication, paying and transfer agent hereunder for the Bonds. The Fiscal Agent undertakes to perform such duties, and only such duties, as are specifically set forth in this Agreement, and no implied duties, covenants or obligations shall be read into this Agreement against the Fiscal Agent.

(B) **Merger.** Any company into which the Fiscal Agent may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Fiscal Agent may sell or transfer all or substantially all of its corporate trust business, provided such company shall be eligible under the following paragraph of this Section 7.01 shall be the successor to such Fiscal Agent without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding. The Fiscal Agent shall give the Finance Director written notice of any such succession hereunder.

(C) **Removal.** Upon 30 days written notice, the City may remove the Fiscal Agent initially appointed, and any successor thereto, and may appoint a successor or successors thereto, but any such successor shall be a bank, national banking association or trust company having a combined capital (exclusive of borrowed capital) and surplus of at least \$50,000,000, and subject to supervision or examination by federal or state authority. If such bank, national banking association or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this Section 7.01, combined capital and surplus of such bank, national banking association or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(D) **Resignation.** The Fiscal Agent may at any time resign by giving written notice to the City by certified mail return receipt requested, and by giving to the Owners notice by mail of such resignation. Upon receiving notice of such resignation, the City shall promptly appoint a successor Fiscal Agent by an instrument in writing. Any resignation or removal of the Fiscal Agent shall become effective upon acceptance of appointment by the successor Fiscal Agent.

(E) **No Successor.** If no appointment of a successor Fiscal Agent shall be made pursuant to the foregoing provisions of this Section 7.01 within 45 days after the Fiscal Agent shall have given to the City written notice or after a vacancy in the office of the Fiscal Agent shall have occurred by reason of its inability to act, the Fiscal Agent, at the expense of the City, or any Owner may apply to any court of competent jurisdiction to appoint a successor Fiscal Agent. Said court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Fiscal Agent.

(F) **Court Order.** If, by reason of the judgment of any court, the Fiscal Agent is rendered unable to perform its duties hereunder, all such duties and all of the rights and powers of the Fiscal Agent hereunder shall be assumed by and vest in the Finance Director of the City in trust for the benefit of the Owners. The City covenants for the direct benefit of the Owners that its

Finance Director in such case shall be vested with all of the rights and powers of the Fiscal Agent hereunder, and shall assume all of the responsibilities and perform all of the duties of the Fiscal Agent hereunder, in trust for the benefit of the Owners of the Bonds.

Section 7.02. Liability of Fiscal Agent.

(A) General. The recitals of facts, covenants and agreements herein and in the Bonds contained shall be taken as statements, covenants and agreements of the City, and the Fiscal Agent assumes no responsibility for the correctness of the same, nor makes any representations as to the validity or sufficiency of this Agreement or of the Bonds, nor shall the Fiscal Agent incur any responsibility in respect thereof, other than in connection with the duties or obligations herein or in the Bonds assigned to or imposed upon it. The Fiscal Agent shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct. The Fiscal Agent assumes no responsibility or liability for any information, statement or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the issuance of the Bonds. All indemnifications and releases from liability granted to the Fiscal Agent hereunder shall extend to the directors, officers and employees of the Fiscal Agent.

The Fiscal Agent shall not be considered in breach of or in default in its obligations hereunder or progress in respect thereto in the event of enforced delay (“unavoidable delay”) in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, Acts of God or of the public enemy or terrorists, acts of a government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, earthquakes, explosion, mob violence, riot, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources of energy, material or supplies in the open market, litigation or arbitration involving a party or others relating to zoning or other governmental action or inaction pertaining to the project, malicious mischief, condemnation, and unusually severe weather or delays of suppliers or subcontractors due to such causes or any similar event and/or occurrences beyond the control of the Fiscal Agent.

(B) Reliance. The Fiscal Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates, documents, written instructions or opinions furnished to the Fiscal Agent and conforming to the requirements of this Agreement; but in the case of any such certificates, documents, written instructions or opinions by which any provision hereof are specifically required to be furnished to the Fiscal Agent, the Fiscal Agent shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Agreement. Except as provided above in this paragraph, the Fiscal Agent shall be protected and shall incur no liability in acting or proceeding, or in not acting or not proceeding, in accordance with the terms of this Agreement, upon any resolution, order, notice, request, consent or waiver, certificate, statement, affidavit, facsimile transmission, electronic mail, or other paper or document which it shall reasonably believe to be genuine and to have been adopted or signed by the proper person or to have been prepared and furnished pursuant to any provision of this Agreement, and the Fiscal Agent shall not be under any duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument.

(C) No Duty to Inquire. The Fiscal Agent shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, conditions, covenants or agreements of the City or the CFD herein or of any of the documents executed by the City or the CFD in connection with the Bonds, or as to the existence of a default or event of default thereunder.

(D) Errors in Judgment. The Fiscal Agent shall not be liable for any error of judgment made in good faith by a responsible officer of the Fiscal Agent unless it shall be proved that the Fiscal Agent was negligent in ascertaining the pertinent facts.

(E) No Expenditures. No provision of this Agreement shall require the Fiscal Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers.

(F) No Action. The Fiscal Agent shall be under no obligation to exercise any of the rights or powers vested in it by this Agreement at the request or direction of any of the Owners under this Agreement unless such Owners shall have offered to the Fiscal Agent reasonable security or indemnity satisfactory to the Fiscal Agent against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction.

(G) Owner of Bonds. The Fiscal Agent may become the owner of the Bonds with the same rights it would have if it were not the Fiscal Agent.

Section 7.03. Information; Books and Accounts. The Fiscal Agent shall provide to the City such information relating to the Bonds and the funds and accounts maintained by the Fiscal Agent hereunder as the City shall reasonably request, including but not limited to monthly statements reporting funds held and transactions by the Fiscal Agent, including the value of any investments held by the Fiscal Agent. The Fiscal Agent will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the Fiscal Agent, in which complete and correct entries shall be made of all transactions relating to the expenditure of amounts disbursed from the Bond Fund, the Special Tax Fund, the 2023 Reserve Fund, the Improvement Fund and the Cost of Issuance Fund. Such books of record and accounts shall, upon reasonable notice, during business hours be subject to the inspection of the City and the Owners of not less than 10% of the principal amount of the Bonds then Outstanding, or their representatives duly authorized in writing.

Section 7.04. Notice to Fiscal Agent. The Fiscal Agent may rely and shall be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, facsimile transmission, electronic mail, written instructions, report, warrant, bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or proper parties. The Fiscal Agent may consult with counsel, who may be the City Attorney, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in accordance therewith.

The Fiscal Agent shall not be bound to recognize any person as the Owner of a Bond unless and until such Bond is submitted for inspection, if required, and his title thereto satisfactorily established, if disputed.

Whenever in the administration of its duties under this Agreement the Fiscal Agent shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of willful misconduct on the part of the Fiscal Agent, be deemed to be conclusively proved and established by an Officer's Certificate of the City, and such certificate shall be full warrant to the Fiscal Agent for any action taken or suffered under the provisions of this Agreement or any Supplemental Agreement upon the faith thereof, but in its

discretion the Fiscal Agent may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

The Fiscal Agent shall have the right to accept and act upon instructions, including funds transfer instructions ("Instructions") given pursuant to this Agreement and delivered using Electronic Means ("Electronic Means" shall mean the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Fiscal Agent, or another method or system specified by the Fiscal Agent as available for use in connection with its services hereunder); provided, however, that the City shall provide to the Fiscal Agent an incumbency certificate listing officers with the authority to provide such Instructions ("Authorized Officers") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the City whenever a person is to be added or deleted from the listing. If the City elects to give the Fiscal Agent Instructions using Electronic Means and the Fiscal Agent in its discretion elects to act upon such Instructions, the Fiscal Agent's understanding of such Instructions shall be deemed controlling. The City understands and agrees that the Fiscal Agent cannot determine the identity of the actual sender of such Instructions and that the Fiscal Agent shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Fiscal Agent have been sent by such Authorized Officer. The City shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Fiscal Agent and that the City and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the City. The Fiscal Agent shall not be liable for any losses, costs or expenses arising directly or indirectly from the Fiscal Agent's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The City agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Fiscal Agent, including without limitation the risk of the Fiscal Agent acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Fiscal Agent and that there may be more secure methods of transmitting Instructions than the method(s) selected by the City; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Fiscal Agent immediately upon learning of any compromise or unauthorized use of the security procedures.

The Fiscal Agent shall not be concerned with or accountable to anyone for the subsequent use or application of any moneys which shall be released or withdrawn in accordance with the provisions hereof.

The Fiscal Agent may execute any of the duties or powers hereof and perform the duties required of it hereunder either directly or by or through attorneys or agents, and shall be entitled to rely on advice of counsel concerning all matters of its duty hereunder.

The permissive right of the Fiscal Agent to do things enumerated in this Agreement shall not be construed as a duty and it shall not be answerable for such actions other than as a result of its negligence or willful misconduct.

Section 7.05. Compensation, Indemnification. The City shall pay to the Fiscal Agent from time to time reasonable compensation for all services rendered as Fiscal Agent under this Agreement, and also all reasonable expenses, charges, counsel fees and other disbursements,

including those of its attorneys (including the allocated costs of in-house attorneys), agents and employees, incurred in and about the performance of their powers and duties under this Agreement, but the Fiscal Agent shall not have a lien therefor on any funds at any time held by it under this Agreement. The City further agrees, to the extent permitted by applicable law, to indemnify and save the Fiscal Agent, its officers, employees, directors and agents harmless against any liabilities, costs, claims or expenses, including fees and expenses of its attorneys, which it may incur in the exercise and performance of its powers and duties hereunder which are not due to its negligence or willful misconduct. The obligations of the City under this Section shall survive resignation or removal of the Fiscal Agent under this Agreement, and payment of the Bonds and discharge of this Agreement, but any monetary obligation of the City arising under this Section shall be limited solely to amounts on deposit in the Administrative Expense Fund.

ARTICLE VIII

MODIFICATION OR AMENDMENT

Section 8.01. Amendments Permitted.

(A) With Consent. This Agreement and the rights and obligations of the City and of the Owners of the Bonds may be modified or amended at any time by a Supplemental Agreement pursuant to the affirmative vote at a meeting of Owners, or with the written consent without a meeting, of the Owners of at least 60% in aggregate principal amount of the Bonds then Outstanding, exclusive of Bonds disqualified as provided in Section 8.04. No such modification or amendment shall (i) extend the maturity of any Bond or reduce the interest rate thereon, or otherwise alter or impair the obligation of the City to pay the principal of, and the interest and any premium on, any Bond, without the express consent of the Owner of such Bond, or (ii) permit the creation by the City of any pledge or lien upon the Special Taxes superior to or on a parity with the pledge and lien created for the benefit of the Bonds (except as otherwise permitted by the Act, the laws of the State of California or this Agreement), or reduce the percentage of Bonds required for the amendment hereof.

(B) Without Consent. This Agreement and the rights and obligations of the City and of the Owners may also be modified or amended at any time by a Supplemental Agreement, without the consent of any Owners, only to the extent permitted by law and only for any one or more of the following purposes:

(i) to add to the covenants and agreements of the City herein, other covenants and agreements thereafter to be observed, or to limit or surrender any right or power herein reserved to or conferred upon the City;

(ii) to make modifications not adversely affecting any Outstanding Bonds in any material respect;

(iii) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in this Agreement, or in regard to questions arising under this Agreement, as the City and the Fiscal Agent may deem necessary or desirable and not inconsistent with this Agreement, and which shall not adversely affect the rights of the Owners of the Bonds;

(iv) to make such additions, deletions or modifications as may be necessary or desirable to assure exclusion from gross income for federal income tax purposes of interest on the Bonds;

(v) in connection with the issuance of any Parity Bonds under and pursuant to Section 3.06; and

(vi) to amend the provisions related to the use of Remainder Taxes.

(C) Fiscal Agent's Consent. Any amendment of this Agreement may not modify any of the rights or obligations of the Fiscal Agent without its written consent. The Fiscal Agent shall be furnished an opinion of counsel that any such Supplemental Agreement entered into by the

City and the Fiscal Agent complies with the provisions of this Section 8.01 and the Fiscal Agent may conclusively rely on such opinion and shall be absolutely protected in so relying.

Section 8.02. Owners' Meetings. The City may at any time call a meeting of the Owners. In such event the City is authorized to fix the time and place of said meeting and to provide for the giving of notice thereof and to fix and adopt rules and regulations for the conduct of said meeting.

Section 8.03. Procedure for Amendment with Written Consent of Owners. The City and the Fiscal Agent may at any time adopt a Supplemental Agreement amending the provisions of the Bonds or of this Agreement or any Supplemental Agreement, to the extent that such amendment is permitted by Section 8.01(A), to take effect when and as provided in this Section 8.03. A copy of such Supplemental Agreement, together with a request to Owners for their consent thereto, shall be mailed by first class mail, by the Fiscal Agent, at the expense of the City, to each Owner of Bonds Outstanding, but failure to mail copies of such Supplemental Agreement and request shall not affect the validity of the Supplemental Agreement when assented to as in this Section 8.03 provided.

Such Supplemental Agreement shall not become effective unless there shall be filed with the Fiscal Agent the written consents of the Owners of at least 60% in aggregate principal amount of the Bonds then Outstanding (exclusive of Bonds disqualified as provided in Section 8.04) and a notice shall have been mailed as hereinafter in this Section 8.03 provided. Each such consent shall be effective only if accompanied by proof of ownership of the Bonds for which such consent is given, which proof shall be such as is permitted by Section 9.04. Any such consent shall be binding upon the Owner of the Bonds giving such consent and on any subsequent Owner (whether or not such subsequent Owner has notice thereof) unless such consent is revoked in writing by the Owner giving such consent or a subsequent Owner by filing such revocation with the Fiscal Agent prior to the date when the notice hereinafter in this Section 8.03 provided for has been mailed.

After the Owners of the required percentage of Bonds shall have filed their consents to the Supplemental Agreement, the City shall mail a notice to the Owners in the manner hereinbefore provided in this Section 8.03 for the mailing of the Supplemental Agreement, stating in substance that the Supplemental Agreement has been consented to by the Owners of the required percentage of Bonds and will be effective as provided in this Section 8.03 (but failure to mail copies of said notice shall not affect the validity of the Supplemental Agreement or consents thereto). Proof of the mailing of such notice shall be filed with the Fiscal Agent. A record, consisting of the papers required by this Section 8.03 to be filed with the Fiscal Agent, shall be proof of the matters therein stated until the contrary is proved. The Supplemental Agreement shall become effective upon the filing with the Fiscal Agent of the proof of mailing of such notice, and the Supplemental Agreement shall be deemed conclusively binding (except as otherwise hereinabove specifically provided in this Article) upon the City and the Owners of all Bonds at the expiration of 60 days after such filing, except in the event of a final decree of a court of competent jurisdiction setting aside such consent in a legal action or equitable proceeding for such purpose commenced within such 60-day period.

Section 8.04. Disqualified Bonds. Bonds owned or held for the account of the City, excepting any pension or retirement fund, shall not be deemed Outstanding for the purpose of any vote, consent or other action or any calculation of Outstanding Bonds provided for in this Article VIII, and shall not be entitled to vote upon, consent to, or take any other action provided for in this Article VIII. Upon request of the Fiscal Agent, the City shall specify in a certificate to the

Fiscal Agent those Bonds disqualified pursuant to this Section and the Fiscal Agent may conclusively rely on such certificate.

Section 8.05. Effect of Supplemental Agreement. From and after the time any Supplemental Agreement becomes effective under this Article VIII, this Agreement shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations under this Agreement of the City, the Fiscal Agent and all Owners of Bonds Outstanding shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such Supplemental Agreement shall be deemed to be part of the terms and conditions of this Agreement for any and all purposes.

Section 8.06. Endorsement or Replacement of Bonds Issued After Amendments. The City may determine that Bonds issued and delivered after the effective date of any action taken as provided in this Article VIII shall bear a notation, by endorsement or otherwise, in form approved by the City, as to such action. In that case, upon demand of the Owner of any Bond Outstanding at such effective date and upon presentation of his Bond for that purpose at the Principal Office of the Fiscal Agent or at such other office as the City may select and designate for that purpose, a suitable notation shall be made on such Bond. The City may determine that new Bonds, so modified as in the opinion of the City is necessary to conform to such Owners' action, shall be prepared, executed and delivered. In that case, upon demand of the Owner of any Bonds then Outstanding, such new Bonds shall be exchanged at the Principal Office of the Fiscal Agent without cost to any Owner, for Bonds then Outstanding, upon surrender of such Bonds.

Section 8.07. Amendatory Endorsement of Bonds. The provisions of this Article VIII shall not prevent any Owner from accepting any amendment as to the particular Bonds held by him, provided that due notation thereof is made on such Bonds.

ARTICLE IX

MISCELLANEOUS

Section 9.01. Benefits of Agreement Limited to Parties. Nothing in this Agreement, expressed or implied, is intended to give to any person other than the City, the Fiscal Agent and the Owners, any right, remedy, claim under or by reason of this Agreement. Any covenants, stipulations, promises or agreements in this Agreement contained by and on behalf of the City shall be for the sole and exclusive benefit of the Owners and the Fiscal Agent.

Section 9.02. Successor and Predecessor. Whenever in this Agreement or any Supplemental Agreement either the City or the Fiscal Agent is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Agreement contained by or on behalf of the City or the Fiscal Agent shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 9.03. Discharge of Agreement. The City may pay and discharge the entire indebtedness on all or a portion of the Bonds Outstanding in any one or more of the following ways:

(A) by paying or causing to be paid the principal of, and interest and any premium on, all or a portion of such Bonds Outstanding, as and when the same become due and payable;

(B) by depositing with the Fiscal Agent, in trust, at or before maturity, money which, together with the amounts then on deposit in the funds and accounts provided for in the Bond Fund and the 2023 Reserve Fund hereof, is fully sufficient to pay all or a portion of such Bonds Outstanding, including all principal, interest and redemption premiums; or

(B) by irrevocably depositing with the Fiscal Agent, in trust, cash and/or Federal Securities in such amount as the City shall determine, as confirmed by an independent certified public accountant, will, together with the interest to accrue thereon and moneys then on deposit in the fund and accounts provided for in the Bond Fund and the 2023 Reserve Fund (to the extent invested in Federal Securities), be fully sufficient to pay and discharge the indebtedness on such Bonds Outstanding (including all principal, interest and redemption premiums) at or before their respective maturity dates.

If the City shall have taken any of the actions specified in (A), (B) or (C) above, and if such Bonds are to be redeemed prior to the maturity thereof and notice of such redemption shall have been given as in this Agreement provided or provision satisfactory to the Fiscal Agent shall have been made for the giving of such notice, then, at the election of the City, and notwithstanding that any such Bonds shall not have been surrendered for payment, the pledge of the Special Taxes and other funds provided for in this Agreement and all other obligations of the City under this Agreement with respect to such Bonds Outstanding shall cease and terminate. Notice of such election shall be filed with the Fiscal Agent.

Notwithstanding the foregoing, the following obligations and pledges of the City shall continue in any event: (i) the obligation of the City to pay or cause to be paid to the Owners of such Bonds not so surrendered and paid all sums due thereon, (ii) the obligation of the City to pay amounts owing to the Fiscal Agent pursuant to Section 7.05, and (iii) the obligation of the City to assure that no action is taken or failed to be taken if such action or failure adversely affects the exclusion of interest on such Bonds from gross income for federal income tax purposes.

Upon compliance by the City with the foregoing with respect to all such Bonds Outstanding, any funds held by the Fiscal Agent after payment of all fees and expenses of the Fiscal Agent, which are not required for the purposes of the preceding paragraph, shall be paid over to the City and any Special Taxes thereafter received by the City shall not be remitted to the Fiscal Agent but shall be retained by the City to be used for any purpose permitted under the Act and the Resolution of Formation.

Section 9.04. Execution of Documents and Proof of Ownership by Owners. Any request, declaration, consent or other instrument which this Agreement may require or permit to be executed by Owners may be in one or more instruments of similar tenor, and shall be executed by Owners in person or by their attorneys appointed in writing.

Except as otherwise herein expressly provided, the fact and date of the execution by any Owner or his attorney of such request, declaration, consent or other instrument, or of such writing appointing such attorney, may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the person signing such request, declaration or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer.

Except as otherwise herein expressly provided, the ownership of registered Bonds and the amount, maturity, number and date of holding the same shall be proved by the registration books maintained by the Fiscal Agent under Section 2.07.

Any request, declaration, consent or other instrument or writing of the Owner of any Bond shall bind all future Owners of such Bond in respect of anything done or suffered to be done by the City or the Fiscal Agent in good faith and in accordance therewith.

Section 9.05. Waiver of Personal Liability. No member, officer, agent or employee of the City shall be individually or personally liable for the payment of the principal of or interest or any premium on the Bonds; but nothing herein contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law.

Section 9.06. Notices to and Demands on City and Fiscal Agent. Any notice or demand which by any provision of this Agreement is required or permitted to be given or served by the Fiscal Agent to or on the City may be given or served by facsimile transmission receipt of which has been confirmed or by being deposited postage prepaid in a post office letter box addressed (until another address is filed by the City with the Fiscal Agent) as follows:

City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
Fax: (209) 835-1113
Attention: Finance Director

Any notice or demand which by any provision of this Agreement is required or permitted to be given or served by the City to or on the Fiscal Agent may be given or served by facsimile transmission receipt of which has been confirmed or by being deposited postage prepaid in a post office letter box addressed (until another address is filed by the Fiscal Agent with the City) as follows:

U.S. Bank Trust Company, National Association
One California Street, Suite 1000
San Francisco, CA 94111
Attn: Global Corporate Trust Services

Section 9.07. Partial Invalidity. If any Section, paragraph, sentence, clause or phrase of this Agreement shall for any reason be held by a court of competent jurisdiction to be illegal or unenforceable, such holding shall not affect the validity of the remaining portions of this Agreement.

Section 9.08. Unclaimed Moneys. Anything contained herein to the contrary notwithstanding, any moneys held by the Fiscal Agent in trust for the payment and discharge of the principal of, and the interest and any premium on, the Bonds which remains unclaimed for two (2) years after the date when the payment of such principal, interest and premium have become payable, if such moneys were held by the Fiscal Agent at such date, shall be repaid by the Fiscal Agent to the City as its absolute property free from any trust, and the Fiscal Agent shall thereupon be released and discharged with respect thereto and the Owners of such Bonds shall look only to the City for the payment of the principal of, and interest and any premium on, such Bonds. Any right of any Owner to look to the City for such payment shall survive only so long as required under applicable law.

Section 9.09. Applicable Law. This Agreement shall be governed by and enforced in accordance with the laws of the State applicable to contracts made and performed in the State.

Section 9.10. Conflict with Act. In the event of a conflict between any provision of this Agreement with any provision of the Act as in effect on the Closing Date, the provision of the Act shall prevail over the conflicting provision of this Agreement.

Section 9.11. Conclusive Evidence of Regularity. Bonds issued under this Agreement shall constitute conclusive evidence of the regularity of all proceedings under the Act relative to their issuance and the levy of the Special Taxes.

Section 9.12. Payment on Business Day. In any case where the date of the maturity of interest or of principal (and premium, if any) of the Bonds, or the date fixed for redemption of any Bonds, or the date any action is to be taken under this Agreement, is other than a Business Day, the payment of interest or principal (and premium, if any) or the action shall be made on the next succeeding day which is a Business Day with the same force and effect as if made on the date required and no interest shall accrue for the period from and after such date.

Section 9.13. State Reporting Requirements. In addition to Section 5.15, the following requirements shall apply to the Bonds:

(A) Annual Reporting. Not later than October 30 of each calendar year, beginning with the October 30 first succeeding the date of the 2023 Bonds, and in each calendar year thereafter until the October 30 following the final maturity of the Bonds, the Finance Director shall cause the information required by California Government Code Section 53359.5(b) to be supplied to CDIAC. The annual reporting shall be made using such form or forms as may be prescribed by CDIAC.

(B) Other Reporting. If at any time the Fiscal Agent fails to pay principal and interest due on any scheduled payment date for the Bonds due to insufficiency of funds on deposit in the Bond Fund, or if funds are withdrawn from the 2023 Reserve Fund to pay principal and interest on the Bonds so as to reduce the amount in the 2023 Reserve Fund to less than the 2023 Reserve Requirement, the Fiscal Agent shall notify the Finance Director of such failure or withdrawal in writing. The Finance Director shall notify CDIAC and the Original Purchasers of such failure or withdrawal within 10 days of such failure or withdrawal.

(C) Special Tax Reporting. The Finance Director shall file a report with the City no later than January 1, 2024, and at least once a year thereafter, which annual report shall contain: (i) the amount of Special Taxes collected and expended with respect to the CFD, (ii) the amount of Bond proceeds collected and expended with respect to the CFD, and (iii) the status of the Project. It is acknowledged that the Special Tax Fund and the Special Tax Prepayments Account are the accounts into which Special Taxes collected on the City will be deposited for purposes of Section 50075.1(c) of the California Government Code, and the funds and accounts listed in Section 4.01 are the funds and accounts into which Bond proceeds will be deposited for purposes of Section 53410(c) of the California Government Code, and the annual report described in the preceding sentence is intended to satisfy the requirements of Sections 50075.1(d), 50075.3(d) and 53411 of the California Government Code.

(D) Compliance with Section 53343.2. The City shall comply with the provisions of California Government Code Section 53343.2, which require the City, within seven months after the last day of each fiscal year of the CFD, to display prominently on its Internet Web site all of the following information:

(a) A copy of an annual report for that fiscal year if requested pursuant to Section 53343.1.

(b) A copy of the report provided to the California Debt and Investment Advisory Commission pursuant to Section 53359.5.

(c) A copy of the report provided to the Controller's office pursuant to Section 12463.2.

(E) Amendment. The reporting requirements of this Section 9.13 shall be amended from time to time, without action by the City or the Fiscal Agent (i) with respect to subparagraphs (A) and (B) above, to reflect any amendments to Section 53359.5(b) or Section 53359.5(c) of the Act, (ii) with respect to subparagraph (C) above, to reflect any amendments to Section 50075.1, 50075.3, 53410 or 53411 of the California Government Code and (iii) with respect to subparagraph (D) above, to reflect any amendments to Section 53343.2. Notwithstanding the foregoing, any such amendment shall not, in itself, affect the City's obligations under the Continuing Disclosure Certificate. The City shall notify the Fiscal Agent in writing of any such amendments which affect the reporting obligations of the Fiscal Agent under this Agreement.

(E) No Liability. None of the City and its officers, agents and employees, the Finance Director or the Fiscal Agent shall be liable for any inadvertent error in reporting the information required by this Section 9.13.

The Finance Director shall provide copies of any such reports to any Bondowner upon the written request of a Bondowner and payment by the person requesting the information of the cost of the City to photocopy and pay any postage or other delivery cost to provide the same, as determined by the Finance Director. The term "Bondowner" for purposes of this Section 9.13 shall include any Beneficial Owner of the Bonds as described in Section 2.10.

Section 9.14. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

* * * * *

IN WITNESS WHEREOF, the City and the Fiscal Agent have caused this Agreement to be executed as of the date first written above.

CITY OF TRACY,
for and on behalf of
CITY OF TRACY COMMUNITY FACILITIES
DISTRICT NO. 2016-2 (ECFD)

By: _____
Finance Director

U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION,
as Fiscal Agent

By: _____
Authorized Officer

EXHIBIT A
FORM OF 2023 BOND

No. ____

\$ _____

UNITED STATES OF AMERICA
STATE OF CALIFORNIA
COUNTY OF SAN JOAQUIN

IMPROVEMENT AREA NO. 3 OF THE
CITY OF TRACY
Community Facilities District No. 2016-2
(ECFD)
Special Tax Bond, Series 2023

INTEREST RATE

MATURITY DATE

DATED DATE

_____%

September 1, _____

_____, 2023

REGISTERED OWNER:

PRINCIPAL AMOUNT:

*****DOLLARS

The City of Tracy (the "City") for and on behalf of the "City of Tracy Community Facilities District No. 2016-2 (ECFD)" (the "CFD") with respect to its "Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD)" ("Improvement Area No. 3"), for value received, hereby promises to pay solely from the Special Tax Revenues (as defined in the Agreement, as hereinafter defined) to be collected in Improvement Area No. 3 or amounts in certain funds and accounts held under the Agreement (as hereinafter defined), to the registered owner named above, or registered assigns, on the maturity date set forth above, unless redeemed prior thereto as hereinafter provided, the principal amount set forth above, and to pay interest on such principal amount from the Dated Date set forth above, or from the most recent Interest Payment Date (as hereinafter defined) to which interest has been paid or duly provided for (unless this Bond is authenticated on or before an Interest Payment Date and after the close of business on the Record Date preceding such Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or unless this Bond is authenticated on or prior to August 15, 2023, in which event it shall bear interest from the Dated Date identified above, payable semiannually on each September 1 and March 1, commencing September 1, 2023 (each an "Interest Payment Date"), at the interest rate set forth above, until the principal amount hereof is paid or made available for payment provided, however, that if at the time of authentication of this Bond, interest is in default on this Bond, this Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment.

Principal of and interest on the Bonds (including the final interest payment upon maturity or earlier redemption), is payable on the applicable Interest Payment Date by check of the Fiscal Agent (defined below) mailed by first class mail to the registered Owner thereof at such registered Owner's address as it appears on the registration books maintained by the Fiscal Agent at the close of business on the Record Date preceding the Interest Payment Date, or by wire transfer

made on such Interest Payment Date upon written instructions of any Owner of \$1,000,000 or more in aggregate principal amount of Bonds delivered to the Fiscal Agent prior to the applicable Record Date. The principal of the Bonds and any premium on the Bonds are payable in lawful money of the United States of America upon surrender of the Bonds at the Principal Office of the Fiscal Agent or such other place as designated by the Fiscal Agent.

This Bond is one of a duly authorized issue of bonds in the aggregate principal amount of \$_____ approved by resolution of the City Council adopted on _____, 2023 (the "Resolution"), under the Mello-Roos Community Facilities Act of 1982, as amended, sections 53311, *et seq.*, of the California Government Code (the "Act") for the purpose of funding certain facilities for the City, and is one of the series of bonds designated "Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD) Special Tax Bonds, Series 2023" (the "Bonds"). The issuance of the Bonds and the terms and conditions thereof are provided for by a Fiscal Agent Agreement, dated as of April 1, 2023 (the "Agreement"), between the City and U.S. Bank Trust Company, National Association (the "Fiscal Agent") and this reference incorporates the Agreement herein, and by acceptance hereof the owner of this Bond assents to said terms and conditions. The Agreement is authorized under, this Bond is issued under and both are to be construed in accordance with, the laws of the State of California.

Pursuant to the Act, the Resolution and the Agreement, the principal of and interest on this Bond are payable solely from the annual special tax authorized under the Act to be collected within Improvement Area No. 3 (the "Special Tax") and certain funds held under the Agreement. Any tax for the payment hereof shall be limited to the Special Tax, except to the extent that provision for payment has been made by the City, as may be permitted by law. The Bonds do not constitute obligations of the City for which the City is obligated to levy or pledge, or has levied or pledged, general or special taxation other than described hereinabove. Neither the faith and credit nor the taxing power of the City (except to the limited extent set forth in the Agreement) or the State of California or any political subdivision thereof is pledged to the payment of the Bonds.

Optional Redemption. The Bonds maturing on or after September 1, 20__, are subject to optional redemption as directed by the City, from sources of funds other than prepayments of Special Taxes, prior to their stated maturity on any date on or after September 1, 20__, as a whole or in part, at a redemption price (expressed as a percentage of the principal amount of the Bonds to be redeemed), as set forth below, together with accrued interest thereon to the date fixed for redemption:

<u>Redemption Dates</u>	<u>Redemption Price</u>
September 1, 20__ through August 31, 202__	%
September 1, 20__ through August 31, 20__	
September 1, 20__ through August 31, 20__	
September 1, 20__ and any date thereafter	

Mandatory Sinking Fund Redemption. The Term Bond maturing on September 1, 20__, is subject to mandatory redemption in part by lot, from sinking fund payments made by the City from the Bond Fund, at a redemption price equal to the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts all as set forth in the following table:

Sinking Fund Redemption Date (September 1)	Sinking Fund Payments
20__	\$
20__	
20__	
20__	
20__ (maturity)	

The Term Bond maturing on September 1, 20__, is subject to mandatory redemption in part by lot, from sinking fund payments made by the City from the Bond Fund, at a redemption price equal to the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts all as set forth in the following table:

Sinking Fund Redemption Date (September 1)	Sinking Fund Payments
20__	\$
20__	
20__	
20__	
20__ (maturity)	

The Term Bond maturing on September 1, 20__, is subject to mandatory redemption in part by lot, from sinking fund payments made by the City from the Bond Fund, at a redemption price equal to the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts all as set forth in the following table:

Sinking Fund Redemption Date (September 1)	Sinking Fund Payments
20__	\$
20__	
20__	
20__	
20__ (maturity)	

The Term Bond maturing on September 1, 20__, is subject to mandatory redemption in part by lot, from sinking fund payments made by the City from the Bond

Fund, at a redemption price equal to the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts all as set forth in the following table:

Sinking Fund Redemption Date (September 1)	Sinking Fund Payments
20__	\$
20__	
20__	
20__	
20__ (maturity)	

Provided, however, if some but not all of the Term Bonds of a given maturity have been redeemed as a result of an optional redemption or a redemption from Special Tax Prepayments, the total amount of all future Sinking Fund Payments relating to such maturity shall be reduced by the aggregate principal amount of Term Bonds of such maturity so redeemed, to be allocated among such Sinking Fund Payments on a pro rata basis in integral multiples of \$5,000 as determined by the City, notice of which determination shall be given by the City to the Fiscal Agent.

Redemption From Special Tax Prepayments. Special Tax Prepayments and any corresponding transfers from the 2023 Reserve Fund shall be used to redeem Bonds on the next Interest Payment Date for which notice of redemption can timely be given under the Fiscal Agent Agreement, among maturities so as to maintain substantially the same Debt Service profile for the Bonds as in effect prior to such redemption and by lot within a maturity, at a redemption price (expressed as a percentage of the principal amount of the Bonds to be redeemed), as set forth below, together with accrued interest to the date fixed for redemption:

<u>Redemption Dates</u>	<u>Redemption Price</u>
Any Interest Payment Date on or before March 1, 20__	%
September 1, 20__ and March 1, 20__	
September 1, 20__ and March 1, 20__	
September 1, 20__ and any Interest Payment Date thereafter	

Notice of redemption with respect to the Bonds to be redeemed shall be given to the registered owners thereof, in the manner, to the extent and subject to the provisions of the Agreement.

This Bond shall be registered in the name of the owner hereof, as to both principal and interest. Each registration and transfer of registration of this Bond shall be entered by the Fiscal Agent in books kept by it for this purpose and authenticated by its manual signature upon the certificate of authentication endorsed hereon.

No transfer or exchange hereof shall be valid for any purpose unless made by the registered owner, by execution of the form of assignment endorsed hereon, and authenticated as herein provided, and the principal hereof, interest hereon and any redemption premium shall be

payable only to the registered owner or to such owner's order. The Fiscal Agent shall require the registered owner requesting transfer or exchange to pay any tax or other governmental charge required to be paid with respect to such transfer or exchange. No transfer or exchange hereof shall be required to be made (i) fifteen days prior to the date established by the Fiscal Agent for selection of Bonds for redemption or (ii) with respect to a Bond after such Bond has been selected for redemption.

The Agreement and the rights and obligations of the City thereunder may be modified or amended as set forth therein. The principal of the Bonds is not subject to acceleration upon a default under the Agreement or any other document.

This Bond shall not become valid or obligatory for any purpose until the certificate of authentication and registration hereon endorsed shall have been dated and signed by the Fiscal Agent.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED by the City that all acts, conditions and things required by law to exist, happen and be performed precedent to and in the issuance of this Bond have existed, happened and been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other indebtedness of the City, does not exceed any debt limit prescribed by the laws or Constitution of the State of California.

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the Fiscal Agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

IN WITNESS WHEREOF, City of Tracy has caused this Bond to be to be signed by the facsimile signature of its Mayor and countersigned by the facsimile signature of the City Clerk.

[S E A L]

City Clerk

Mayor

[FORM OF FISCAL AGENT'S CERTIFICATE OF AUTHENTICATION AND REGISTRATION]

This is one of the Bonds described in the Agreement which has been authenticated on _____, 2023

U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION,
as Fiscal Agent

By: _____
Authorized Signatory

FORM OF ASSIGNMENT

For value received, the undersigned do(es) hereby sell, assign and transfer unto

(Name, Address and Tax Identification or Social Security Number of Assignee)

the within Bond and do(es) hereby irrevocably constitute and appoint _____
_____, attorney, to transfer the same on the registration books of the Fiscal Agent, with
full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed
by an eligible guarantor.

NOTICE: Signature guarantee shall be made
by a guarantor institution participating in the
Securities Transfer Agents Medallion
Program or in such other guarantee program
acceptable to the Fiscal Agent

EXHIBIT B

**IMPROVEMENT AREA NO. 3 OF THE
CITY OF TRACY
Community Facilities District No. 2016-2
(ECFD)
Special Tax Bonds, Series 2023**

**OFFICER'S CERTIFICATE REQUESTING DISBURSEMENT FROM IMPROVEMENT
FUND**

REQUISITION NO. _____

The undersigned hereby states and certifies that:

(i) I am the duly appointed, qualified and acting Finance Director of the City of Tracy, a general law city duly organized and existing under the laws of the State of California (the "City") and as such, am familiar with the facts herein certified and am authorized to certify the same;

(ii) I am an "Authorized Officer," as such term is defined in that certain Fiscal Agent Agreement, dated as of April 1, 2023 (the "Fiscal Agent Agreement"), by and between the City and U.S. Bank Trust Company, National Association, as fiscal agent (the "Fiscal Agent");

(iii) under Section 4.07(B) of the Fiscal Agent Agreement, the undersigned hereby requests and authorizes the Fiscal Agent to disburse from the Bond Proceeds Account established under the Fiscal Agent Agreement to each payee designated on Schedule A attached hereto and by this reference incorporated herein, the amount set forth opposite such payee, for payment or reimbursement of previous payment of a Project cost (as Project is defined in the Fiscal Agent Agreement) as described on attached Schedule A;

(iv) under Section 4.07(B) of the Fiscal Agent Agreement, the undersigned hereby requests and authorizes the Fiscal Agent to disburse from the Remainder Taxes Account established under the Fiscal Agent Agreement to each payee designated on Schedule A attached hereto and by this reference incorporated herein, the amount set forth opposite such payee, for payment or reimbursement of previous payment of a Project cost (as Project is defined in the Fiscal Agent Agreement) as described on attached Schedule A;

(v) under Section 4.07(B) of the Fiscal Agent Agreement, the undersigned hereby requests and authorizes the Fiscal Agent to transfer \$_____ from the Remainder Taxes Account established under the Fiscal Agent Agreement to [the Bond Fund] [the Administrative Expense Fund] [the 2023 Reserve Fund];

(vi) the disbursements described on the attached Schedule A are properly chargeable to the Improvement Fund; and

(vii) no portion of the amount herein requested to be disbursed was set forth in any Officers Certificate previously filed requesting disbursement.

Dated: _____

CITY OF TRACY

By: _____
Finance Director

SCHEDULE A

Payee Name and Address	Purpose of Obligation	Amount	Account from which Amounts should be paid

EXHIBIT C

**IMPROVEMENT AREA NO. 3 OF THE
CITY OF TRACY
Community Facilities District No. 2016-2 (ECFD)
Special Tax Bonds, Series 2023**

**OFFICER'S CERTIFICATE REQUESTING DISBURSEMENT
FROM COSTS OF ISSUANCE FUND**

REQUISITION NO. _____

The undersigned hereby states and certifies that:

(i) I am the duly appointed, qualified and acting Finance Director of the City of Tracy, a general law city duly organized and existing under the laws of the State of California (the "City") and as such, am familiar with the facts herein certified and am authorized to certify the same;

(ii) I am an "Authorized Officer," as such term is defined in that certain Fiscal Agent Agreement, dated as of April 1, 2023 (the "Fiscal Agent Agreement"), by and between the City and U.S. Bank Trust Company, National Association, as fiscal agent (the "Fiscal Agent");

(iii) under Section 4.02(B) of the Fiscal Agent Agreement, the undersigned hereby requests and authorizes the Fiscal Agent to disburse from the Costs of Issuance Fund established under the Fiscal Agent Agreement to each payee designated on Schedule A attached hereto and by this reference incorporated herein, the amount set forth opposite such payee, for payment or reimbursement of previous payment of Costs of Issuance (as that term is defined in the Fiscal Agent Agreement) as described on attached Schedule A; and

(iv) the disbursements described on the attached Schedule A constitute Costs of Issuance, and are properly chargeable to the Costs of Issuance Fund.

Dated: _____

CITY OF TRACY

By: _____
Finance Director

SCHEDULE A

Payee Name and Address

Purpose of Obligation

Amount

EXHIBIT D

**IMPROVEMENT AREA NO. 3 OF THE
CITY OF TRACY
Community Facilities District No. 2016-2 (ECFD)
Special Tax Bonds, Series 2023**

**OFFICER'S CERTIFICATE REQUESTING DISBURSEMENT
FROM ADMINISTRATIVE EXPENSE FUND**

REQUISITION NO. _____

The undersigned hereby states and certifies that:

(i) I am the duly appointed, qualified and acting Finance Director of the City of Tracy, a general law city duly organized and existing under the laws of the State of California (the "City") and as such, am familiar with the facts herein certified and am authorized to certify the same;

(ii) I am an "Authorized Officer," as such term is defined in that certain Fiscal Agent Agreement, dated as of April 1, 2023 (the "Fiscal Agent Agreement"), by and between the City and U.S. Bank Trust Company, National Association, as fiscal agent (the "Fiscal Agent");

(iii) under Section 4.06(B) of the Fiscal Agent Agreement, the undersigned hereby requests and authorizes the Fiscal Agent to disburse from the Administrative Expense Fund established under the Fiscal Agent Agreement to each payee designated on Schedule A attached hereto and by this reference incorporated herein, the amount set forth opposite such payee, for payment or reimbursement of previous payment of an Administrative Expense or Costs of Issuance (as those terms are defined in the Fiscal Agent Agreement) as described on attached Schedule A;

(iv) the disbursements described on the attached Schedule A constitute Administrative Expenses or Costs of Issuance, and are properly chargeable to the Administrative Expense Fund; and

(v) any proceeds of the 2023 Bonds in the Administrative Expense Fund shall be disbursed before any other moneys in the Administrative Expense Fund

Dated: _____

CITY OF TRACY

By: _____
Finance Director

SCHEDULE A

Payee Name and Address

Purpose of Obligation

Amount

\$ _____
**IMPROVEMENT AREA NO. 3 OF THE CITY OF TRACY
 COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD)
 SPECIAL TAX BONDS, SERIES 2023**

BOND PURCHASE AGREEMENT

_____, 2023

City of Tracy
 333 Civic Center Plaza
 Tracy, California 95376

Ladies and Gentlemen:

Piper Sandler & Co., as underwriter (the “**Underwriter**”), acting not as a fiduciary or agent for you, but on behalf of itself, offers to enter into this Bond Purchase Agreement (this “**Purchase Agreement**”) with the City of Tracy (the “**City**”), which upon acceptance will be binding upon the Underwriter and the City. This offer is made subject to the City’s acceptance by the execution of this Purchase Agreement and its delivery to the Underwriter at or before 8:00 P.M., California time, on the date hereof, and, if not so accepted, will be subject to withdrawal by the Underwriter upon notice delivered to the City at any time prior to the acceptance hereof by the City. All capitalized terms used herein, which are not otherwise defined, shall have the meaning provided for such terms in the Fiscal Agent Agreement, dated as of _____ 1, 2023 (the “**Fiscal Agent Agreement**”), by and between the City and U.S. Bank Trust Company, National Association, as fiscal agent (the “**Fiscal Agent**”).

1. Purchase, Sale and Delivery of the Bonds.

A. Subject to the terms and conditions and in reliance upon the representations, warranties and agreements set forth herein, the Underwriter hereby agrees to purchase from the City and the City hereby agrees to sell to the Underwriter all (but not less than all) of the \$_____ aggregate principal amount of the Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD) Special Tax Bonds, Series 2023 (the “**Bonds**”), dated the Closing Date (as hereinafter defined), bearing interest at the rates and maturing on the dates and in the principal amounts set forth in Exhibit A hereto. The purchase price for the Bonds shall be \$_____ (being 100% of the aggregate principal amount thereof [plus/less] a [net] original issue [premium/discount] of \$_____ and less an Underwriter’s discount of \$_____).

The Bonds shall be substantially in the form described in, shall be issued and secured under the provisions of, and shall be payable from the Special Tax Revenues, as provided in the Fiscal Agent Agreement, the Preliminary Official Statement (as hereinafter defined), and the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the Government Code of the State of California (the “**Act**”). The issuance of the Bonds has been duly authorized by the City pursuant to Resolution No. 2019-244, adopted on December 17, 2019 (the “**Annexation Resolution**”), and Resolution No. _____, adopted by the City on _____, 2023 (the “**Resolution of Issuance**”) and, together with the Annexation Resolution, the “**Approving Resolution**”).

The net proceeds of the Bonds will be used, as indicated in the Fiscal Agent Agreement, for the following purposes: (i) finance the acquisition and construction of certain public improvements and payment of impact fees to be used to finance public facilities, (ii) fund a debt service reserve fund for the Bonds, (iii) fund capitalized interest through September 1, 2023, and (iv) pay the costs of issuing the Bonds.

Prior to the acceptance of this Purchase Agreement by the City, the City shall have caused to be delivered to the Underwriter (i) a Letter of Representations duly executed by Surland Communities LLC, a California limited liability company (“**Surland**”) in substantially the form set forth in Exhibit B hereto, with only such changes thereto as shall have been accepted by the Underwriter, and (ii) a Letter of Representations duly executed by LS-Tracy LLC, a Delaware limited liability company (“**LS-Tracy LLC**”) in substantially the form set forth in Exhibit C hereto, with only such changes thereto as shall have been accepted by the Underwriter.

B. The City acknowledges that the Underwriter is entering into this Purchase Agreement in reliance on the representations and agreements made by the City herein, and the City shall take all action necessary to enforce its rights hereunder for the benefit of the Underwriter and shall immediately notify the Underwriter if it becomes aware that any representation or agreement made by the City herein is incorrect in any material respect.

The City acknowledges and agrees that: (i) the purchase and sale of the Bonds pursuant to this Purchase Agreement is an arm’s-length commercial transaction between the City and the Underwriter; (ii) in connection therewith and with the discussions, undertakings and procedures leading up to the consummation of such transaction, the Underwriter is and has been acting solely as principal and is not acting as a Municipal Advisor (as defined in Section 15B of the Securities Exchange Act of 1934, as amended); (iii) the Underwriter has not assumed an advisory or fiduciary responsibility in favor of the City with respect to the offering contemplated hereby or the discussions, undertakings and procedures leading thereto (irrespective of whether the Underwriter has provided other services or is currently providing other services to the City on other matters); and (iv) the City has consulted its own legal, financial and other advisors to the extent that the City has deemed appropriate.

C. Pursuant to the authorization of the City, the Underwriter has distributed copies of the Preliminary Official Statement dated _____, 2023, relating to the Bonds, which, together with the cover page, inside cover page and appendices thereto is herein called the “**Preliminary Official Statement.**” By its acceptance of this Purchase Agreement, the City hereby ratifies the use by the Underwriter of the Preliminary Official Statement and the preparation and distribution of the final Official Statement (together with any supplements thereto, the “**Official Statement**”) consisting of the Preliminary Official Statement with such changes as are noted thereon and as may be made thereto, with the approval of Jones Hall, A Professional Law Corporation, the City’s Bond Counsel (“**Bond Counsel**”) and Disclosure Counsel (“**Disclosure Counsel**”) and the Underwriter. The City agrees to execute the Official Statement and to provide a copy thereof to the Underwriter as set forth in Section 4.E.1 hereof. The City hereby authorizes and requires the Underwriter to use and promptly distribute, in connection with the offer and sale of the Bonds, the Preliminary Official Statement, the Official Statement and any supplement or amendment thereto. The City further authorizes the Underwriter to use and distribute, in connection with the offer and sale of the Bonds, the Fiscal Agent Agreement, this Purchase Agreement and all information contained herein, and all other documents, certificates and statements furnished by or on behalf of the City to the Underwriter in connection with the transactions contemplated by this Purchase Agreement.

D. To assist the Underwriter in complying with Securities and Exchange Commission Rule 15c2-12(b)(5) (the “**Rule**”), the City will undertake pursuant to the Continuing Disclosure Certificate, in

the form attached to the Official Statement as Appendix E (the “**Continuing Disclosure Certificate**”), to provide annual reports and notices of certain enumerated events. A description of this undertaking is set forth in the Preliminary Official Statement and will also be set forth in the Official Statement.

E. Except as the Underwriter and the City may otherwise agree, the City will deliver to the Underwriter, at the offices of Bond Counsel in San Francisco, California, or at such other location as may be mutually agreed upon by the Underwriter and the City, the documents hereinafter mentioned; and the City will deliver to the Underwriter through the facilities of The Depository Trust Company (“**DTC**”) in New York, New York, the Bonds, in definitive form (all Bonds bearing CUSIP numbers), duly executed by the City and authenticated by the Fiscal Agent in the manner provided for in the Fiscal Agent Agreement and the Act at 8:00 a.m. California time, on _____, 2023 (the “**Closing Date**”), and the Underwriter will accept such delivery and pay the purchase price of the Bonds as set forth in paragraph (A) of this Section by wire transfer, payable in federal or other immediately available funds (such delivery and payment being herein referred to as the “**Closing**”). The Bonds shall be in fully registered book-entry form (which may be typewritten) and shall be registered in the name of Cede & Co., as nominee of DTC.

2. **Public Offering and Establishment of Issue Price.**

A. The Underwriter agrees to make a bona fide public offering of all of the Bonds initially at the public offering prices (or yields) set forth in Exhibit A attached hereto and incorporated herein by reference. Subsequent to the initial public offering, the Underwriter reserves the right to change the public offering prices (or yields) as it deems necessary in connection with the marketing of the Bonds, provided that the Underwriter shall not change the interest rates set forth in Exhibit A. The Bonds may be offered and sold to certain dealers at prices lower than such initial offering prices

B. The Underwriter agrees to assist the City in establishing the issue price of the Bonds and shall execute and deliver to the City at Closing an “issue price” or similar certificate, together with the supporting pricing wires or equivalent communications, substantially in the form attached hereto as Exhibit F, with such modifications as may be appropriate or necessary, in the reasonable judgment of the Underwriter, the City and Bond Counsel, to accurately reflect, as applicable, the sales price or prices or the initial offering price or prices to the public of the Bonds. All actions to be taken by the City under this section to establish the issue price of the Bonds may be taken on behalf of the City by CSG Advisors Incorporated (the “**Municipal Advisor**”) and any notice or report to be provided to the City may be provided to the Municipal Advisor.

C. Except as otherwise set forth in Exhibit A, the City will treat the first price at which 10% of each maturity of the Bonds (the “**10% test**”) is sold to the public as the issue price of that maturity (if different interest rates apply within a maturity, each separate CUSIP number within that maturity will be subject to the 10% test). At or promptly after the execution of this Purchase Agreement, the Underwriter shall report to the City the price or prices at which it has sold to the public each maturity of the Bonds. If at that time the 10% test has not been satisfied as to any maturity of the Bonds, the Underwriter agrees to promptly report to the City the prices at which it sells the unsold Bonds of that maturity to the public. That reporting obligation shall continue, whether or not the Closing Date has occurred, until the 10% test has been satisfied as to the Bonds of that maturity or until all Bonds of that maturity have been sold to the public.

D. The Underwriter confirms that it has offered the Bonds to the public on or before the date of this Purchase Agreement at the offering price or prices (the “**initial offering price**”), or at the corresponding yield or yields, set forth in Exhibit A, except as otherwise set forth therein. Exhibit A also sets forth, identified under the column “Hold the Offering Price Rule Used,” as of the date of this Purchase Agreement, the maturities, if any, of the Bonds for which the 10% test has not been satisfied and for which the

City and the Underwriter agree that the restrictions set forth in the next sentence shall apply, which will allow the City to treat the initial offering price to the public of each such maturity as of the sale date as the issue price of that maturity (the “**hold-the-offering-price rule**”). So long as the hold-the-offering-price rule remains applicable to any maturity of the Bonds, the Underwriter will neither offer nor sell unsold Bonds of that maturity to any person at a price that is higher than the initial offering price to the public during the period starting on the sale date and ending on the earlier of the following:

1. the close of the fifth (5th) business day after the sale date; or
2. the date on which the Underwriter has sold at least 10% of that maturity of the Bonds to the public at a price that is no higher than the initial offering price to the public.

The Underwriter shall promptly advise the City when it has sold 10% of that maturity of the Bonds to the public at a price that is no higher than the initial offering price to the public, if that occurs prior to the close of the fifth (5th) business day after the sale date.

E. The Underwriter confirms that any selling group agreement and any retail distribution agreement relating to the initial sale of the Bonds to the public, together with the related pricing wires, contains or will contain language obligating each dealer who is a member of the selling group and each broker-dealer that is a party to such retail distribution agreement, as applicable, to: (1) report the prices at which it sells to the public the unsold Bonds of each maturity allotted to it until it is notified by the Underwriter that either the 10% test has been satisfied as to the Bonds of that maturity or all Bonds of that maturity have been sold to the public; and (2) comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the Underwriter. The City acknowledges that, in making the representation set forth in this subsection, the Underwriter will rely on: (A) in the event that a selling group has been created in connection with the initial sale of the Bonds to the public, the agreement of each dealer who is a member of the selling group to comply with the hold-the-offering-price rule, if applicable, as set forth in a selling group agreement and the related pricing wires; and (B) in the event that a retail distribution agreement was employed in connection with the initial sale of the Bonds to the public, the agreement of each broker-dealer that is a party to such agreement to comply with the hold-the-offering-price rule, if applicable, as set forth in the retail distribution agreement and the related pricing wires. The City further acknowledges that the Underwriter shall not be liable for the failure of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a retail distribution agreement, to comply with its corresponding agreement regarding the hold-the-offering-price rule as applicable to the Bonds.

F. The Underwriter acknowledges that sales of any Bonds to any person that is a related party to the Underwriter shall not constitute sales to the public for purposes of this section. Further, for purposes of this section:

1. “**public**” means any person other than an underwriter or a related party;
2. “**underwriter**” means: (A) any person that agrees pursuant to a written contract with the City (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the public; and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Bonds to the public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the public);

3. a purchaser of any of the Bonds is a “**related party**” to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to: (A) at least 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another); (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another); or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other); and

4. “**sale date**” means the date of execution of this Purchase Agreement by all parties.

3. **Representations and Covenants of the City.** The City represents and covenants to the Underwriter that:

A. The City is duly organized and validly existing as a municipal corporation under the Constitution and laws of the State of California, and has duly authorized the formation of the City of Tracy Community Facilities District No. 2016-2 (ECFD) (the “**Community Facilities District**”) and Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD) (“**Improvement Area No. 3**”) pursuant to resolutions and an ordinance duly adopted by the City Council (collectively, the “**Community Facilities District Formation Resolution**” and, together with the Approving Resolution authorizing the issuance of the Bonds, the “**City Resolutions**”) and the Act. The City Council, as the legislative body of the City and the Community Facilities District, (i) has duly adopted the City Resolutions, (ii) has duly adopted Ordinance No. 1230 of the City on February 21, 2017, levying special taxes within the Community Facilities District and Improvement Area No. 3 (the “**Ordinance**”), and (iii) has caused to be recorded in the real property records of San Joaquin County a notice of special tax lien with respect to Improvement Area No. 3 (the “**Notice of Special Tax Lien**”) (the Community Facilities District Formation Resolution, the Ordinance, the rate and method of apportionment of special taxes for Improvement Area No. 3 approved by the City Council and the qualified electors in Improvement Area No. 3 (the “**Rate and Method**”) and the Notice of Special Tax Lien are collectively referred to herein as the “**Formation Documents**”). Each of the Formation Documents remains in full force and effect as of the date hereof and has not been amended, except to the extent set forth therein. The Community Facilities District is duly organized and validly existing as a Community Facilities District under the laws of the State of California. The City has, and at the Closing Date will have, as the case may be, full legal right, power and authority: (i) to execute, deliver and perform its obligations under the Fiscal Agent Agreement and this Purchase Agreement, and to carry out all transactions contemplated by each of such agreements; (ii) to issue, sell and deliver its Bonds to the Underwriter; (iii) to enter into the Continuing Disclosure Certificate; and (iv) to carry out, give effect to and consummate the transactions contemplated by the Formation Documents, the Fiscal Agent Agreement, the Continuing Disclosure Certificate, this Purchase Agreement, the Bonds and the Official Statement.

This Purchase Agreement, the Fiscal Agent Agreement, the Bonds and the Continuing Disclosure Certificate are collectively referred to herein as the “**City Documents**.”

B. The City has complied, and will at the Closing Date be in compliance in all material respects, with the Formation Documents and the City Documents, and any immaterial noncompliance by the City, if any, will not impair the ability of the City to carry out, give effect to or consummate the transactions contemplated by the foregoing. From and after the date of issuance of the Bonds, the City will continue to comply with the covenants of the City contained in the City Documents.

C. Except as described in the Preliminary Official Statement, the City is not, in any respect material to the transactions referred to herein or contemplated hereby, in breach of or in default under, any law or administrative rule or regulation of the State of California, the United States of America, or of any department, division, agency or instrumentality of either thereof, or under any applicable court or administrative decree or order, or under any loan agreement, note, resolution, indenture, contract, agreement or other instrument to which the City is a party or is otherwise subject or bound, and the execution and delivery and the performance of its obligations under the City Documents and compliance with the provisions of each thereof, or the performance of the conditions precedent to be performed by the City pursuant to the City Documents, will not conflict with or constitute a breach of or default under any applicable law or administrative rule or regulation of the State, the United States of America, or of any department, division, agency or instrumentality of either thereof, or under any applicable court or administrative decree or order, or under any loan agreement, note, resolution, indenture, contract, agreement or other instrument to which the City is a party or is otherwise subject or bound, in any manner that would materially and adversely affect the performance by the City of its obligations under the City Documents or the performance of the conditions precedent to be performed by the City pursuant to the City Documents.

D. Except as may be required under the “blue sky” or other securities laws of any jurisdiction, all approvals, consents, authorizations, elections and orders of, or filings or registrations with, any governmental authority, board, agency or commission having jurisdiction which would constitute a condition precedent to, or the absence of which would materially adversely affect, the performance by the City of its obligations under the City Documents, have been or will be obtained at the Closing Date and are or will be in full force and effect at the Closing Date.

E. The City Documents conform as to form and tenor to the descriptions thereof contained in the Official Statement.

F. The Bonds are payable from the Special Tax Revenues generated by the levy of special taxes in Improvement Area No. 3 (the “**Special Taxes**”), as set forth in the Fiscal Agent Agreement. The levy of the Special Taxes has been duly and validly authorized pursuant to the Act and, subject to the maximum rate of Special Taxes in the Rate and Method and the application of the Special Tax Revenues as set forth in the Fiscal Agent Agreement, the levy of the Special Taxes within Improvement Area No. 3 will be fixed and levied in an amount which, together with other available funds, is required for the payment of the principal of, and interest on, the Bonds when due and payable, all as provided in the Fiscal Agent Agreement. The City has covenanted in the Fiscal Agent Agreement to cause the Special Taxes to be levied and collected at the same time and in the same manner as ordinary *ad valorem* property taxes.

G. The Fiscal Agent Agreement creates a valid pledge of, first lien upon and security interest in, the Special Tax Revenues, and in the moneys in the Special Tax Fund established pursuant to the Fiscal Agent Agreement, on the terms and conditions set forth in the Fiscal Agent Agreement.

H. Except as disclosed in the Preliminary Official Statement, or will be disclosed in the Official Statement, there are, to the best of the City’s knowledge, no entities with outstanding assessment liens against any of the properties within Improvement Area No. 3 or which are senior to or on a parity with the Special Taxes referred to in paragraph (G) hereof.

I. The information contained in the Preliminary Official Statement and in the Official Statement (other than statements therein pertaining to DTC and its book-entry system and under the caption “OWNERSHIP AND DEVELOPMENT OF IMPROVEMENT AREA NO. 3,” as to which no view is expressed) does not and shall not contain any untrue or misleading statement of a material fact or omit to state

any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; and, upon delivery and up to and including 25 days after the End of the Underwriting Period (as defined in paragraph (J) below), the Official Statement will be amended and supplemented so as to contain no misstatement of any material fact or omission of any statement necessary to make the statements contained therein, in the light of the circumstances in which such statements were made, not misleading.

J. Up to and including 25 days after the End of the Underwriting Period, the City will advise the Underwriter promptly of any proposal to amend or supplement the Official Statement and will not effect or consent to any such amendment or supplement without the consent of the Underwriter, which consent will not be unreasonably withheld. The City will advise the Underwriter promptly of the institution of any proceedings known to it by any governmental agency prohibiting or otherwise materially affecting the use of the Official Statement in connection with the offering, sale or distribution of the Bonds. As used herein, the term “**End of the Underwriting Period**” means the later of such time as: (i) the Bonds are delivered to the Underwriter; or (ii) the Underwriter does not retain, directly or as a member of an underwriting syndicate, an unsold balance of the Bonds for sale to the public. Unless the Underwriter gives notice to the contrary, the End of the Underwriting Period shall be deemed to be the Closing Date. Any notice delivered pursuant to this provision shall be a written notice delivered to the City at or prior to the Closing Date, and shall specify a date (other than the Closing Date) to be deemed the “End of the Underwriting Period.”

K. At the time of acceptance hereof there is and as of the Closing there will be no action pending (notice of which has been served on the City) or to the best knowledge of the City threatened, in which any such action: (i) in any way questions the existence of the Community Facilities District or the titles of the officers of the City to their respective offices; (ii) affects, contests or seeks to prohibit, restrain or enjoin the issuance or delivery of the Bonds or the payment or collection of Special Tax Revenues or any amounts pledged or to be pledged to pay the principal of and interest on the Bonds, or in any way contests or affects the validity of the City Documents or the consummation of the transactions on the part of the City contemplated thereby; (iii) contests the exemption of interest on the Bonds from federal or State income taxation or contests the powers of the City or the Community Facilities District which may result in any material adverse change relating to the financial condition of the Community Facilities District; or (iv) contests the completeness or accuracy of the Preliminary Official Statement or the Official Statement or any supplement or amendment thereto or asserts that the Preliminary Official Statement or the Official Statement contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; and as of the time of acceptance hereof there is and, as of the Closing Date, there will be no basis for any action, suit, proceeding, inquiry or investigation of the nature described in clauses (i) through (iv) of this sentence.

L. Any certificate signed on behalf of the City by any officer or employee of the City authorized to do so shall be deemed a representation by the City to the Underwriter as to the statements made therein.

M. At or prior to the Closing, the City will have duly authorized, executed and delivered the Continuing Disclosure Certificate in substantially the form attached as Appendix E to the Official Statement. Except as disclosed in the Preliminary Official Statement, the City has not failed to comply in all respects with any previous undertakings with regard to the Rule to provide annual reports or notices of material events in the last five years.

N. The City will apply the proceeds of its Bonds in accordance with the Fiscal Agent Agreement.

O. Between the date of the Purchase Agreement and the date of Closing, the City will not offer or issue any bonds, notes or other obligations for borrowed money payable or secured by Special Taxes, except as previously disclosed to the Underwriter.

The execution and delivery of this Purchase Agreement by the City shall constitute a representation to the Underwriter that the representations contained in this Section 3 are true as of the date hereof.

4. **Conditions to the Obligations of the Underwriter.** The obligation of the Underwriter to accept delivery of and pay for the Bonds on the Closing Date shall be subject, at the option of the Underwriter, to the accuracy in all material respects of the representations on the part of the City contained herein, to the accuracy in all material respects of the statements of the officers and other officials of the City made in any certificates or other documents furnished pursuant to the provisions hereof, to the performance by the City of its obligations to be performed hereunder at or prior to the Closing Date and, to the following additional conditions:

A. At the Closing Date, the City Resolutions, the Formation Documents, and the City Documents shall be in full force and effect, and shall not have been amended, modified or supplemented, except as may have been agreed to in writing by the Underwriter, and there shall have been taken in connection therewith, with the issuance of the Bonds, and with the transactions contemplated thereby, and by this Purchase Agreement, all such actions as, in the opinion of Bond Counsel, shall be necessary and appropriate.

B. At the Closing Date, except as was described in the Official Statement, the City shall not be, in any respect material to the transactions referred to herein or contemplated hereby, in breach of or in default under, any law or administrative rule or regulation of the State of California, the United States of America, or of any department, division, agency or instrumentality of either thereof, or under any applicable court or administrative decree or order, or under any loan agreement, note, resolution, indenture, contract, agreement or other instrument to which the City is a party or is otherwise subject or bound, and the execution and delivery and the performance by the City of its obligations under the City Documents, the City Resolutions and any other instruments contemplated by any of such documents, and compliance with the provisions of each thereof, will not conflict with or constitute a breach of or default under any applicable law or administrative rule or regulation of the State of California, the United States of America, or of any department, division, agency or instrumentality of either thereof, or under any applicable court or administrative decree or order, or under any loan agreement, note, resolution, indenture, contract, agreement or other instrument to which the City is a party or is otherwise subject or bound, in any manner that would materially and adversely affect the performance by the City of its obligations under the City Documents or the City Resolutions.

C. The information contained in the Official Statement is, as of the Closing Date and as of the date of any supplement or amendment thereto pursuant hereto, true and correct in all material respects and does not, as of the Closing Date or as of the date of any supplement or amendment thereto, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

D. Between the date hereof and the Closing Date, the market price or marketability, at the initial offering prices set forth on the inside cover page of the Official Statement, of the Bonds shall not have been materially adversely affected, in the judgment of the Underwriter (evidenced by a written notice to the City terminating the obligation of the Underwriter to accept delivery of and pay for the Bonds), by reason of any of the following:

1. Legislation introduced in or enacted (or resolution passed) by the Congress of the United States of America or recommended to the Congress by the President of the United States, the Department of the Treasury, the Internal Revenue Service, or any member of Congress, or favorably reported for passage to either House of Congress by any committee of such House to which such legislation had been referred for consideration, or a decision rendered by a court established under Article III of the Constitution of the United States of America or by the Tax Court of the United States of America, or an order, ruling, regulation (final, temporary or proposed), press release or other form of notice issued or made by or on behalf of the Treasury Department of the United States of America or the Internal Revenue Service, with the purpose or effect, directly or indirectly, of imposing federal income taxation upon such interest as would be received by any owners of the Bonds beyond the extent to which such interest is subject to taxation as of the date hereof;

2. Legislation introduced in or enacted (or resolution passed) by the Congress or an order, decree or injunction issued by any court of competent jurisdiction, or an order, ruling, regulation (final, temporary or proposed), press release or other form of notice issued or made by or on behalf of the Securities and Exchange Commission, or any other governmental agency having jurisdiction of the subject matter, to the effect that obligations of the general character of the Bonds, including any or all underlying arrangements, are not exempt from registration under or other requirements of the Securities Act of 1933, as amended, or that the Fiscal Agent Agreement are not exempt from qualification under or other requirements of the Fiscal Agent Agreement Act of 1939, as amended, or that the issuance, offering or sale of obligations of the general character of the Bonds, including any or all underlying arrangements, as contemplated hereby or by the Official Statement or otherwise is or would be in violation of the federal securities laws as amended and then in effect;

3. A general suspension of trading in securities on the New York Stock Exchange, or a general banking moratorium declared by Federal, State of New York or State of California officials authorized to do so;

4. The introduction, proposal or enactment of any amendment to the Federal or California Constitutions or any action by any Federal or California court, legislative body, regulatory body or other authority materially adversely affecting the tax status of the City, its property, income, securities (or interest thereon), or the validity or enforceability of Special Taxes as contemplated by the Official Statement;

5. Any event occurring, or information becoming known which, in the judgment of the Underwriter, makes untrue in any material respect any statement or information contained in the Preliminary Official Statement or in the Official Statement, or has the effect that the Preliminary Official Statement or the Official Statement contains any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

6. Any national securities exchange, the Comptroller of the Currency, or any other governmental authority, shall impose as to the Bonds or obligations of the general character of the Bonds, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by, or the charge to the net capital requirements of, the Underwriter;

7. There shall have occurred any material outbreak or escalation of hostilities or other calamity or crisis the effect of which on the financial markets of the United States is such as to make it impracticable, in the judgment of the Underwriter, following consultation with the City, to sell the Bonds;

8. The filing or threat of an Action described Section 3.K hereof; or

9. Any proceeding shall have been commenced or be threatened in writing by the Securities and Exchange Commission against the City.

E. At or prior to the Closing Date, the Underwriter shall have received a counterpart original or certified copy of the following documents, in each case satisfactory in form and substance to the Underwriter:

1. The Official Statement, executed on behalf of the City by its Finance Director or other authorized officer;

2. The City Documents, duly executed and delivered by all parties thereto;

3. The City Resolutions, together with a certificate dated as of the Closing Date of the City Clerk to the effect that the City Resolutions are true, correct and complete copies of the City Resolutions duly adopted by the City Council;

4. The Formation Documents, together with a certificate dated as of the Closing Date of the City Clerk to the effect that the Formation Documents are true, correct and complete copies of the Formation Documents duly adopted by the City Council;

5. An unqualified approving opinion for the Bonds, dated the Closing Date and addressed to the City, of Bond Counsel, in substantially the form included as Appendix G to the Official Statement;

6. A supplemental opinion or opinions, dated the Closing Date and addressed to the Underwriter, of Bond Counsel, in substantially the form attached hereto as Exhibit D;

7. A letter of Disclosure Counsel addressed to the Underwriter, to the effect that, no facts have come to attention of Disclosure Counsel that have caused such counsel to believe that the Preliminary Official Statement, as of its date, or the Official Statement, as of its date and as of the Closing Date (except for the following items, which are expressly excluded from the scope of this sentence: any financial, statistical and demographic data or forecasts, numbers, charts, estimates, projections, assumptions or expressions of opinion, the appraisal and information regarding DTC and its book-entry only system, that is contained or incorporated by reference in the Official Statement and the appendices to the Official Statement) contained or contains any untrue statement of a material fact or omitted or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading;

8. A certificate dated the Closing Date and signed by an authorized representative of the City or an authorized designee, on behalf of the City to the effect that: (i) the representations made by the City contained in this Purchase Agreement are true and correct in all material respects on and as of the Closing Date with the same effect as if made on the Closing Date, provided that any references as to the Preliminary Official Statement shall be deemed to be to the Official Statement; (ii) to the best knowledge of such officer, no event has occurred since the date of the Official Statement which should be disclosed in the Official Statement for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein not misleading in any material respect; and (iii) the City has complied with all the agreements and satisfied all the conditions on its part to be satisfied under the City Documents prior to the Closing Date;

9. An opinion of the City Attorney of the City, dated the date of Closing and addressed to the Underwriter and the City, to the effect that:

a. The City is a municipal corporation, corporate and politic, duly organized and existing under the Constitution and laws of the State of California;

b. The City Resolutions and the Formation Documents have been duly adopted at a meeting of the City Council, which was called and held pursuant to law and with all public notice required by law and at which a quorum was present and acting throughout, and the City Resolutions and the Formation Documents are in full force and effect and have not been modified, amended, rescinded or repealed since the date of their adoption;

c. The City Documents and the Official Statement have been duly authorized, executed and delivered by the City and the City Documents constitute the legal, valid and binding obligations of the City enforceable against the City in accordance with their terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights, to the application of equitable principles where equitable remedies are sought and to the exercise of judicial discretion in appropriate cases;

d. To the best knowledge of such counsel, the execution and delivery of the City Documents and the Official Statement and compliance with the provisions thereof under the circumstances contemplated thereby: (a) do not in any material respect conflict with or constitute on the part of the City a breach of or default under any agreement or other instrument to which the City is a party or by which it is bound; and (b) do not and will not in any material respect or constitute on the part of the City a violation, breach of or default under any court order or consent decree to which the City is subject;

e. Except as may be stated in the Official Statement, there is no action, suit, proceeding or investigation before or by any court, public board or body pending (notice of which has been served on the City) or, to such counsel's knowledge, threatened wherein an unfavorable decision, ruling or finding would: (a) affect the creation, organization, existence or powers of the City or the Community Facilities District, or the titles of its members and officers to their respective offices; or (b) affect the validity of the City Documents, the City Resolutions or the Formation Documents, or restrain or enjoin the repayment of the Bonds or in any way contest or affect the validity of the City Documents, the City Resolutions or the Formation Documents, or contest the authority of the City to enter into or perform its obligations under any of the City Documents, the City Resolutions or the Formation Documents, or under which a determination adverse to the City would have a material adverse effect upon the financial condition or the revenues of the City or the Community Facilities District, questions the right of the City to use Special Tax Revenues for the repayment of the Bonds or affects in any manner the right or ability of the City to collect or pledge the Special Taxes levied within Improvement Area No. 3 for the repayment of the Bonds;

10. A transcript of all proceedings relating to the authorization, issuance, sale and delivery of the Bonds, including certified copies of the Fiscal Agent Agreement and all resolutions of the City relating thereto;

11. A certificate dated the Closing Date from Goodwin Consulting Group, Inc. addressed to the City and the Underwriter to the effect that: (i) the Special Taxes (after payment of estimated Administrative Expenses) if collected in the maximum amounts permitted pursuant to the Rate and Method as of the Closing Date would generate at least 110% of the annual debt service on the Bonds in each year, based on such assumptions and qualifications as shall be acceptable to the Underwriter; and (ii) the statements in the

Official Statement provided by Goodwin Consulting Group, Inc. concerning the Special Taxes and the Rate and Method and all information supplied by it for use in the Official Statement as of the date of the Official Statement and as of the Closing Date did not and do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading;

12. Certified copies of the general resolution of the Fiscal Agent authorizing the execution and delivery of certain documents by certain officers of the Fiscal Agent, which resolution authorizes the execution of the Fiscal Agent Agreement and the authentication of the Bonds;

13. A certificate of the Fiscal Agent, addressed to the Underwriter and the City dated the Closing Date, to the effect that: (i) the Fiscal Agent is authorized to carry out corporate trust powers, and have full power and authority to perform its duties under the Fiscal Agent Agreement; (ii) the Fiscal Agent is duly authorized to execute and deliver the Fiscal Agent Agreement, to accept the obligations created by the Fiscal Agent Agreement and to authenticate the Bonds pursuant to the terms of the Fiscal Agent Agreement; (iii) no consent, approval, authorization or other action by any governmental or regulatory authority having jurisdiction over the Fiscal Agent that has not been obtained is or will be required for the authentication of the Bonds or the consummation by the Fiscal Agent of the other transactions contemplated to be performed by the Fiscal Agent in connection with the authentication of the Bonds and the acceptance and performance of the obligations created by the Fiscal Agent Agreement; and (iv) to the best of its knowledge, compliance with the terms of the Fiscal Agent Agreement will not conflict with, or result in a violation or breach of, or constitute a default under, any loan agreement, trust agreement, bond, note, resolution or any other agreement or instrument to which the Fiscal Agent is a party or by which it is bound, or any law or any rule, regulation, order or decree of any court or governmental agency or body having jurisdiction over the Fiscal Agent or any of its activities or properties;

14. An opinion of counsel to the Fiscal Agent, dated the Closing Date, addressed to the Underwriter and the City to the effect that the Fiscal Agent is a national banking association duly organized and validly existing under the laws of the United States having full power and being qualified to enter into, accept and agree to the provisions of the Fiscal Agent Agreement, and that the Fiscal Agent Agreement has been duly authorized, executed and delivered by the Fiscal Agent and, assuming due execution and delivery by the other parties thereto, constitutes the legal, valid and binding obligation of the Fiscal Agent enforceable in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium and other laws affecting the enforcement of creditors' rights in general and except as such enforceability may be limited by the application of equitable principles if equitable remedies are sought;

15. A certificate of the City dated the Closing Date, in a form acceptable to Bond Counsel and the Underwriter, that the Bonds are not arbitrage bonds within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended;

16. An opinion of Stradling Yocca Carlson & Rauth, a Professional Corporation, counsel to the Underwriter ("**Underwriter's Counsel**"), dated the date of Closing and addressed to the Underwriter in form and substance acceptable to the Underwriter;

17. A closing certificate of Surland dated the Closing Date, substantially in the form attached as Appendix I to Exhibit B attached hereto;

18. A closing certificate of LS-Tracy LLC dated the Closing Date, substantially in the form attached as Appendix I to Exhibit C attached hereto;

19. A Continuing Disclosure Certificate (LS-Tracy LLC) (the “**LS-Tracy LLC Continuing Disclosure Certificate**”) executed by LS-Tracy LLC in substantially the form set forth in Appendix F to the Preliminary Official Statement, with such additional changes as may be agreed to by the Underwriter;

20. A letter or letters from counsel to LS-Tracy LLC, in form and substance acceptable to the Underwriter, dated the Closing Date and addressed to the Underwriter, regarding: (i) negative assurance with respect to the Preliminary Official Statement and Official Statement; and (ii) the validity and enforceability of the LS-Tracy LLC Continuing Disclosure Certificate; and

21. An executed copy of the Amended and Restated Acquisition Agreement, dated as of September 1, 2021, by and between the City and Surland.

22. Such additional legal opinions, certificates, instruments and other documents as the Underwriter may reasonably request to evidence the truth and accuracy, as of the date hereof and as of the Closing Date, of the material representations of the City contained herein, and of the statements and information contained in the Official Statement and the due performance or satisfaction by the City at or prior to the Closing of all agreements then to be performed and all conditions then to be satisfied by the City in connection with the transactions contemplated hereby and by the Fiscal Agent Agreement and the Official Statement.

If the City shall be unable to satisfy the conditions to the obligations of the Underwriter to purchase, accept delivery of and pay for the Bonds contained in this Purchase Agreement, or if the obligations of the Underwriter to purchase, accept delivery of and pay for the Bonds shall be terminated for any reason permitted by this Purchase Agreement, this Purchase Agreement shall terminate and neither the City nor the Underwriter shall be under any further obligation hereunder, except that the respective obligations of the Underwriter and the City set forth in Section 6 hereof shall continue in full force and effect.

5. **Conditions to the Obligations of the City.** The obligations of the City shall be subject to the satisfaction of the conditions contained in Section 4 of this Purchase Agreement.

6. **Expenses.** Whether or not the transactions contemplated by this Purchase Agreement are consummated, the Underwriter shall be under no obligation to pay, and the City shall pay only from the proceeds of the Bonds or any other legally available funds of the City or the Community Facilities District, but only as the City and such other party providing such services may agree, all expenses and costs of the City incident to the performance of its obligations in connection with the authorization, execution, sale and delivery of the Bonds to the Underwriter, including, without limitation, printing costs, initial fees of the Fiscal Agent, including fees and disbursements of their counsel, if any, fees and disbursements of Bond Counsel, Disclosure Counsel and other professional advisors employed by the City, costs of preparation, printing, signing, transportation, delivery and safekeeping of the Bonds and for expenses (included in the expense component of the spread) incurred by the Underwriter on behalf of the City’s employees which are incidental to implementing this Purchase Agreement, including, but not limited to, meals, transportation and lodging of those employees. The Underwriter shall pay all out-of-pocket expenses of the Underwriter, including, without limitation, advertising expenses, the California Debt and Investment Advisory Commission fee, CUSIP Services Bureau charges, regulatory fees imposed on new securities issuers and any and all other expenses incurred by the Underwriter in connection with the public offering and distribution of the Bonds, including fees of its counsel.

7. **Notices.** Any notice of other communication to be given to the City under this Purchase Agreement may be given by delivering the same in writing to the City of Tracy, 333 Civic Center Plaza, Tracy,

California 95376, Attention: Finance Director; any notice or other communication to be given to the Underwriter under this Purchase Agreement may be given by delivering the same in writing to Piper Sandler & Co, 3626 Fair Oaks Blvd., Suite 100, Sacramento, California 9864, Attention: Dennis McGuire.

8. **Parties In Interest.** This Purchase Agreement is made solely for the benefit of the City and the Underwriter (including any successors or assignees of the Underwriter) and no other person shall acquire or have any right hereunder or by virtue hereof.

9. **Survival of Representations.** The representations of the City under this Purchase Agreement shall not be deemed to have been discharged, satisfied or otherwise rendered void by reason of the Closing and regardless of any investigations made by or on behalf of the Underwriter (or statements as to the results of such investigations) concerning such representations and statements of the City and regardless of delivery of and payment for the Bonds.

10. **Execution in Counterparts.** This Purchase Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

11. **Effective.** This Purchase Agreement shall become effective and binding upon the respective parties hereto upon the execution of the acceptance hereof by the City and shall be valid and enforceable as of the time of such acceptance.

12. **No Prior Agreements.** This Purchase Agreement supersedes and replaces all prior negotiations, agreements and understanding among the parties hereto in relation to the sale of the Bonds by the City.

13. **Governing Law.** This Purchase Agreement shall be governed by the laws of the State of California.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

14. **Effective Date.** This Purchase Agreement shall become effective and binding upon the respective parties hereto upon the execution of the acceptance hereof by the City and shall be valid and enforceable as of the time of such acceptance.

Very truly yours,

PIPER SANDLER & CO.

By: _____
Its: Authorized Officer

Time of Execution: _____

CITY OF TRACY

By: _____
Karin Schnaider, Finance Director

EXHIBIT A

\$ _____

**IMPROVEMENT AREA NO. 3 OF THE CITY OF TRACY
COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD)
SPECIAL TAX BONDS, SERIES 2023**

**Schedule of Bond Maturities, Principal Amounts, Interest Rates, Yields
and Initial Offering Prices**

<i>Maturity Date (September 1)</i>	<i>Principal Amount</i>	<i>Interest Rate</i>	<i>Yield</i>	<i>Initial Offering Price</i>	<i>10% Test Used</i>	<i>Hold the Price Offering Rule Used</i>
--------------------------------------------	-----------------------------	--------------------------	--------------	---------------------------------------	--------------------------	------------------------------------------------------

^C Priced to the optional redemption date of September 1, 20__ at __%.

^T Term Bond.

Optional Redemption. The Bonds maturing on or after September 1, 20__, are subject to optional redemption as directed by the City, from sources of funds other than prepayments of Special Taxes, prior to their stated maturity on any date on or after September 1, 20__, as a whole or in part, at the redemption prices (expressed as a percentage of the principal amount of the Bonds to be redeemed) set forth below, together with accrued interest thereon to the date fixed for redemption:

<u>Redemption Dates</u>	<u>Redemption Price</u> %
September 1, 20__ through August 31, 20__	
September 1, 20__ through August 31, 20__	
September 1, 20__ through August 31, 20__	
September 1, 20__ and any date thereafter	

Mandatory Sinking Fund Redemption. The Bonds maturing on September 1, 20__, are subject to mandatory redemption in part by lot, from sinking fund payments made by the City from the Bond Fund, at a redemption price equal to the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts all as set forth in the following table:

Sinking Fund Redemption Date (September 1)	Sinking Fund Payments
	\$

(maturity)

The Bonds maturing on September 1, 20__, are subject to mandatory redemption in part by lot, from sinking fund payments made by the City from the Bond Fund, at a redemption price equal to the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts all as set forth in the following table:

Sinking Fund Redemption Date (September 1)	Sinking Fund Payments
	\$

(maturity)

The Bonds maturing on September 1, 20__, are subject to mandatory redemption in part by lot, from sinking fund payments made by the City from the Bond Fund, at a redemption price equal to the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts all as set forth in the following table:

Sinking Fund Redemption Date (September 1)	Sinking Fund Payments
	\$

(maturity)

Redemption from Special Tax Prepayments. Special Tax Prepayments and any corresponding transfers from the Reserve Fund under the Fiscal Agent Agreement will be used to redeem Bonds on the next Interest Payment Date for which notice of redemption can timely be given under the Fiscal Agent Agreement, among maturities so as to maintain substantially the same debt service profile for the Bonds as in effect prior to such redemption and by lot within a maturity, at a redemption price (expressed as a percentage of the

principal amount of the Bonds to be redeemed), as set forth below, together with accrued interest to the date fixed for redemption:

<u>Redemption Dates</u>	<u>Redemption Price</u>
Any Interest Payment Date on or before March 1, 20__	%
September 1, 20__ and March 1, 20__	
September 1, 20__ and March 1, 20__	
September 1, 20__ and any Interest Payment Date thereafter	

EXHIBIT B

**IMPROVEMENT AREA NO. 3 OF THE CITY OF TRACY
COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD)
SPECIAL TAX BONDS, SERIES 2023**

LETTER OF REPRESENTATIONS OF SURLAND COMMUNITIES LLC

_____, 2023

City of Tracy
333 Civic Center Plaza
Tracy, California 95376

Piper Sandler & Co.
3626 Fair Oaks Blvd., Suite 100
Sacramento, California 95864

Ladies and Gentlemen:

Reference is made to the Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD) Special Tax Bonds, Series 2023 (the “**Bonds**”) and to the Bond Purchase Agreement, (the “**Purchase Agreement**”) by and between the City of Tracy (the “**City**”) and Piper Sandler & Co. (the “**Underwriter**”), to be entered into in connection therewith. This Letter of Representations of Surland Communities LLC (the “**Letter of Representations**”) is delivered pursuant to the Purchase Agreement. Capitalized terms that are used herein and not otherwise defined have the meanings ascribed to them in the Purchase Agreement.

The undersigned certifies that the undersigned is familiar with the facts herein and is authorized and qualified to certify the same as an authorized officer or representative of Surland Communities LLC, a California limited liability company (the “**Surland**”), and the undersigned, on behalf of Surland, further certifies as follows:

1. Surland is duly organized and validly existing under the laws of the State of California, and has all requisite right, power and authority: (i) to execute and deliver this Letter of Representations; (ii) to perform its obligations under the Amended and Restated Master Acquisition Agreement, dated as of September 1, 2021 (the “**Acquisition Agreement**”), by and between Surland and the City; and (iii) to develop the master-planned community known as the “**Ellis Development**,” including the portion thereof located in the City of Tracy Community Facilities District No. 2016-2 (ECFD) (the “**Community Facilities District**”) as described in the Preliminary Official Statement.

2. Except as set forth in the Preliminary Official Statement, no action, suit, proceeding, inquiry or investigation at law or in equity, before or by any court, regulatory agency, public board or body is pending against Surland (with proper service of process to Surland having been accomplished) or, to the Actual

Knowledge of the Undersigned,¹ is pending against any current Affiliate² (with proper service of process to such Affiliate having been accomplished) or to the Actual Knowledge of the Undersigned is overtly threatened in writing against Surland or any such Affiliate: (a) to restrain or enjoin the collection of Special Taxes or other sums pledged or to be pledged to pay the principal of and interest on the Bonds (e.g., the 2023 Reserve Fund established under the Fiscal Agent Agreement); (b) to restrain or enjoin the performance by Surland of its obligations under the Acquisition Agreement; (c) to restrain or enjoin the development of the property within Improvement Area No. 3 of the Community Facilities District as described in the Preliminary Official Statement; (d) in any way contesting or affecting the validity of the Special Taxes; or (e) which is reasonably likely to materially and adversely affect Surland's or its Affiliates' ability to develop the remainder of the Ellis Development as described in the Preliminary Official Statement.

3. As of the date of the Preliminary Official Statement, to the Actual Knowledge of the Undersigned, the information that is contained therein solely with respect to Surland, its Affiliates, and the remainder of the Ellis Development as set forth under the captions of the Preliminary Official Statement entitled "OWNERSHIP AND DEVELOPMENT OF IMPROVEMENT AREA NO 3 – The Ellis Project," "*–Improvement Area No. 1,*" "*–Improvement Area No. 2,*" "*–Future Annexation Area,*" "*–Surland Communities LLC,*" and "*–Development Plan of the Developer*" (excluding therefrom in all cases information regarding LS-Tracy LLC, its development, information regarding market value ratios and annual special tax ratios, and information which is identified as having been provided by a source other than Surland), is true and correct in all material respects and did not contain any untrue statement of a material fact or omit to state a material fact that is necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

4. If between the date hereof and the Closing Date any event relating to or affecting Surland, its Affiliates, and the remainder of the Ellis Development shall occur of which Surland has actual knowledge which would cause the information under the captions of the Preliminary Official Statement that are described in Paragraph 3 (and subject to the limitations and exclusions contained in Paragraph 3) hereof to contain an untrue statement of a material fact or to omit to state a material fact that is necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, Surland shall notify the City and the Underwriter. If in the reasonable opinion of counsel to the City or the Underwriter such event requires the preparation and publication of a supplement or amendment to the Preliminary Official Statement,

¹ "**Actual Knowledge of the Undersigned**" means the knowledge that the individual signing on behalf of Surland currently has as of the date of this Letter of Representations or has obtained through: (i) interviews with such current officers and responsible employees of Surland and its Affiliates as the undersigned has determined are reasonably likely, in the ordinary course of their respective duties, to have knowledge of the matters that are set forth in this Letter of Representations; and/or (ii) review of documents that were reasonably available to the undersigned and which the undersigned has reasonably deemed necessary in order for the undersigned to obtain knowledge of the matters that are set forth in this Letter of Representations. The undersigned has not conducted any extraordinary inspection or inquiry other than such inspections or inquiries as are prudent and customary in connection with the ordinary course of Surland's current business and operations. Surland has not consulted with any former employees of Surland.

² "**Affiliate**" means, with respect to Surland, any other Person: (i) who directly, or indirectly through one or more intermediaries, is currently controlling, controlled by or under common control with Surland; and (ii) for whom information, including financial information or operating data, concerning such Person is material to potential investors in their evaluation of the Improvement Area and investment decision regarding the Bonds (i.e., information relevant to: (a) Surland, its Affiliates, and the remainder of the Ellis Development; or (b) such Person's assets or funds that would materially affect Surland, its Affiliates, and the remainder of the Ellis Development. "**Person**" means an individual, a corporation, a partnership, a limited liability company, an association, a joint stock company, a trust, any unincorporated organization or a government or political subdivision thereof. For purposes hereof, the term "**control**" (including the terms "**controlling,**" "**controlled by**" or "**under common control with**") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

Surland shall reasonably cooperate with the City in the preparation of an amendment or supplement to the Preliminary Official Statement in form and substance that is reasonably satisfactory to counsel to the City and to the Underwriter.

5. Surland agrees to deliver a Closing Certificate dated the date of issuance of the Bonds at the time of issuance of the Bonds in substantially the form attached hereto as Appendix 1.

The undersigned has executed this Letter of Representations solely in the undersigned's capacity as an officer or authorized representative of Surland and the undersigned will have no personal liability arising from or relating to this Letter of Representations.

SURLAND COMMUNITIES LLC,
a California limited liability company

By: _____

Name: _____

Title: _____

APPENDIX 1 to EXHIBIT B

\$ _____

**IMPROVEMENT AREA NO. 3 OF THE CITY OF TRACY
COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD)
SPECIAL TAX BONDS, SERIES 2023**

CLOSING CERTIFICATE OF SURLAND COMMUNITIES LLC

_____, 2023

City of Tracy
333 Civic Center Plaza
Tracy, California 95376

Piper Sandler & Co.
3626 Fair Oaks Blvd., Suite 100
Sacramento, California 95864

Ladies and Gentlemen:

Reference is made to the Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD) Special Tax Bonds, Series 2023 (the “**Bonds**”) and to the Bond Purchase Agreement, dated _____, 2023 (the “**Purchase Agreement**”), by and between the City of Tracy and Piper Sandler & Co., entered into in connection therewith. This Closing Certificate of Surland Communities LLC (the “**Closing Certificate**”) is delivered by Surland Communities LLC, a California limited liability company (“**Surland**”), pursuant to the Purchase Agreement. Capitalized terms that are used herein and not otherwise defined have the meanings ascribed to them in the Letter of Representations of Surland Communities LLC dated _____, 2023 (the “**Letter of Representations**”), delivered by Surland.

The undersigned certifies that the undersigned is familiar with the facts herein certified and is authorized and qualified to certify the same as an authorized officer or representative of Surland. The undersigned, on behalf of Surland, further certifies as follows:

1. Surland has received the final Official Statement relating to the Bonds (the “**Final Official Statement**”). To the Actual Knowledge of the Undersigned, each statement, representation and warranty that was made in the Letter of Representations is true and correct in all material respects on and as of the date hereof with the same effect as if made on the date hereof, except that all references therein to the Preliminary Official Statement shall be deemed to be references to the Final Official Statement.

2. To the Actual Knowledge of the Undersigned, no event has occurred since the date of the Preliminary Official Statement which affects the statements and information that are described in Paragraph 3 of the Letter of Representations (and subject to the limitations and exclusions contained in Paragraph 3 of the Letter of Representations) relating to Surland, its Affiliates, and the remainder of the Ellis Development which should be disclosed in the Final Official Statement for the purposes for which it is to be used in order to make such statements and information that are contained in the Final Official Statement not misleading in any material respect.

3. For the period through 25 days after the “**end of the underwriting period**” (as such term is defined in the Purchase Agreement to mean the date hereof), if any event that relates to or affects Surland, its Affiliates, or the remainder of the Ellis Development shall occur as a result of which it is necessary, in the opinion of the Underwriter or counsel to the City, to amend or supplement the Final Official Statement in order to make the information under the captions of the Final Official Statement that are described in Paragraph 3 of the Letter of Representations (and subject to the limitations and exclusions contained in Paragraph 3 of the Letter of Representations) not misleading, in the light of the circumstances under which they were made, Surland shall reasonably cooperate with the City and the Underwriter in the preparation of an amendment or supplement to the information described in the captions of the Final Official Statement that are described in Paragraph 3 of the Letter of Representations (and subject to the limitations and exclusions contained in Paragraph 3 of the Letter of Representations). Such amendment or supplement shall be in form and substance satisfactory to the Underwriter and counsel to the Community Facilities District and shall amend or supplement the Final Official Statement so that it will not contain an untrue statement of a material fact or omit to state a material fact that is necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

4. The undersigned has executed this Closing Certificate solely in the undersigned’s capacity as an officer or authorized representative of Surland and the undersigned will have no personal liability arising from or relating to this Closing Certificate.

EXHIBIT C

**IMPROVEMENT AREA NO. 3 OF THE CITY OF TRACY
COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD)
SPECIAL TAX BONDS, SERIES 2023**

LETTER OF REPRESENTATIONS OF LS-TRACY LLC

_____, 2023

City of Tracy
333 Civic Center Plaza
Tracy, California 95376

Piper Sandler & Co.
3626 Fair Oaks Blvd., Suite 100
Sacramento, California 95864

Ladies and Gentlemen:

Reference is made to the Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD) Special Tax Bonds, Series 2023 (the “**Bonds**”) and to the Bond Purchase Agreement (the “**Purchase Agreement**”), by and between the City of Tracy (the “**City**”) and Piper Sandler & Co. (the “**Underwriter**”), to be entered into in connection therewith. This Letter of Representations of LS-Tracy LLC (the “**Letter of Representations**”) is delivered pursuant to the Purchase Agreement. Capitalized terms that are used herein and not otherwise defined have the meanings ascribed to them in the Purchase Agreement.

The undersigned certifies that the undersigned is familiar with the facts herein and is authorized and qualified to certify the same as an authorized officer or representative of by LS-Tracy LLC, a Delaware limited liability company (“**LS-Tracy LLC**”), and the undersigned, on behalf of LS-Tracy LLC, further certifies as follows:

1. LS-Tracy LLC is duly organized and validly existing under the laws of the State of Delaware, and has all requisite right, power and authority: (i) to execute and deliver this Letter of Representations and (ii) to complete the development on its property in Improvement Area No. 3 (the “**Improvement Area**”) of City of Tracy Community Facilities District No. 2016-2 (ECFD) (the “**Community Facilities District**”) as described in the Preliminary Official Statement.

2. LS-Tracy LLC agrees to execute at Closing a Continuing Disclosure Certificate (LS-Tracy LLC) (the “**LS-Tracy LLC Continuing Disclosure Certificate**”) in substantially the form set forth in Appendix F to the Preliminary Official Statement, with such additional changes as may be agreed to by the Underwriter.

3. As set forth in the Preliminary Official Statement, title to a certain portion of the property within the Improvement Area is held in the name of LS-Tracy LLC or certain of its Affiliates¹ (the

¹ As used in this Letter of Representations, the term “**Affiliate**” means, with respect to LS-Tracy LLC, any other Person: (i) who directly, or indirectly through one or more intermediaries, is currently controlling, controlled by or under common control with LS-

“**Property**”). The undersigned, on behalf of LS-Tracy LLC, makes the representations herein with respect to all such Property. Except as otherwise described in the Preliminary Official Statement, LS-Tracy LLC is, and LS-Tracy LLC’s current expectations are that LS-Tracy LLC shall remain, the party responsible for the development of the Property. LS-Tracy LLC has not entered into an agreement for development or management of the Property by any other entity, except for such subcontracts, consultant agreements and similar agreements for land development activities associated with LS-Tracy LLC’s development plan as are entered into in the ordinary course of business.

4. Except as set forth in the Preliminary Official Statement, no action, suit, proceeding, inquiry or investigation at law or in equity, before or by any court, regulatory agency, public board or body is pending against LS-Tracy LLC (with proper service of process to LS-Tracy LLC having been accomplished) or, to the Actual Knowledge of the Undersigned², is pending against any current Affiliate (with proper service of process to such Affiliate having been accomplished) or to the Actual Knowledge of the Undersigned is threatened in writing against LS-Tracy LLC or any such Affiliate: (a) to restrain or enjoin the collection of Special Taxes or other sums pledged or to be pledged to pay the principal of and interest on the Bonds (e.g., the Reserve Fund established under the Fiscal Agent Agreement); (b) to restrain or enjoin the development of the Property as described in the Preliminary Official Statement; (c) in any way contesting or affecting the validity of the Special Taxes; or (d) which is reasonably likely to materially and adversely affect LS-Tracy LLC’s ability to complete the development and sale of the Property as described in the Preliminary Official Statement or to pay the Special Taxes due with respect to the Property prior to delinquency.

5. As of the date of the Preliminary Official Statement, to the Actual Knowledge of the Undersigned, the information that is contained therein solely with respect to LS-Tracy LLC, its Affiliates, the proposed development of the Property, ownership of the Property, LS-Tracy LLC’s development plan, LS-Tracy LLC’s financing plan, LS-Tracy LLC’s lenders, if any, and contractual arrangements of LS-Tracy LLC or any Affiliates (including, if material to LS-Tracy LLC’s development plan or LS-Tracy LLC’s financing plan, other loans of such Affiliates) as set forth under the captions of the Preliminary Official Statement entitled “OWNERSHIP AND DEVELOPMENT OF IMPROVEMENT AREA NO. 3” and “CONTINUING DISCLOSURE—LS-Tracy LLC Continuing Disclosure” (excluding therefrom in all cases (i) information about Surland Communities LLC or its property ownership or development in the Community Facilities

Tracy LLC; and (ii) for whom information, including financial information or operating data, concerning such Person is material to potential investors in their evaluation of the Improvement Area and investment decision regarding the Bonds (i.e., information relevant to: (a) LS-Tracy LLC’s development plans with respect to the Property and ability to pay its Special Taxes on the Property prior to delinquency; or (b) such Person’s assets or funds that would materially affect LS-Tracy LLC’s ability to develop the Property as described in the Preliminary Official Statement or to pay its Special Taxes on the Property prior to delinquency). “**Person**” means an individual, a corporation, a partnership, a limited liability company, an association, a joint stock company, a trust, any unincorporated organization or a government or political subdivision thereof. For purposes hereof, the term “**control**” (including the terms “controlling,” “controlled by” or “under common control with”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

² As used in this Letter of Representations, the phrase “**Actual Knowledge of the Undersigned**” means the actual (as opposed to constructive) knowledge that the individual signing on behalf of LS-Tracy LLC currently has as of the date of this Letter of Representations or has obtained through: (i) interviews with such current officers and responsible employees of LS-Tracy LLC as the undersigned has determined are reasonably likely, in the ordinary course of their respective duties, to have knowledge of the matters that are set forth in this Letter of Representations; and/or (ii) review of documents that were reasonably available to the undersigned and which the undersigned has reasonably deemed necessary in order for the undersigned to obtain knowledge of the matters that are set forth in this Letter of Representations. The undersigned has not conducted any extraordinary inspection or inquiry other than such inspections or inquiries as are prudent and customary in connection with the ordinary course of LS-Tracy LLC’s current business and operations. The undersigned has not contacted any individuals who are no longer employed by, or associated with, LS-Tracy LLC.

District; (ii) information regarding market value and annual special tax rates and ratios; and (iii) information which is identified as having been provided by a source other than LS-Tracy LLC), is true and correct in all material respects and did not contain any untrue statement of a material fact or omit to state a material fact that is necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

6. If between the date hereof and the Closing Date any event relating to or affecting LS-Tracy LLC, its Affiliates, the proposed development of the Property, ownership of the Property, LS-Tracy LLC's development plan, LS-Tracy LLC's financing plan, LS-Tracy LLC's lenders, if any, and contractual arrangements of LS-Tracy LLC or any Affiliates (including, if material to LS-Tracy LLC's development plan or LS-Tracy LLC's financing plan, other loans of such Affiliates) shall occur of which LS-Tracy LLC has actual knowledge which would cause the information under the captions of the Preliminary Official Statement that are described in Paragraph 5 (and subject to the limitations and exclusions contained in Paragraph 5) hereof to contain an untrue statement of a material fact or to omit to state a material fact that is necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, LS-Tracy LLC shall notify the City and the Underwriter. If in the reasonable opinion of counsel to the City or the Underwriter such event requires the preparation and publication of a supplement or amendment to the Preliminary Official Statement, LS-Tracy LLC shall reasonably cooperate with the City in the preparation of an amendment or supplement to the Preliminary Official Statement in form and substance that is reasonably satisfactory to counsel to the City and to the Underwriter.

7. LS-Tracy LLC agrees to deliver a Closing Certificate dated the date of issuance of the Bonds at the time of issuance of the Bonds in substantially the form attached as Appendix 1.

The undersigned has executed this Letter of Representations solely in the undersigned's capacity as an authorized officer or representative of LS-Tracy LLC and the undersigned will have no personal liability arising from or relating to this Letter of Representations.

LS-TRACY LLC,
a Delaware limited liability company

By:

Name:

Title:

APPENDIX 1 to EXHIBIT C

**IMPROVEMENT AREA NO. 3 OF THE CITY OF TRACY
COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD)
SPECIAL TAX BONDS, SERIES 2023**

CLOSING CERTIFICATE OF LS-TRACY LLC

_____, 2023

City of Tracy
333 Civic Center Plaza
Tracy, California 95376

Piper Sandler & Co.
3626 Fair Oaks Blvd., Suite 100
Sacramento, California 95864

Ladies and Gentlemen:

Reference is made to the Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD) Special Tax Bonds, Series 2023 (the “**Bonds**”) and to the Bond Purchase Agreement, dated _____, 2023 (the “**Purchase Agreement**”), by and between the City of Tracy and Piper Sandler & Co., entered into in connection therewith. This Closing Certificate of LS-Tracy LLC (the “**Closing Certificate**”) is delivered by LS-Tracy LLC, a Delaware limited liability company (“**LS-Tracy LLC**”), pursuant to the Purchase Agreement. Capitalized terms that are used herein and not otherwise defined have the meanings ascribed to them in the Letter of Representations of LS-Tracy LLC dated _____, 2023 (the “**Letter of Representations**”), delivered by LS-Tracy LLC.

The undersigned certifies that the undersigned is familiar with the facts herein certified and is authorized and qualified to certify the same as an authorized officer or representative of LS-Tracy LLC. The undersigned, on behalf of LS-Tracy LLC, further certifies as follows:

1. LS-Tracy LLC has received the final Official Statement relating to the Bonds dated _____, 2023 (the “**Final Official Statement**”). To the Actual Knowledge of the Undersigned, each statement, representation and warranty that was made in the Letter of Representations is true and correct in all material respects on and as of the date hereof with the same effect as if made on the date hereof, except that all references therein to the Preliminary Official Statement shall be deemed to be references to the Final Official Statement.

2. LS-Tracy LLC has duly authorized, executed and delivered LS-Tracy LLC Continuing Disclosure Certificate.

3. To the Actual Knowledge of the Undersigned, no event has occurred since the date of the Preliminary Official Statement which materially affects the statements and information that are described in Paragraph 5 of the Letter of Representations (and subject to all limitations and exclusions contained in Paragraph 5 of the Letter of Representations) relating to LS-Tracy LLC, its ownership of the Property, LS-Tracy LLC’s development plan, LS-Tracy LLC’s financing plan and contractual arrangements of LS-Tracy LLC which should be disclosed in the Final Official Statement for the purposes for which it is to be used in

order to make such statements and information that are contained in the Final Official Statement not misleading in any material respect.

4. For the period through 25 days after the “**end of the underwriting period**” (as such term is defined in the Purchase Agreement), if any event that relates to or affects LS-Tracy LLC, its ownership of the Property, LS-Tracy LLC’s development plan, LS-Tracy LLC’s financing plan and contractual arrangements of LS-Tracy LLC shall occur as a result of which it is necessary, in the opinion of the Underwriter or counsel to the City, to amend or supplement the Final Official Statement in order to make the information under the captions of the Final Official Statement that are described in Paragraph 5 of the Letter of Representations (and subject to all limitations and exclusions contained in Paragraph 5 of the Letter of Representations) not misleading, in the light of the circumstances under which they were made, LS-Tracy LLC shall reasonably cooperate with the City and the Underwriter in the preparation of an amendment or supplement to the information described in the captions of the Final Official Statement that are described in Paragraph 5 of the Letter of Representations (and subject to all limitations and exclusions contained in Paragraph 5 of the Letter of Representations). Such amendment or supplement shall be in form and substance reasonably satisfactory to the Underwriter and counsel to the Community Facilities District and shall amend or supplement the Final Official Statement so that it will not contain an untrue statement of a material fact or omit to state a material fact that is necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

The undersigned has executed this Closing Certificate solely in the undersigned’s capacity as an authorized officer or representative of LS-Tracy LLC and the undersigned will have no personal liability arising from or relating to this Closing Certificate.

LS-TRACY LLC,
a Delaware limited liability company

By:

Name:

Title:

EXHIBIT D

SUPPLEMENTAL OPINION OF BOND COUNSEL

_____, 2023

Piper Sandler & Co.
3626 Fair Oaks Blvd., Suite 100
Sacramento, California 95864

\$ _____
Improvement Area No. 3 of the City of Tracy
Community Facilities District No. 2016-2 (ECFD)
Special Tax Bonds, Series 2023

(Supplemental Opinion)

Ladies and Gentlemen:

We have acted as bond counsel in connection with the issuance by the City of Tracy (the “**City**”) of the above-referenced bonds (the “**Bonds**”) pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, being sections 53311 et seq. of the California Government Code (the “**Law**”), Resolution No. _____, adopted on _____, 2023 (the “**Resolution**”) and a Fiscal Agent Agreement (the “**Fiscal Agent Agreement**”), dated as of _____ 1, 2023, by and between the City, for and on behalf of the City of Tracy Community Facilities District No. 2016-2 (ECFD) (the “**District**”), and U.S. Bank Trust Company, National Association, as fiscal agent. Capitalized terms used herein but not defined have the meaning given them in the Bond Purchase Agreement, dated _____, 2023 (the “**Purchase Agreement**”), by and between Piper Sandler & Co., as underwriter (the “**Underwriter**”), and the City, acting for and on behalf of the District.

We have examined the Fiscal Agent Agreement, the Purchase Agreement, and the Continuing Disclosure Certificate, dated _____, 2023 (the “**Continuing Disclosure Certificate**”), executed and delivered by the City and agreed and accepted by Goodwin Consulting Group, Inc., as dissemination agent, (collectively, the “**City Documents**”), the Law and such certified proceedings and other papers as we deem necessary to render this opinion.

This letter is being delivered in our capacity as bond counsel to the City and not as counsel to the Underwriter.

As to questions of fact material to our opinion, we have relied upon representations of the City contained in the Resolution, the Fiscal Agent Agreement and the certified proceedings and certifications of public officials and others furnished to us without undertaking to verify the same by independent investigation.

Based upon the foregoing, we are of the opinion, under existing law, as follows:

(i) the Purchase Agreement has been duly authorized, executed and delivered by the City, and, assuming the Purchase Agreement constitutes the valid and binding obligation of the Underwriter,

constitutes the legally valid and binding obligation of the City enforceable in accordance with its terms, except as enforcement may be limited by bankruptcy, moratorium, insolvency or other laws affecting creditors' rights or remedies and general principles of equity (regardless of whether such enforceability is considered in equity or at law);

(ii) the Bonds are exempt from registration pursuant to the Securities Act of 1933, as amended, and the Fiscal Agent Agreement is exempt from qualification under the Trust Indenture Act of 1939, as amended; and

(iii) the information contained in the Official Statement on the cover and under the captions "INTRODUCTION," "THE 2023 BONDS," "SECURITY FOR THE 2023 BONDS," "LEGAL MATTERS" and Appendices C and G thereof (except that no opinion or belief is expressed as to any financial or statistical data contained therein), insofar as it purports to summarize certain provisions of the Act, the Bonds, the Fiscal Agent Agreement and the exclusion from gross income for federal income tax purposes and exemption from State personal income taxes of interest on the Bonds, presents a fair and accurate summary of such provisions.

The preceding paragraph is not an opinion but constitutes negative observations based on certain limited activities performed by specific lawyers in our firm in our role as special disclosure counsel to the City. The scope of the activities we performed for purposes of delivering this letter was inherently limited and does not purport to encompass all activities necessary for compliance with applicable securities laws. In addition, in performing those activities, we relied on third party representations, warranties, certifications and opinions, including and primarily, representations, warranties and certifications made by the City. The preceding paragraph is otherwise subject to the conditions set forth herein.

This opinion letter is solely for your benefit in connection with the transaction covered by the first paragraph of this letter and may not be relied upon, used, circulated, quoted or referred to, nor any copies hereof be delivered to, any other person without our prior written approval.

Very truly yours,

JONES HALL, a Professional Law Corporation

EXHIBIT E

\$ _____

**IMPROVEMENT AREA NO. 3 OF THE CITY OF TRACY
COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD)
SPECIAL TAX BONDS, SERIES 2023**

CERTIFICATE OF APPRAISER

_____, 2023

City of Tracy
333 Civic Center Plaza
Tracy, California 95376

Piper Sandler & Co.
3626 Fair Oaks Blvd., Suite 100
Sacramento, California 95864

The undersigned hereby states and certifies:

1. That he is an authorized principal of Integra Realty Resources (the “**Appraiser**”) and as such is familiar with the facts herein certified and is authorized and qualified to certify the same.

2. That the Appraiser has prepared an appraisal report, dated [December 12, 2022] (the “**Appraisal Report**”), on behalf of the City of Tracy (the “**City**”) in connection with the Preliminary Official Statement, dated _____, 2023 (the “**Preliminary Official Statement**”) and the Official Statement dated _____, 2023 (“**Official Statement**”), for the Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD) Special Tax Bonds, Series 2023 (the “**Bonds**”).

3. That the Appraiser hereby consents to the reproduction and use of the Appraisal Report appended to the Preliminary Official Statement and the Official Statement. The Appraiser also consents to the references to the Appraiser and the Appraisal Report made in the Preliminary Official Statement and the Official Statement.

4. In the opinion of the Appraiser the assumptions made in the Appraisal Report are reasonable. Since the date of value of the Appraisal Report, the Appraiser is not aware of any facts that would cause its opinion of value of the taxable property in the Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD) (the “**Improvement Area**”) to be lower than the value in the Appraisal.

5. Each of the parcels appraised by the Appraiser is encompassed within the Improvement Area as set forth in the boundary map of the Improvement Area.

6. That, as of the date of the Official Statement and as of the date hereof, the Appraisal Report appended to the Official Statement, to the best of my knowledge and belief, and subject to all

of the Assumptions and Limiting Conditions set forth in the Appraisal Report, does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein, in the light of the circumstances under which they were made, not misleading, and no events or occurrences have been ascertained by us or have come to our attention that would substantially change the estimated values stated in the Appraisal Report. However, we have not performed any procedures since the date of the Appraisal Report to obtain knowledge of such events or occurrences nor are we obligated to do so in the future.

7. The City and the Underwriter, Piper Sandler & Co., are entitled to rely on this Certificate.

INTEGRA REALTY RESOURCES

By: _____
Authorized Representative

EXHIBIT F

\$ _____

**IMPROVEMENT AREA NO. 3 OF THE CITY OF TRACY
COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD)
SPECIAL TAX BONDS, SERIES 2023**

FORM OF ISSUE PRICE CERTIFICATE

The undersigned, on behalf of Piper Sandler & Co. (the “PSC”), hereby certifies as set forth below with respect to the sale and issuance of the above-captioned bonds (the “Bonds”).

1. ***Sale of the General Rule Maturities.*** As of the date of this certificate, for each Maturity of the General Rule Maturities, the first price at which at least 10% of such Maturity was sold to the Public is the respective price listed in Schedule A.

2. ***Initial Offering Price of the Hold-the-Offering-Price Maturities.***

(a) PJC offered the Hold-the-Offering-Price Maturities to the Public for purchase at the respective initial offering prices listed in Schedule A (the “**Initial Offering Prices**”) on or before the Sale Date. A copy of the pricing wire or equivalent communication for the Bonds is attached to this certificate as Schedule B.

(b) As set forth in the Bond Purchase Agreement, dated _____, 2023, by and between PJC and the Issuer, PJC has agreed in writing that: (i) for each Maturity of the Hold-the-Offering-Price Maturities, it would neither offer nor sell any of the Bonds of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the “**hold-the-offering-price rule**”); and (ii) any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any retail distribution agreement shall contain the agreement of each broker-dealer who is a party to the retail distribution agreement, to comply with the hold-the-offering-price rule. Pursuant to such agreement, no Underwriter (as defined below) has offered or sold any Maturity of the Hold-the-Offering-Price Maturities at a price that is higher than the respective Initial Offering Price for that Maturity of the Bonds during the Holding Period.

3. ***Reserve Fund.***

The establishment of the Reserve Fund in the amount of the Reserve Requirement (as such terms are defined in the Fiscal Agent Agreement dated as of _____ 1, 2023, by and between the City and U.S. Bank Trust Company, National Association, as fiscal agent, pursuant to which the Bonds are being issued) was vital to the marketing of the Bonds and reasonably required to assure payment of debt service on the Bonds.

4. ***Defined Terms.***

(a) ***General Rule Maturities*** means those Maturities of the Bonds listed in Schedule A hereto as the “**General Rule Maturities.**”

(b) *Hold-the-Offering-Price Maturities* means those Maturities of the Bonds listed in Schedule A hereto as the “**Hold-the-Offering-Price Maturities.**”

(c) *Holding Period* means, with respect to a Hold-the-Offering-Price Maturity, the period starting on the Sale Date and ending on the earlier of (i) the close of the fifth business day after the _____, 2023 (the Sale Date), or (ii) the date on which the Underwriter has sold at least 10% of such Hold-the-Offering-Price Maturity to the Public at prices that are no higher than the Initial Offering Price for such Hold-the-Offering-Price Maturity.

(d) *Issuer* means the City of Tracy.

(e) *Maturity* means Bonds with the same credit and payment terms. Bonds with different maturity dates, or Bonds with the same maturity date but different stated interest rates, are treated as separate maturities.

(f) *Public* means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term “**related party**” for purposes of this certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(g) *Sale Date* means the first day on which there is a binding contract in writing for the sale of a Maturity of the Bonds. The Sale Date of the Bonds is _____, 2023.

(h) *Underwriter* means: (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public; and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents PSC’s interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in the Tax Certificate and with respect to compliance with the federal income tax rules affecting the Bonds, and by Jones Hall, a Professional Law Corporation, in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038-G, and other federal income tax advice that it may give to the Issuer from time to time relating to the Bonds.

PIPER SANDLER & CO.

By: _____
Name: _____

Dated: _____, 2023

SCHEDULE A

SALE PRICES OF THE GENERAL RULE MATURITIES

(Attached)

SCHEDULE B

PRICING WIRE OR EQUIVALENT COMMUNICATION

(Attached)

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. ____

AUTHORIZING 1) THE ISSUANCE AND SALE OF SPECIAL TAX BONDS FOR THE PURPOSE OF FINANCING AUTHORIZED FACILITIES, AND 2) APPROVING AND AUTHORIZING RELATED DOCUMENTS AND ACTIONS FOR IMPROVEMENT AREA NO. 3 OF THE CITY OF TRACY COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD)

WHEREAS, the City Council previously conducted proceedings under and pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code (the "Act"), to establish (i) "City of Tracy Community Facilities District No. 2016-2 (ECFD)" (the "CFD"), (ii) an initial improvement area in the CFD designated "Improvement Area No. 1 of the City of Tracy Community Facilities District No. 2016-2 (ECFD)" ("Improvement Area No. 1"), and (iii) a future annexation area for the CFD (the "Future Annexation Area"); and

WHEREAS, pursuant to Resolution No. 2017-21, adopted by the City Council on February 7, 2017 (the "Resolution of Formation"), the City Council provided for, among other things, (i) the financing of certain public facilities (the "Facilities") by the CFD, (ii) the annexation of parcels in the Future Annexation Area to the CFD pursuant to a unanimous approval (a "Unanimous Approval") of the owner or owners of such parcels and (iii) in any such Unanimous Approval, the designation as a new improvement area (each, a "Future Improvement Area") of any territory annexing to the CFD and the identification and approval of the maximum amount of bonded indebtedness and other debt and the rate and method of apportionment of special tax for such Future Improvement Area; and

WHEREAS, pursuant to Resolution No. 2017-22, adopted by the City Council on February 7, 2017, the City Council declared the necessity to issue and sells bonds and incur other debt to finance the Facilities, including an amount not to exceed \$53,000,000 in those portions of the CFD that are not in Improvement Area No. 1, with such amount to be allocated to Future Improvement Areas as described in the Resolution of Formation; and

WHEREAS, pursuant to Resolution No. 2019-244, adopted by the City Council on December 17, 2019 (the "Annexation Resolution"), the City Council acknowledged receipt of a

Unanimous Approval executed by the owner (the "Property Owner") of Assessor's Parcel Numbers 240-140-50, 240-140-51, 240-140-52 and 240-140-53 (the "Annexation Property"), which Unanimous Approval (i) identified, specified and approved the annexation of the Annexation Property to the CFD as a separate improvement area and other related matters and (ii) confirmed that the Unanimous Approval constituted the approval and unanimous vote of the Property Owner with respect to the matters addressed in the Unanimous Approval under the Act and Article XIII A of the California Constitution; and

WHEREAS, pursuant to the Annexation Resolution, the City Council also, among other things, (i) confirmed that the Annexation Property had been added to the CFD as "Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD)" ("Improvement Area No. 3"), (ii) ratified and confirmed its direction to the City Clerk in the Resolution of Formation to record notice of the annexation pursuant to Section 3114.5 of the California Streets and Highways Code, (iii) ratified and confirmed its direction to the City Clerk to record a consolidated boundary map of the CFD to reflect the annexation of the Annexation Property to the CFD, (iv) confirmed that the maximum aggregate principal amount of bonds and other debt for Improvement Area No. 3, as specified in the Unanimous Approval, is \$25,000,000 and (v) confirmed that the rate and method of apportionment of the special tax among the parcels of real property within Improvement Area No. 3, as specified in the Unanimous Approval (the "Improvement Area No. 3 Rate and Method"), was attached as Exhibit A to the Annexation Resolution; and

WHEREAS, the consolidated boundary map for the CFD was recorded in the real property records of San Joaquin County on June 25, 2020, in Book 7 of Maps of Assessment and Community Facilities Districts at page 016, as document number 2020-074938; and

WHEREAS, the Notice of Special Tax Lien for Improvement Area No. 3 was recorded in the real property records of San Joaquin County on June 25, 2020, as document number 2020-074939; and

WHEREAS, the City Council now wishes to provide for an initial series of bonds to be issued by the City, for and on behalf of the CFD with respect to Improvement Area No. 3, to be designated "Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD) Special Tax Bonds, Series 2023 (the "Bonds")", pursuant to a Fiscal Agent Agreement (the "Fiscal Agent Agreement") by and between the City, for and on behalf of the CFD, and U.S. Bank Trust Company, National Association, as fiscal agent (the "Fiscal Agent"); and

WHEREAS, there have been submitted to the City Council certain documents described below providing for the issuance of the Bonds for the CFD with respect to Improvement Area No. 3 and the use of the proceeds of those Bonds, and the City Council, with the aid of its staff, has reviewed the documents and found them to be in proper order; and

WHEREAS, there has also been submitted to the City Council a form of preliminary Official Statement in connection with the marketing of the Bonds, and the City Council, with the aid of its staff, has reviewed the preliminary Official Statement; and

WHEREAS, in accordance with Government Code Section 5852.1, the City Council has obtained and disclosed the information set forth in Appendix A hereto; and

WHEREAS, all conditions, things and acts required to exist, to have happened and to have been performed precedent to and in the issuance of the Bonds and the levy of the special taxes as contemplated by this resolution and the documents referred to herein exist, have happened and have been performed in due time, form and manner as required by the laws of the State of California, including the Act; now therefore be it

RESOLVED: That the City Council of the City of Tracy hereby finds that the foregoing recitals are all true and correct; and be it further

RESOLVED: Pursuant to the Act, this Resolution and the Fiscal Agent Agreement, the City Council hereby authorizes the Bonds to be issued in the principal amount not to exceed \$20,000,000; and be it further

RESOLVED: The Bonds may be issued in one or more series, and the Bonds may be issued as federally taxable bonds or federally tax-exempt bonds, as determined by an Authorized Officer (as defined below); and be it further

RESOLVED: The Bonds shall be dated, bear interest at the rates, mature on the dates, be issued in the form, be subject to redemption, and otherwise be issued on the terms and conditions, all as set forth in the Fiscal Agent Agreement and in accordance with this Resolution; provided, however, that the true interest cost shall not exceed 7.00%; and be it further

RESOLVED: The Fiscal Agent, an Authorized Officer (as defined below) and other responsible officers of the City are hereby authorized and directed to take such actions as are required to cause the delivery of the Bonds upon receipt of the purchase price thereof; and be it further

RESOLVED: The City Council hereby finds that the issuance of the Bonds is in compliance with the Act, the Fiscal Agent Agreement and the City's "Amended Local Goals and Policies for Community Facilities Districts (CFDs)" adopted by the City Council on February 4, 2014, by Resolution No. 2014-019 ("Goals and Policies"), except that the provision requiring property owners to provide continuing disclosure as long as they own property that is responsible for at least 10% of the special taxes in Improvement Area No. 3 is hereby waived so that the threshold can be established for the Bonds at a level acceptable to the Underwriter (as defined below) ; and be it further

RESOLVED: The City Council hereby finds that the appraisal described in the Preliminary Official Statement (the "Appraisal") has been prepared consistent with the Goals and Policies and meets the requirements of Section 53345.8 of the Act; and be it further

RESOLVED: The Council acknowledges that staff has instructed Integra Realty Resources to update the Appraisal to estimate the market value as of a more recent date than January 3, 2023, in order to comply with the California Debt and Investment Advisory Commission's Appraisal Standards for Land-Secured Financings; staff expects the updated market value to be higher than it is in the current draft of the Appraisal because of additional development in Improvement Area No. 3 since January 3, 2023; and be it further

RESOLVED: In furtherance of the issuance of the Bonds and pursuant to Section 53345.8 of the Act, the City Council hereby finds and determines that the value of the real property in Improvement Area No. 3 subject to the special taxes levied pursuant to the Act to pay debt service on the Bonds is at least three times the aggregate principal amount of the Bonds and the principal amount of all other bonds outstanding that are secured by a special tax levied pursuant to the Act on property within Improvement Area No. 3 or a special assessment levied on property within the Improvement Area No. 3. In making this finding, the City Council has relied upon the value reported in the Appraisal (\$191,793,000), the maximum authorized principal amount of the Bonds of \$20,000,000 and the fact that there are no overlapping special tax or assessment bonds; and be it further

RESOLVED: To the extent permitted by law, the Mayor and the City Manager or such other official of the City as may be designated by the City Manager (each, an "Authorized Officer"), acting alone, is hereby authorized and directed to execute and deliver the documents approved herein in substantially the form on file with the City Clerk, together with such additions, deletions or changes as are approved by such Authorized Officer, including such additions, deletions or changes as are necessary or advisable to permit the timely issuance, sale and delivery of the Bonds, and the City Clerk is hereby authorized and directed to attest thereto. The approval of such additions, deletions or changes shall be conclusively evidenced by the execution and delivery by an Authorized Officer of the documents herein specified; and be it further

RESOLVED: The City Council hereby approves the Fiscal Agent Agreement, in substantially the form on file with the City Clerk. The terms and provisions of the Fiscal Agent Agreement, as executed, are incorporated herein by this reference as if fully set forth herein; and be it further

RESOLVED: The City Council hereby approves the Preliminary Official Statement prepared in connection with the Bonds in substantially the form on file with the City Clerk, together with any changes therein or additions thereto deemed advisable by an Authorized Officer; and be it further

RESOLVED: The City Council hereby approves and authorizes the distribution by the underwriter of the Bonds of the Preliminary Official Statement to prospective purchasers of the Bonds, and authorizes and directs an Authorized Officer on behalf of the City to deem the Preliminary Official Statement "final" pursuant to Rule 15c2-12 under the Securities Exchange Act of 1934 (the "Rule") prior to its distribution to prospective purchasers of the Bonds; and be it further

RESOLVED: The execution of the final Official Statement, which shall include Bond pricing information, such other changes and additions thereto deemed advisable by an Authorized Officer, and such information permitted to be excluded from the Preliminary Official Statement pursuant to the Rule, shall be conclusive evidence of the approval of the Official Statement by the City; and be it further

RESOLVED: The City Council hereby approves the form of the Continuing Disclosure Certificate with respect to the Bonds in substantially the form thereof attached to the Official Statement on file with the City Clerk; and be it further

RESOLVED: The City Council hereby approves the Bond Purchase Agreement, between the City, for and on behalf of the CFD with respect to Improvement Area No. 3, and Piper Sandler & Co. (the "Underwriter"), in substantially the form on file with the City Clerk and made a part hereof as though set forth in full herein; and be it further

RESOLVED: An Authorized Officer is hereby authorized and directed to execute and deliver the Bond Purchase Agreement, subject to the requirement that the Underwriter's discount on the purchase of the Bonds may not exceed 2.00% of the par amount of the Bonds and the interest rate may not exceed the rate specified above; and be it further

RESOLVED: In addition, and pursuant to Section 53345.8 of the Act, the City Council hereby finds and determines that an Authorized Officer may not execute and deliver the Bond Purchase Agreement unless the updated Appraisal concludes that the taxable property in Improvement Area No. 3 has a market value (subject to the various assumptions and conditions set forth in the Appraisal) at least three times the principal amount of the Bonds to be sold and the principal amount of all other bonds outstanding that are secured by a special tax levied pursuant to the Act on property within Improvement Area No. 3 or a special assessment levied on property within the Improvement Area No. 3; and be it further

RESOLVED: The City Council hereby approves the negotiated sale of the Bonds to the Underwriter pursuant to the Bond Purchase Agreement; and be it further

RESOLVED: The City Council hereby finds that sale of the Bonds to the Underwriter at a negotiated sale pursuant to the Bond Purchase Agreement will result in a lower overall cost than would be achieved by selling the Bonds at a public sale utilizing competitive bidding; and be it further

RESOLVED: The City Council hereby approves, confirms and ratifies all actions heretofore taken by the officers and agents of the City with respect to the establishment of the CFD, the annexation of the Annexation Property to the CFD as Improvement Area No. 3, the approval of the Improvement Area No. 3 Rate and Method, the approval of bonded indebtedness and other debt for the CFD with respect to Improvement Area No. 3, and the sale and issuance of the Bonds; and be it further

RESOLVED: The City Council hereby authorizes and directs the appropriate officers of the City to do any and all things and take any and all actions and execute any and all certificates, agreements and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Bonds in accordance with this resolution, including but not limited to any actions required in connection with issuance of ratings or a municipal bond insurance policy with respect to the Bonds, and any certificate, agreement, and other document described in the documents herein approved; and be it further

RESOLVED: The City Council hereby authorizes a designee of an Authorized Officer to take any actions authorized by the City Council to be taken by an Authorized Officer, and such action by the designee of an Authorized Officer shall have the same force and effect as if taken by the Authorized Officer; and be it further

RESOLVED: This resolution shall take effect from and after its adoption. The provisions of any previous resolutions in any way inconsistent with the provisions hereof in and for the issuance of the Bonds as herein described are hereby repealed.

* * * * *

The foregoing Resolution 2023-__ was adopted by the Tracy City Council on _____, 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

APPENDIX A

Government Code Section 5852.1 Disclosure

The good faith estimates set forth herein are provided with respect to the Bonds in accordance with California Government Code Section 5852.1. Such good faith estimates have been provided to the City by CSG Advisors Incorporated, the City's Municipal Advisor in consultation with Piper Sandler & Co., Underwriter of the Bonds.

Principal Amount. The Municipal Advisor has informed the City that, based on the CFD financing plan and current market conditions, its good faith estimate of the aggregate principal amount of the Bonds to be sold is **\$16,330,000** (the "Estimated Principal Amount"), which excludes approximately **\$122,000** of net original issue discount estimated to be generated from current market pricing. Net original issue discount is generated when, on a net aggregate basis for a single issuance, the prices paid for the bonds are lower than the face values of such bonds.

True Interest Cost of the Bonds. The Municipal Advisor has informed the City that, assuming that the Estimated Principal Amount of the Bonds is sold as a single series of tax-exempt bonds, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the true interest cost of the Bonds, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the Bonds, is **5.39%**.

Finance Charge of the Bonds. The Municipal Advisor has informed the City that, assuming that the Estimated Principal Amount of the Bonds is sold, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the finance charge for the Bonds, which means the sum of all fees and charges paid to third parties (or costs associated with the Bonds), is **\$454,000**. Such fees and charges include fees for bond and disclosure counsel, municipal advisor, appraiser, market absorption consultant, special tax consultant, fiscal agent, city attorney and staff time related to bond issuance, printing, and underwriting.

Amount of Proceeds to be Received. The Municipal Advisor has informed the City that, assuming that the Estimated Principal Amount of the Bonds is sold less original issue discount, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the amount of proceeds expected to be received on behalf of the CFD and Improvement Area No. 3 for sale of the Bonds, less the finance charge of the Bonds, as estimated above, and any reserves or capitalized interest paid or funded with proceeds of the Bonds, is **\$14,289,000**.

Total Payment Amount. The Municipal Advisor has informed the City that, assuming that the Estimated Principal Amount of the Bonds is sold, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the total payment amount, which means the sum total of all payments that the Improvement Area No. 3 property owners will make to pay debt service on the Bonds, plus the finance charge for the Bonds, as described above, not paid with the proceeds of the Bonds (including the Bond proceeds deposited into a debt service reserve fund), calculated to the final maturity of the Bonds, is **\$34,457,000**.

The foregoing estimates constitute good faith estimates only. The actual principal amount of the Bonds issued and sold, the true interest cost thereof, the finance charges thereof, the amount of proceeds received therefrom and total payment amount with respect thereto may differ from such good faith estimates due to (a) the actual date of the sale of the Bonds being different than the date assumed for purposes of such estimates, (b) the actual principal amount of Bonds sold being different from the Estimated Principal Amount, (c) the actual amortization of the Bonds being different than the amortization assumed for purposes of such estimates, (d) the actual market interest rates at the time of sale of the Bonds being different than those estimated for purposes of such estimates, (e) other market conditions, or (f) alterations in the CFD financing plan, delays in the financing, or a combination of such factors. The actual date of sale of the Bonds and the actual principal amount of Bonds sold will be determined by the City based on the timing of the need for proceeds of the Bonds and other factors. The actual interest rates borne by the Bonds will depend on market interest rates at the time of sale thereof. The actual amortization of the Bonds will also depend, in part, on market interest rates at the time of sale thereof. Market interest rates are affected by economic and other factors beyond the control of the City.

Agenda Item 3.B

RECOMMENDATION

Staff recommends that City Council receive information and provide feedback regarding 1) the proposed FY 2024 Capital Budget, 2) the proposed five-year FY 2024-2028 Capital Improvement Plan (CIP), and 3) Measure V updates.

EXECUTIVE SUMMARY

The purpose of this report is to provide City Council with an overview of the proposed FY 2023-24 Capital Budget, as well as the proposed five-year FY 2024-2028 Capital Improvement Plan (CIP) Outlook. The five-year CIP Outlook is an essential part of the overall Capital Budget development to strategically plan for the community's long-term capital maintenance, improvement, and replacement needs.

BACKGROUND AND LEGISLATIVE HISTORY

Annually, staff prepares a presentation to the City Council on the five-year CIP. This is presented to review the proposed projects requesting funding for the next fiscal year. This provides an opportunity for feedback from City Council that will be incorporated into the FY2023-24 Capital Budget.

ANALYSIS

Departments are continuously evaluating capital improvement needs and are updated in the five-year Capital Improvement Plan (CIP) Outlook and are incorporated into the FY 2023-24 budget planning. The CIP Outlook is a comprehensive five-year capital improvement plan designed to identify projects to construct, repair, maintain, or replace the City's infrastructure, which is consistent with the City Council's Strategic Priorities.

The Capital Improvement Plan (CIP) Outlook is a schedule of proposed public projects and purchases over a five-year period. Capital improvements are projects, which require acquisition, construction, or replacement of City assets, amenities, infrastructure, facilities, and utilities (e.g. vehicle and equipment, public landscaping and parks, city buildings, storm drainage systems, roadways, sidewalks, utility lines and treatment plants, and more).

The purpose of the CIP Outlook is to:

- identify capital expenditures which are anticipated to be requested over a five-year period.
- determine a source of funding for the requests; and
- provide an opportunity for long-term planning.

The CIP Outlook is not a budget. The CIP Outlook is a planning tool to assist in budget

decisions and the allocation of resources required to meet the City's strategic goals that are critical to core services. By preparing the CIP Outlook, the City can monitor and evaluate funding availability while taking into account new needs that are of priority. It is a driver in funding strategies and policies for establishing utility rates, applying for grants, allocation of resources, pay-go or debt financing, and understanding future ongoing, operating costs.

The CIP Outlook is not static, but can and should be modified as new funding, regulations, priorities, urgency, and demands arise. It should be revisited at least annually to provide the City Council, key stakeholders, and the public with information prior to the budget meetings to facilitate an informed discussion during the development of the annual Operating and Capital (CIP) Budget. This document does not include a complete compilation of all departmental or public requests that may be considered in preparation of future annual Operating and Capital budgets. In addition, not all projects listed have identified funding nor is funding being requested for appropriations. These costs are listed as unfunded. However, by listing the projects in the CIP Outlook, staff has identified these as priority projects in the event grants or other funding opportunities present themselves.

CIP Overview and Funding Source

A capital project is defined as an undertaking wherein labor and/or materials are used to construct, alter, append, or replace a building or an item of infrastructure (or a component of a building or item of infrastructure). A capital project has specific objectives, includes a detailed scope of work, schedule, and budget, and typically has a total cost more than \$50,000 with a typical useful life expectancy of ten or more years.

Capital projects are typically categorized as “Capital Maintenance” (deferred and/or ongoing), “Capital Improvements” and “Capital Assets.” The first category includes projects that provide a major rehabilitation or a replacement to existing infrastructure and/or facilities required to provide essential public services, ensure asset preservation, and maintain health and safety. Examples include roadway rehabilitation, roof replacement, HVAC system upgrades, and removal and replacement of deteriorated water or wastewater pipes. The second category includes projects that expand existing infrastructure and/or facilities, or construct new facilities, to address present and future needs of the Community. Examples include Wastewater expansion projects, new parks and amenities, new roads and road widening projects. The last category includes new assets that have been purchased or that have been contributed from development. Examples include new vehicles, land, major equipment, and developer funded projects.

The Capital Improvement Plan (CIP) Outlook is a comprehensive five-year plan designed to identify projects to develop and maintain the City's infrastructure. The CIP Outlook aims to provide information on the basis for revenue projections, criteria to determine capital infrastructure needs, and present a broad overview of capital infrastructure needs and funding over the next five fiscal years.

It is comprised of current, new, and future projects. Current projects are those that have been appropriated in the prior or current fiscal years, but not yet been completed. The CIP Outlook also reflects new projects that are to be funded in the proposed FY 2023-24 Operating and Capital Budget. Future projects are new projects that are anticipated to occur in the outer years of the five-year plan. Some projects have potential funding identified, while most projects do not

have funding identified. There is a finite amount of funding available per year for CIPs and numerous unfunded needs. This gap in available funding negatively affects the sustainability of the City's infrastructure and assets. It also increases the cost of maintenance and eventual replacement of these items. As funding sources are identified, the CIP Outlook will be amended to reflect the funding of these projections in the future projects to reflect the expected completion.

The CIP Outlook is organized into groups by the type of project, such as Traffic Safety, General Government and Facilities, Streets and Highways, Parks and Recreation, etc. Depending on the legal requirements, CIP projects are funded by various internal funding sources and rarely have outside funding sources, like grants or fees. For the past several years there has not been ongoing, dedicated funding sources to support General Fund capital projects (i.e. Fund 301). With the recent changes in revenues, as part of this workshop Council will have the opportunity to review staff's recommendations for prioritize potential funding.

Currently, most CIPs are funded through sources that have unique limitations on the use of funds, such as Special Revenue, Capital Impact Fees, or Utilities Enterprise Funds. CIPs are also supported through other funding sources, which may be comprised of developer contributions and various local, state, and federal grants.

- Special Revenue Funds receive revenues through dedicated fees or taxes, which are legally restricted for specific ("special") purposes. For example, Gas Tax monies must be spent on roadway and traffic safety improvements or repairs.
- Capital Projects Funds from Developer Impact Fees also support several CIP projects. The development impact fees collected in various areas of the City and provide funding for specific infrastructure expansion associated with a particular development and must be spent on the projects that were identified in establishing the fee. Examples include the Tracy Improvement Master Plan (TIMP) or Ellis Specific Plan which may be used for road, facilities, or utility expansion.
- Utilities Enterprise Funds: Water, Wastewater, Solid Waste, and Storm Water provide funding for projects from customer fees and are used to maintain, repair, or replace existing needed utilities infrastructure.

CIP's can also be funded through Internal Service (IS) Funds. IS Funds secure revenue through charges to other funds, but do not receive revenue directly from outside funding. They are designed to support City-wide services, including information technology, building maintenance, risk management, and vehicle and equipment replacement. The costs of equipment, vehicle, technology, and building maintenance and replacement are reported in these funds. Many of the projects associated with IS Funds have budgets for small capital assets under \$50,000 each, but collectively may exceed this threshold. When this occurs, the budget is reflected in the department's operating budget. For example, minor building repairs or upkeep would not be reflected in a CIP Outlook.

Capital Improvement Plan Outlook Estimates by Categories

Below is a summary of the proposed FY 2023-24 Capital budget for new items and the CIP Outlook for 2024-2028. Please note that the City has been returning to a five-year outlook on capital and many lists are still under development. The CIP Outlook is not reflective of all the

City's capital "Major Maintenance" (deferred and/or ongoing) or "New Public Improvements" needs. The report represents capital projects and programs prioritized to maximize the available resources reflective of their restrictive use and purpose. This report will continue to be monitored, updated, and reported at least annually to the City Council with a goal of eventually reporting out the full list of capital needs throughout the City.

The CIP is organized into groups by the type of project. Groups include:

- Group 71: General Government and Public Safety Facilities
- Group 72: Traffic Safety
- Group 73: Streets and Highways
- Group 74: Wastewater Improvements
- Group 75: Water Improvements
- Group 76: Drainage Improvements
- Group 77: Airport and Transit Improvements
- Group 78: Parks and Recreation

Group 71: General Government and Public Safety Facilities: This category includes new construction, maintenance, and rehabilitation of City facilities, such as fire station renovations, roof replacement, HVAC system replacement, and facility expansions. The funding source for General Government and Public Safety Facilities projects comes primarily from the General Capital Projects (Fund 301) or Internal Service Funds. These funds are supported almost exclusively from transfers from the City's General Fund.

Proposed FY 2023-24 Capital Budget

There are two new proposed projects recommended for the FY 2023-24 to be funded from General Fund Capital Projects:

- Deferred Building Maintenance - Citywide Facilities, to address facilities deferred maintenance to address large equipment failures/repairs, City Hall HVAC, Boiler, and other city buildings.
- Joe Wilson Pool, the pool plaster recently had repairs completed to the plaster in several areas due to failure of the plaster. The estimate is to replaster the entire pool surface and replace associated fixtures and tile in the pool, after the summer season.
- Arterial Landscaping, Tree Maintenance & Removal (LMD), Pursuant to Prop 218, revenue generated from the assessed zones in the LMD should not be utilized to support efforts which are considered a general benefit to the public. Per the Engineer's LMD report, arterial roadways are considered a general benefit to the community as individuals, businesses, and non-profits utilize them for ease of transportation and connectivity throughout the community. This project will be able to address areas of concern with one time funding, while staff is evaluating the gaps in current funding levels and will return to Council at a later date for discussion.

New Proposed Projects (3)		
Project Name	Fund	FY2023/24
Deferred Building Maintenance - Citywide Facilities	301 - General Projects	500,000
Joe Wilson Pool	301 - General Projects	200,000
Arterial Landscaping, Tree Maintenance & Removal (LMD)	301 - General Projects	730,000
Total		1,430,000

Proposed Capital Improvement Plan Outlook 2024-2028

Active		New	< - - - - - Projected - - - - - >				Total
Carryover	FY 2023/24	FY 2023/24	FY 2024/25	FY 2025/26	FY 2026/27	FY 2027/28	
16,704,279	-	700,000	1,050,000	500,000	500,000	500,000	19,954,279

Group 72: Traffic Safety: This category involves maintenance and upgrading of the City’s existing roadways as it relates to traffic safety. Common projects include design and installation of new roadway, intersection, and traffic signal improvements to ensure adequate, safe, and efficient movement of traffic throughout the city. Funding for these projects comes from Special Revenues (Gas Tax), Grant Funding, and developer impact fees, when applicable.

Proposed FY 2023-24 Capital Budget

There is one new proposed funded project for FY2023-24 for Traffic:

- This annual program or project will be used for performing required traffic calming studies as needed to address resident concerns on traffic.

New Proposed Projects (1)		
Project Name	Fund	FY2023/24
Annual Traffic Calming Program	245 - Gas Tax	50,000
Total		50,000

Proposed Capital Improvement Plan Outlook 2024-2028

Active		New	< - - - - Projected - - - - >				Total
Carryover	FY 2023/24	FY 2023/24	FY 2024/25	FY 2025/26	FY 2026/27	FY 2027/28	
6,660,358	1,725,000	50,000	50,000	50,000	50,000	50,000	8,635,358

Group 73: Streets and Highways: The Streets and Highways category of projects encompasses the maintenance/replacement or construction of new/existing sidewalks, street, and roadways. Examples include the new I-205 freeway interchanges, Corral Hollow Widening, various roadway reconstructions, rehabilitations, extensions, and widening, as well as sidewalk improvements. Funding for these projects comes from Special Revenues (Gas Tax), Grant Funding, and developer impact fees, when applicable.

Proposed FY 2023-24 Capital Budget

There are three new proposed funded projects for FY2023-24 for Streets:

- Annual Slurry Seal Project, performing Slurry Sealing of various street segments as preventative maintenance.
- Annual Sidewalk, Curb, and Gutter Repair.
- Pavement Management Plan, Annual Project to fund pavement management plan, deferred street maintenance.

New Proposed Projects (3)		
Project Name	Fund	FY2023/24
Annual Slurry Seal Project	248 – SB1 Gas Tax	600,000
Annual Sidewalk, Curb, and Gutter Repair	245 - Gas Tax	250,000
Pavement Management Plan	301 - General Projects	4,000,000
Total		4,850,000

Proposed Capital Improvement Plan Outlook 2024-2028

Active		New	< - - - - Projected - - - - >				Total
Carryover	FY 2023/24	FY 2023/24	FY 2024/25	FY 2025/26	FY 2026/27	FY 2027/28	
78,188,831	-	4,850,000	7,325,000	11,325,000	6,825,000	6,825,000	115,338,831

Group 74: Wastewater Improvements: Maintenance of and improvements to the City's wastewater infrastructure and treatment facility are included in this category. Typical projects in this category include upgrades, extensions, and replacements to wastewater treatment lines and equipment, and expansion of the wastewater treatment plant. The primary sources of funding for these projects comes from customer and developer impact fees, when applicable.

As part of the five-year CIP Outlook, the Wastewater Fund has proposed several unfunded Capital Maintenance projects that have been deferred, such as sewer line replacement, treatment plant upgrades and improvements.

Proposed FY 2023-24 Capital Budget

- There are no new proposed projects for Wastewater Improvements.

Proposed Capital Improvement Plan Outlook 2024-2028

Active		New		< - - - - Projected - - - - >				Total
Carryover	FY 2023/24	FY 2023/24	FY 2024/25	FY 2025/26	FY 2026/27	FY 2027/28		
17,564,375	-	-	-	-	-	-	17,564,375	

Group 75: Water Improvements: Water projects include the purchase of water supply, installation of new water infrastructure (pipeline, pump stations, water tanks, etc.), and rehabilitation/replacement of water infrastructure throughout the City. The primary source of funding comes from customer service rates, developer impact fees, and occasionally grants, when applicable. There is limited funding for new projects currently as the Water Fund continues to build reserves for future pay-go projects.

Proposed FY 2023-24 Capital Budget

There are three new proposed funded projects for FY2023-24 for Water Improvements:

- Los Vaqueros Reservoir, this project would provide water storage capabilities for the City of Tracy in wet years and drought relief during dry with the City’s participation in the project.
- BF Sisk Dam, BF Sisk Dam raise project that would provide water storage capabilities for the City of Tracy in wet years and drought relief during dry with the City’s participation in the project.
- Filter Valves Replacement at JJWTP, Replace 48 filter valves at JJWTP.

New Proposed Projects (3)		
Project Name	Fund	FY2023/24
Los Vaqueros Reservoir	513 - Water Capital	300,000
BF Sisk Dam	513 - Water Capital	300,000
Filter Valves Replacement at JJWTP	513 - Water Capital	100,000
Total		700,000

Proposed Capital Improvement Plan Outlook 2024-2028

Active		New	< - - - - Projected - - - - >				Total
Carryover	FY 2023/24	FY 2023/24	FY 2024/25	FY 2025/26	FY 2026/27	FY 2027/28	
12,449,818	1,560,000	700,000	900,000	900,000	900,000	900,000	18,309,818

Group 76: Drainage Improvements: This category of projects includes storm drain line replacements, installation of new storm drain lines, channel improvements and pump station upgrades. The primary source of funding comes from customer and developer impact fees, when applicable. The Storm Drain Enterprise Fund does not currently have the funds to support capital projects at this time and will continue to compile unfunded proposed projects as part of future planning.

Proposed FY 2023-24 Capital Budget

There is one new proposed funded project for FY2023-24 for Drainage Improvements to be funded from General Fund Capital Projects:

- Trash Capture devices for storm water conveyance system, The State Regional Water Quality Control Board implemented regulations in 2019 that require NPEDS MS4 storm water permit agencies begin the implementation of for trash capture systems in all storm water conveyance systems. The period to complete the construction of these systems is 10 years so they must be in place in 2029. The requirement is intended to prevent the flow of any trash particles larger than 5mm into waters of the US.

New Proposed Projects (1)		
Project Name	Fund	FY2023/24
Trash Capture devices for storm water conveyance system	301 - General Projects	500,000
Total		500,000

Proposed Capital Improvement Plan Outlook 2024-2028

Active		New	< - - - - Projected - - - - >				Total
Carryover	FY 2022/23	FY 2022/23	FY 2023/24	FY 2024/25	FY 2025/26	FY 2026/27	
3,000,547	-	500,000	-	-	-	-	3,500,547

Group 77: Airport and Transit Improvements: The maintenance and upgrades to the Tracy Municipal Airport, transit system improvements, and bus replacements are included in this category. The primary source of funding for this group comes in the form of grant funding from Transportation Development Act (TDA), Federal Transit Administration (FTA), and other grants.

Proposed FY 2023-24 Capital Budget

There are four new proposed funded projects for FY2023-24 for Airport & Transit Improvements:

- Airport Slurry Seal & Pavement Patching Entrance Road and Parking Lot, The City of Tracy has prepared and submits herewith a Preapplication for Federal Assistance for a grant under the Airport Infrastructure Grant (AIG) program for the engineering design and construction of the slurry seal and minor pavement patching of the entrance road and parking lot.
- Fixed Route Transit Bus Replacements
- Short Range Transit Plan, The Short-Range Transit Plan (SRTP) is an action plan developed to guide the implementation of transit service improvements and requires updating every 5 years. The last plan was adopted in 2019.
- Transit Station Generator, emergency Back Up Generator for Transit Station.

New Proposed Projects (4)		
Project Name	Fund	FY2023/24
Airport Slurry Seal & Pavement Patching Entrance Road and Parking Lot	261 - Federal Grants	158,850
Airport Slurry Seal & Pavement Patching Entrance Road and Parking Lot	301 - General Projects	17,650
Fixed Route Transit Bus Replacements	241 - TDA Funds	2,000,000
Short Range Transit Plan	241 - TDA Funds	150,000
Transit Station Generator	241 - TDA Funds	1,000,000
Total		3,326,500

Proposed Capital Improvement Plan Outlook 2024-2028

Active		New	< - - - - Projected - - - - >				Total
Carryover	FY 2022/23	FY 2022/23	FY 2023/24	FY 2024/25	FY 2025/26	FY 2026/27	
3,320,206	1,000,000	3,326,500	-	-	-	-	7,646,706

Group 78 Parks and Recreation Improvements: This category consists of park and civic amenity construction, improvements, and maintenance. This category includes park improvements, bikeway improvements, playground equipment replacement, aquatics center, etc.

Proposed FY 2023-24 Capital Budget

- There are no new proposed projects for Parks and Recreation Improvements.

Proposed Capital Improvement Plan Outlook 2023-2028

Active		New	< - - - - - Projected - - - - - >				Total
Carryover	FY 2022/23	FY 2022/23	FY 2023/24	FY 2024/25	FY 2025/26	FY 2026/27	
37,438,497	3,000,000	-	3,075,000	55,075,000	3,075,000	3,325,000	104,988,497

General Fund Projects

FY2022/23 Funded Projects Updates:

Project Name	Update	Amount FY22/23
71110 - Multipurpose Reality Based Training Facility	Permits are final, and the project has been advertised for bids. It is anticipated that the award will go to Council this April. Material lead time is anticipated to be 8-10 month, with construction to be completed in the Spring of 2024.	2,800,000
71111 - Grand Theater Repair	Phases 2 & 3 – Permits are final, and the project has been advertised for bids. It is anticipated that the award will go to Council this May, with construction expected to be complete by the Fall of 2023.	2,079,000
71117 – Police Headquarters Cooling System Study	Engineering is working with a consultant to develop the scope of work and execute a notice to proceed.	80,000
71118 – Central Garage Carport Enclosure	Staff met with consultant on site to discuss options on to proceed with project.	50,000
71120 - General Plan Update	City is beginning the update with the Housing Element and there is a scheduled workshop to have a joint meeting with the Planning Commission & Council.	3,500,000
73192 – Bessie Avenue Re-Construction	The design is 95% complete, advertisement for construction March, with the award expected in May/June.	3,500,000
77588 - Master Plan Update for New Jerusalem Airport	The city is applying this Spring for an FAA Systems grant to fund 90% of the Master Plan Update. State of California Division of Aeronautics will provide a 5% match to the FAA grant if awarded.	250,000
78189 - A.R. Glover Park Improvement	Currently in Design, requesting proposals from on-call consultants and targeting contract award late spring to early summer 2023. Project completion Summer 2024 (tentative).	725,000

78190 - Clyde Bland Park BMX Pump Track	Currently in Design, requesting proposals from on-call consultants and targeting contract award late spring to early summer 2023. Project completion Summer 2024 (tentative). Staff completed two public meetings and received support to locate the project at Clyde Bland Park. The Parks & Community Services Commission also supported the location at the March 2, 2023, meeting.	1,000,000
78191 - Edgar Thoming Park and McDonald Park Sport Court Rehabilitation	Currently in Design, requesting proposals from on-call consultants and targeting contract award late spring to early summer 2023. Project completion Summer 2024 (tentative).	600,000
78192 - Flag Poles City Hall Memorial	Currently in Design (City staff). Project completion Summer 2023 (tentative).	150,000

14,734,000

FY2023/24 Fund Project Requests summary:

Project Name	Description	FY2023/24
HVAC Replacement (s) - Citywide Facilities	Deferred Maintenance of city facilities (i.e., city hall)	500,000
Joe Wilson Pool	Re-plastering of pool	200,000
Arterial Landscaping, Tree Maintenance & Removal (LMD)	To address arterial landscaping, tree maintenance and removal in LMD Zones with one time funding.	730,000
Trash Capture devices for storm water conveyance system	Design funding for the Trash Capture devices.	500,000
Airport Slurry Seal & Pavement Patching Entrance Road and Parking Lot	City match towards FAA Grant	17,650
Pavement Management Plan	Fiscal Sustainability Policy of 4% of revenues for Deferred Maintenance - Road Improvements	4,000,000
Multi-Generational Rec Center (78178)	Fiscal Sustainability Policy of 3% of revenues for Deferred Maintenance - Park Improvements, to be utilized towards El Pescadero Park	3,000,000

Total Funding Request

8,947,650

Current Council Direction on Measure V Projects

The last direction provided by Council was as part of the FY2022/23 Budget Adoption on June 24, 2022. Below is a summary of authorized commitments:

Project (Phase)	Measure V Committed	Fund Balance	Other Contributions	Estimated Cost
Legacy Fields (Phase 1E)	\$19 M (debt financing)	N/A	none	\$19 M
Multi-Gen Recreation Center	\$31 M	\$4 M	\$9 M (State Grant, Developer Contribution)	\$88 M
Aquatic Center	\$55 M	\$41 M	\$10 M developer contribution, \$2 M Impact Fees	\$65 M
Nature Park (Phase 1)	\$1 M	\$1 M	\$371,000 impact fees	\$8.37 M
Ritter Family Ball Park Renovation	\$3 M	\$3 M	none	\$25 M

Measure V Project Updates

Multi-Generational Recreation Center (MGRC)

The MGRC project has continued to progress since the last update to the City Council on October 18, 2022. Two community workshops have taken place since that time with focused discussions on the skate park, dog park, and splash pad amenities. Additionally, the Schematic Design and Design Development phases of the project are now complete. Staff provided a design update to the Parks Commission at the March 2, 2023, Regular Meeting and received good feedback. Current work on the project includes environmental review (CEQA), a traffic study, operational analysis, and continued design review with a focus on material/color selections as well as the incorporation of public art.

Based on the most recent City Council direction, the current scope of the project includes the following:

MGRC Program	Park/Site Program
First Floor <ul style="list-style-type: none"> 3-Court Gymnasium Two (2) Multi-Purpose Rooms Teen Lounge Technology/Maker's Space Lobby/Lounge Bouldering Wall 	<ul style="list-style-type: none"> Skate Park Dog Park Splash Pad Pavilion Full Size Basketball Court Natural Trails Promenade with Multi-Use Path

<ul style="list-style-type: none"> • Kitchen • Police Office • Outdoor Courtyard <p>Second Floor</p> <ul style="list-style-type: none"> • Parks & Recreation Office Suite • Indoor Running Track • Outdoor Deck 	<ul style="list-style-type: none"> • CMU Wall Extension (Formerly CIP 71116) • Parking Lot • Vehicular Circulation • Playground Area (Existing) • Restroom (Rehab Existing)
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

The scope and budget of the MGRC project has grown since the capital project was originally created in 2017. However, it is important to note that new scope items that have been added are also bringing additional funding to the project.

The Parks & Recreation and Police Department offices have been incorporated to create economies of scale for staffing this facility, create a long-term safety presence at El Pescadero Park, and further master planning efforts in both the Parks Master Plan and Public Facilities Master Plan. Although the staff offices are increasing scope and budget, these improvements, along with the incorporation of the gymnasium and technology/library areas, can be funded using development impact fees (approximately \$17 million) and have great synergy with the overall project.

Park improvements to El Pescadero Park have also substantially increased scope and budget for the project. However, this park was already identified in the Parks Master Plan as a facility that needs a substantial renovation, and this has been compounded due to ongoing activities related to the unsheltered population living in the park and the recent storm related damages. Due to the current condition of the park and the synergy of the park improvements with the MGRC, staff is considering that three to four years of Parks and Recreation capital deferred maintenance funding (approximately \$12 million) along with Transit funds for bikeway improvements (approximately \$2 million) help fund the project. Parks CIP projects currently listed in five-year capital plan for FY23/24 through FY26/27 would be deferred by three to four years and allow staff to focus on delivering currently funded projects.

Currently, the total project cost for the MGRC is very close to the estimated range provided to Council in October 2022. At the completion of Schematic Design, a detailed cost estimate was prepared, and a cost summary is provided below:

Item	Cost
MGRC Improvements	\$ 69 million
El Pescadero Park Improvements	\$ 19 million
TOTAL ESTIMATED PROJECT COST	\$ 88 million <i>Range previously presented to Council was \$70.3-87.2 million</i>

**Assumes all costs associated with the project (hard and soft). Does not include any off-site improvements if required through environmental/traffic studies which are currently underway.*

The following table details the current committed funds for the MGRC as well as additional funding sources to fully fund the project.

Committed Funding Sources	
Item	Amount
MGRC Budget (CIP 78178)	\$31 million (Measure V Lease Revenue Bond)
MGRC Budget (CIP 78178)	\$5 million (State Grant)
MGRC Budget (CIP 78178)	\$4 million (Community Benefits)
TOTAL COMMITTED (CIP 78178)	\$40 million
Recommended Supplemental Funding Sources	
Item	Amount
Measure V	\$17 million
Eligible Development Impact Fees (Public Facilities & Public Safety - Police)	\$17 million
Transit (TDA) Funds – Bikeway/Promenade	\$2 million
Reallocate Parks Capital Funds for Deferred Maintenance Fiscal Years 2023/24-2026/27*	\$12 million
TOTAL POTENTIAL FUNDING SOURCES	\$48 million
Project Funding Summary	
Committed Funding	\$40 million
Recommended Supplemental Funding	\$48 million
Recommended Project Budget	\$88 million

**Staff is pursuing grants for the park improvements portion of this project and if awarded, this funding would be available for other planned Parks CIP projects.*

The recommended supplemental funding above includes a commitment of an additional \$17 million in Measure V funding, adjusting the total Measure V commitment for the project to \$48 million. It is important to note that this commitment of Measure V funds to the MGRC would not affect funding or timing of any other Measure V projects. Staff is continuing to seek additional grants to offset the amount of City funds required to fully fund the project and this includes ongoing discussions with our lobbyist Townsend Public Affairs. The design team is also collaborating on potential additive alternates that could give some additional flexibility to the City Council at the time of construction contract award.

Below is a summary of MGRC project milestones:

- Project Kick-Off – March 2022 (Complete)
- Schematic Design – July-October 2022 (Complete)
- Design Development – November 2022-March 2023 (Complete)
- Construction Documentation – March-September 2023 (In progress)
- Advertise Project for Public Bid – Fall 2023
- Construction – Winter 2024-Winter 2026 (Approximately 24 months)
- Grand Opening – March 2026 (Target)

The project schedule shown above has been extended by approximately 12 months compared to the schedule shown in October 2022. Supply chain issues continue to affect the construction industry and staff is continuing to coordinate with the design team on mitigation strategies for any potential additional impacts to the schedule. Other potential pitfalls to the project schedule

include environmental review, the bond market, delays in fully funding the project, and weather. It should be noted that based on the current project costs and current escalation rates, a one-year delay to the start of construction is estimated to be a \$3.5 million impact to the project budget. The project is now on a critical path that if deviated from would cost the City time and money.

Staff does not expect to see significant mitigation measures triggered by the environmental review or traffic study currently underway. From initial discussions with the consultant team, mitigation measures should be minimal as Grant Line Road and Parker Avenue is already a signalized intersection. More analysis related to this will be provided to staff in the coming weeks and Council will be updated at a future meeting.

Staff will be returning to Council in the next several months to discuss the MGRC operational analysis and request appropriations for operating that facility. It is anticipated that the MGRC will have a cost recovery percentage of approximately 25%.

Legacy Fields Sports Complex Phase 1E

Construction of this project began in April 2022 and is approximately 65% complete. The scope of work includes eastern wagon wheel improvements, sports field lighting, parking lot improvements, roadway and sidewalk top seal, wayfinding and signage package, a sump pump, electrical improvements at the maintenance yard, and landscaping. At this time construction is tentatively scheduled to be complete in Summer 2023.

Staff hired Pros Consulting in 2021 to evaluate operations, maintenance and management of this facility including the addition of Phase 1E improvements. An agenda item will be coming back to the City Council at the next regular meeting requesting one-time and ongoing appropriations of funds to purchase new equipment needed to support the maintenance of the facility as well as additional staffing to maintain the 72-acre facility at Service Level A. The goal is to have new staff and equipment in place prior to completion of construction to support the new demands of the facility.

This request is in alignment with the City Council's commitment through Resolution 2019-232 that 25% of annual Measure V revenue be dedicated to operational costs of projects funded by Measure V.

Aquatic Center

Staff will be bringing an item related to this project to the City Council in June of this year.

Nature Park Phase 1 & Ritter Family Ball Park

On November 15, 2022, City Council adopted Resolution 2022-175 approving an On-Call Professional Services list for landscape architectural services. Staff is planning to engage the list of approved consultants for proposals for design of both projects in the next several months.

FISCAL IMPACT

The Capital Improvement Plan (CIP) Outlook is not intended to provide for precise budgeting assumptions. Capital costs are projected as estimates. Upon each update of the plan, deletions, additions, delays, or other revisions may occur, reflecting changing community

needs and Council priorities. These changes allow for budget refinements as a particular project nears actual construction. The CIP Outlook should return to the City Council at least annually for consideration of new and future projects.

The adoption of the CIP Outlook does not provide for appropriations of funds into the City's budget. This process is done separately through the adoption of the annual Operating and Capital Budget (on or before June 30 each year). If any of the projects listed in the Operating and Capital Budget require additional funding or changes, amendments to those individual projects would return to the City Council both through quarterly budget updates and/or through annual adoption of the City's Operating and Capital Budget for requests for appropriations.

In addition to developing a five-year Capital Improvement Plan Outlook, staff has been reviewing the on-going maintenance and replacement costs that are associated with construction of new infrastructure, facilities, and amenities; as well as looking at the cost to maintain and replace existing city assets. These costs are continuously absorbed into existing budgets that are already heavily strained to meet deferred maintenance and replacement needs. This is true across all funds, General Fund, Special Revenue, Capital, and Utilities. As part of the City Council's Fiscal Sustainability Budget Strategies, staff will undertake several maintenance and operations fiscal analysis studies to assess the full cost of operating, maintaining and planned replacement of its various capital assets. These will be captured within future versions of the five-year Capital Improvement Plan (CIP) Outlook and the City's annual Operating and Capital budget development.

STRATEGIC PLAN

This agenda item addresses Goal 2 of the Governance Strategy to Ensure short- and long-term fiscal health and Goal 3 of the Governance Strategy to increase public awareness around City finances and other civic matters.

ACTION REQUESTED OF THE CITY COUNCIL

It is recommended that the City Council receive information and provide feedback regarding 1) the proposed FY 2024 Capital Budget, 2) the proposed five-year FY 2024-2028 Capital Improvement Plan (CIP), and 3) Measure V updates.

Prepared by: Felicia Galindo, Budget Officer
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Reviewed by: Sara Cowell, Director of Finance
Nancy Ashjian, Assistant City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, Acting City Manager

Attachments:

- Attachment A – FY 23-24 Draft Summary CIP 5 Year Plan
- Attachment B – Power Point Presentation

Group 71: General Government and Public Safety Facilities

Project Number	Project Name	Proposed Funding Source	Estimated Cost/Budget	Carryover	Funding Request FY23/24	< --- Projected --- >				Description
						FY2024/25	FY2025/26	FY2026/27	FY2027/28	
71078	Radio Tower @ Fs #96/#92	301 - General Projects	118,080	89,175	-	-	-	-	-	There are existing gaps in radio transmission coverage within the City. The two new radio towers will improve communications between Fire facilities and provide improved service area radio coverage.
71109	Fire Training Tower Site	369 - TIMP Public Safety Fire	478,311	478,311	-	-	-	-	-	A fire department training tower site for site improvements at NEI reservoir.
71110	Multipurpose Reality Based Training Facility	231 - Asset Forfeiture	250,000	250,000	-	-	-	-	-	Provide a new 48' x 60' prefabricated classroom at existing range facility
		301 - General Projects	3,065,164	2,985,355	-	-	-	-	-	
		367 - TIMP Public Safety	200,000	137,517	-	-	-	-	-	
		605 - Equip Replacement	200,000	84,734	-	-	-	-	-	
71111	Grand Theater Repair	301 - General Projects	2,085,000	2,051,389	-	-	-	-	-	Emergency Repairs for the Grand Theater Advertise Notice Inviting Bids – 2/17/2023, Bid Opening – 3/28/2023, Council Approval of Award – 5/2/2023, Execution of Contract by mid May
		615 - Building Maintenance	421,000	-	-	-	-	-	-	
71112	Temporary Emergency Housing	252 - ARPA	4,500,000	4,500,000	-	-	-	-	-	Construction of a secured, temporary housing facility on a 0.8 acres City owned property on Arbor Road.
		HHAP	743,282	-	-	-	-	-	-	
		SJC - General Fund	3,661,113	582,768	-	-	-	-	-	
		268 - Comm Dev Block Gr	836,294	-	-	-	-	-	-	
71113	Station 91 Renovations	282 - Housing Successor	690,000	507,160	-	-	-	-	-	
71117	Police Headquarters Cooling System Study	301 - General Projects	80,000	80,000	-	-	-	-	-	Engineering study of the existing closed loop water system that is experiencing frequent failures. (Funded for Design Only)
71118	Central Garage Carport Enclosure	301 - General Projects	600,000	50,000	-	550,000	-	-	-	Enclose carport area that is located to the north of central garage
71119	Grand Theatre Audio Visual Upgrades	301 - General Projects	800,000	800,000	-	-	-	-	-	This project will replace outdated audio and lighting equipment, including replacement of existing the older audio system with modern line array speakers and change the stage lighting in the Eleni Kounalakis Theatre to energy efficient LED stage lighting.
71120	General Plan Update	301 - General Projects	3,500,000	3,500,000	-	-	-	-	-	The current General Plan was adopted in 2011, it is common for cities to update every 10 years.
71XXX	HVAC Replacement (s) - Citywide Facilities	301 - General Projects			500,000	500,000	500,000	500,000	500,000	To address facilities deferred maintenance to address large equipment failures/repairs, City hall HVAC, Boiler and other city buildings.
71XXX	Joe Wilson Pool	301 - General Projects	200,000		200,000					The Joe Wilson Pool plaster recently had repairs completed to the plaster in several areas due to failure of the plaster. The estimate is to replaster the entire pool surface and replace associated fixtures and tile in the pool.
71XXX	Arterial Landscaping, Tree Maintenance & Removal (LMD)	301 - General Projects	730,000		730,000					To address arterial landscaping, tree maintenance and removal in LMD Zones with one time funding.
Totals			23,973,244	16,704,279	1,430,000	1,050,000	500,000	500,000	500,000	

Group 72: Traffic Safety

Project Number	Project Name	Proposed Funding Source	Estimated Cost/Budget	Carryover	Funding Request FY23/24	< --- Projected --- >				Description
						FY2024/25	FY2025/26	FY2026/27	FY2027/28	
72095	TS: CHR & Valpico	375 -CORE Area Traffic	2,300,000	2,183,070	-	-	-	-	-	Installation of fully activated vehicular and pedestrian traffic signal at the intersection.
72098	Adaptive Traffic System	242 - Transp Sales Tax	701,250	637,622	-	-	-	-	-	Upgrade existing traffic signal controller and provide high speed communication system for the corridor and provide system components to implement adaptive signal corridor system.
		245 - Gas Tax	100,163	92,602	-	-	-	-	-	
72104	Intersection Improvements - Corral Hollow & Linne	242 - Transp Sales Tax	330,000	330,000	-	-	-	-	-	Installation of fully activated pedestrian and vehicular traffic signal. Intersection improvements include railroad crossing improvements.
		331 - Ellis Area Traffic	300,000	133,328	-	-	-	-	-	
		363 - TIMP Traffic	295,000	133,382	-	-	-	-	-	
72113	Adaptive Traffic System - CHR	242 - Transp Sales Tax	877,250	765,882	-	-	-	-	-	Upgrade existing traffic signal controller & provide high speed communication system for the corridor & provide system components to implement adaptive signal corridor system.
		245 - Gas Tax	100,000	100,000	-	-	-	-	-	
72116	Crosswalk Safety Enhancement on 11th St at F St	242 - Transp Sales Tax	230,000	230,000	-	-	-	-	-	This project will install Overhead Flashing Beacons at the uncontrolled crosswalk on 11th Street at F Street intersection
		245 - Gas Tax	50,000	32,325	-	-	-	-	-	
72118	Upgrade & Main of Traffic Management Center Software	245 - Gas Tax	140,000	139,277	-	-	-	-	-	This project will upgrade the existing Traffic Management Center Software to the current version.
72121	IS Imp Grant Line & MacArthur	363 - TIMP Traffic	160,715	149,630	-	-	-	-	-	This project will install a fence on the concrete median on Grant Line Road, west of MacArthur Drive.
72122	Holly Drive Pedestrian & Bikeway Improvements	245 - Gas Tax	205,000	105,000	100,000	-	-	-	-	On Holly Drive between 11th Street and Clover Road, install Class 3 bike route, Class 2 bicycle lanes, sidewalk, pavement patching, slurry seal, signage, striping, and pavement markings.
		Grant Funding	1,625,000		1,625,000	-	-	-	-	
72123	Adaptive Traffic Signal System - Grant Line Road	242 - Transp Sales Tax	875,000	875,000	-	-	-	-	-	This project will install the adaptive traffic signal system on Grant Line Road, between Byron Road and Naglee Road.
		245 - Gas Tax	140,000	140,000	-	-	-	-	-	
72124	Temporary TS at CH & Valpico	245 - Gas Tax	500,000	116,348	-	-	-	-	-	Installation of Temporary Traffic Signal at Corral Hollow and Valpico Road intersection.
72125	Street Light Installation Project	245 - Gas Tax	499,482	496,892	-	-	-	-	-	This project will install new street lights at residential, collector and arterial streets which are lacking sufficient street lighting.
72XXX	Annual Traffic Calming Program	245 - Gas Tax			50,000	50,000	50,000	50,000	50,000	This annual program or project will be used for performing required traffic calming studies as needed to address resident complaints on traffic.
Totals			9,428,860	6,660,358	1,775,000	50,000	50,000	50,000	50,000	

Group 73: Streets and Highways

Project Number	Project Name	Proposed Funding Source	Estimated Cost/Budget	Carryover	Funding Request FY23/24	< --- Projected --- >				Description
						FY2024/25	FY2025/26	FY2026/27	FY2027/28	
73084	IC Impvts:I205 & Lammers	392 - Reg Transport Impact	715,000	542,129	-	-	-	-	-	Construction of new interchange to accommodate new development and
73103	AWid: CHR, 11th to Schulte	375 - Core Area Traffic	740,829	549,391	-	-	-	-	-	Widening from a 4-lane arterial to a 6-lane major arterial which includes modification of existing 40' median to accommodate 2 traffic lanes. Median modifications include new landscaping, irrigation system and installation of new railroad crossing arms.
73109	IC: I205 & Paradise	245 - Gas Tax	316,076	-	-	-	-	-	-	The construction of this new interchange is to accommodate new industrial
		363 - TIMP Traffic	1,380,214	1,310,703	-	-	-	-	-	
73144	AW: Cor Hol Rd, Linne to Old Schult	242 - Transp Sales Tax	3,000,000	-	-	-	-	-	-	Widen existing road from a 2 lane rural road to a 4 lane major arterial between Old Schulte Road and Linne Road.
		245 - Gas Tax	82,735	-	-	-	-	-	-	
		363 - TIMP Traffic	2,871,587	1,119,151	-	-	-	-	-	
		392 - Reg Transport Impa	157,616	-	-	-	-	-	-	
73146	OC Upg-I205 & MH Pkwy	363 - TIMP Traffic	2,215,480	1,443,413	-	-	-	-	-	Includes widening of the Mountain House Parkway overpass, construction of a westbound loop on-ramp and construction of a new intersection, relocation and widening of the westbound off-ramp, restriping of the eastbound off-ramp, widening of the eastbound on-ramp, restriping the northbound approach at the
		392 - Reg Transport Impact	3,395,051	1,950,867	-	-	-	-	-	
73147	OC Upgrade-I580 & MH Pkwy	242 - Transp Sales Tax	2,541,000	2,541,000	-	-	-	-	-	Includes converting the existing tight-diamond interchange to a diverging diamond interchange. This will require minor realignment to the existing on-off ramps. The proposed diverging diamond interchange will divert traffic in both directions to the opposite side of the road while crossing over I-580. This design provides direct left turn options both on and off the I-580 ramps. Traffic signals
		261 - ISTE A	24,884,000	24,884,000	-	-	-	-	-	
		363 - TIMP Traffic	14,000,000	12,441,508	-	-	-	-	-	
		392 - Reg Transport Impact	7,952,000	7,285,928	-	-	-	-	-	
73148	BW: DMC & Mt House Pkwy	363 - TIMP Traffic	101,205	83,267	-	-	-	-	Widen bridge on Mountain House Parkway over the Delta Mendota Canal.	
73149	BW: DMC & Old Schulte Rd	363 - TIMP Traffic	101,716	90,858	-	-	-	-	Widen bridge on Mountain House Parkway over the California Aqueduct.	
73150	BW-DM Canal & Old Schulte	363 - TIMP Traffic	121,547	95,761	-	-	-	-	Widen bridge on Old Schulte Road over the Delta Mendota Canal.	
73161	Widening - Corral Hollow I580/Linne	301 - General Projects	1,900,000	895,230	-	-	-	-	-	Widen 2L to 4L arterial - Corral Hollow Road from Linne Road to I-580
		363 - TIMP Traffic	500,000	489,833	-	-	-	-	-	
73175	Tracy Boulevard Sidewalk	242 - Transp Sales Tax	658,581	587,033	-	-	-	-	-	This Project will close the missing sidewalk gap to the ACE Train Station parking lot
		301 - General Projects	66,000	66,000	-	-	-	-	-	

Group 73: Streets and Highways

Project Number	Project Name	Proposed Funding Source	Estimated Cost/Budget	Carryover	Funding Request FY23/24	< --- Projected --- >				Description
						FY2024/25	FY2025/26	FY2026/27	FY2027/28	
73178	Street Patch & Overlay Program FY21	242 - Transp Sales Tax	590,000	393,133	-	-	-	-	-	Annual Maintenance program to keep streets in driving condition.
		245 - Gas Tax	585,000	585,000	-	-	-	-	-	
		248 - SB1 RMRA	3,252,699	3,223,663	-	-	-	-	-	
73184	Slurry Seal FY21-22	242 - Transp Sales Tax	540,000	540,000	-	-	-	-	-	Performing Slurry Sealing of various street segments as preventative maintenance.
		245 - Gas Tax	135,000	135,000	-	-	-	-	-	
		248 - SB1 RMRA	600,000	596,515	-	-	-	-	-	
73185	ADA Space Downtown	252 - ARPA	55,000	47,624	-	-	-	-	-	
73186	Annual Pavement Rehabilitation Project	242 - Transp Sales Tax	540,000	540,000	-	-	-	-	-	
		245 - Gas Tax	135,000	135,000	-	-	-	-	-	
		261 - ISTEPA	1,284,163	1,284,163	-	-	-	-	-	
73187	Annual Slurry Seal Project	248 - SB1 RMRA	600,000	600,000	-	-	-	-	-	
73188	Sidewalk, Curb, and Gutter Repa	245 - Gas Tax	250,000	250,000	-	-	-	-	-	
73190	Valpico Road Widening - Tracy Blvd to MacArthur Drive	375 - Core Area Traffic	10,000,000	10,000,000	-	-	-	-	-	This project will involve the roadway widening of Valpico Road from Tracy Blvd to MacArthur Drive, with two lanes in each direction, complete with all necessary improvements like curb, gutter, sidewalk, median, irrigation facilities, landscaping, drainage facilities, street lighting, signage and striping.
73191	Grant Line Road Widening Project	363 - TIMP Traffic	5,000,000	-	-	500,000	4,500,000	-	-	This project will involve the roadway widening of Grant Line Road from Bryon Road to Lammers Road, with two lanes in each direction, complete with all necessary improvements like curb, gutter, sidewalk, median, irrigation facilities, landscaping, drainage facilities, street lighting, signage and striping, and any modifications to the signals in this corridor.
73192	Reconstruction Bessie Avenue Between Lowell Avenue and Grant Line Road	301 - General Projects	3,500,000	3,482,661	-	-	-	-	-	Bessie Avenue Rehabilitation from Lowell to Grant Line: Replace water, sewer and storm drain mains, water and sewer laterals, remove and replace pavement, sidewalks, curbs and curb ramps, and street trees (as necessary)

Group 73: Streets and Highways

Project Number	Project Name	Proposed Funding Source	Estimated Cost/Budget	Carryover	Funding Request FY23/24	< --- Projected --- >				Description
						FY2024/25	FY2025/26	FY2026/27	FY2027/28	
73XXX	Annual Pavement Rehabilitation Project	242 - Transp Sales Tax	540,000	-		540,000	540,000	540,000	540,000	
		245 - Gas Tax	135,000	-		135,000	135,000	135,000	135,000	
		248 - SB1 RMRA	1,300,000	-		1,300,000	1,300,000	1,300,000	1,300,000	
73XXX	Annual Slurry Seal Project	261 - ISTE A	600,000	-	600,000	600,000	600,000	600,000	600,000	Performing Slurry Sealing of various street segments as preventative maintenance.
73XXX	Sidewalk, Curb, and Gutter Repa	245 - Gas Tax	250,000	-	250,000	250,000	250,000	250,000	250,000	Annual Program
73XXX	Pavement Management Plan	301 - General Projects	-	-	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000	Annual Project to fund pavement management plan, deferred street maintenance.
			97,592,499	78,188,831	4,850,000	7,325,000	11,325,000	6,825,000	6,825,000	

Group 74: Wastewater Improvements

Project Number	Project Name	Proposed Funding Source	Estimated Cost/Budget	Carryover	Funding Request FY23/24	< - - - Projected - - - >				Description
						FY2024/25	FY2025/26	FY2026/27	FY2027/28	
74084	WW Lines Upgrade, East Side	376 - Core Wastewater	756,000	721,013	-	-	-	-	-	Fix existing bottleneck on East Side Sewer mains south of Grant Line Road and MacArthur intersection. Install 4,000 LF of parallel 24 inch line or replace existing line 30 inch line south of Grant Line Rd.
74107	WWTP Expan Phase II	523 - Wastewater Capital	29,773,689	11,233,199	-	-	-	-	-	Expansion of treatment capacity to handle the additional inflow resulting from new development in the city. (Funded with Impact Fees)
		364 - TIMP Wastewater	1,226,311	-	-	-	-	-	-	
74162	Lincoln Avenue Sewer Connection	523 - Wastewater Capital	200,000	200,000	-	-	-	-	-	Connect the Lincoln Ave sanitary sewer to the citywide collection system, remove underground holding tank at 11th and Lincoln.
74164	Primary Clarifier Effluent Pumping System	523 - Wastewater Capital	450,000	408,478	-	-	-	-	-	Replace existing dysfunctional pumping system electronics.
74165	Sewer Capacity Upgrade	337 - Ellis Area Wastewater	400,000	400,000	-	-	-	-	-	Sewer capacity upgrade in Corral Hollow between Schulte and Field View (Phase 2 choke points on corral hollow)
		364 - TIMP Wastewater	2,600,000	2,600,000	-	-	-	-	-	
74166	Reconstruction Bessie Avenue Between Lowell Avenue and Grant Line Road	252 - ARPA	1,900,000	1,881,685	-	-	-	-	-	Bessie Avenue Rehabilitation from Lowell to Grant Line: Replace water, sewer and storm drain mains, water and sewer laterals, remove and replace pavement, sidewalks, curbs and curb ramps, and street trees (as necessary)
74167	HACH WIMS eSMT Report Auto Generator	523 - Wastewater Capital	120,000	120,000	-	-	-	-	-	Upgrade HACH Water Information Management Solution (WIMS) system to automatically generate state-required Self-Monitoring and Reports (eSMR). Currently data are semi-manually compiled to create reports.
74XXX	Clean up of Pond 1 and Berm	523 - Wastewater Capital	1,750,000	-	-	-	-	-	-	The pond Receives wastewater which is rich in solids; the pond has not been cleaned for a long time.
74XXX	WWTP and lift station PLC Replacement	523 - Wastewater Capital	650,000	-	-	-	-	-	-	Programmable Logic Controllers, PLCs, are critical to the many 'controlled' components of the treatment plant.
74XXX	Digester Flare Gas upgrade	523 - Wastewater Capital	1,000,000	-	-	-	-	-	-	The digester flare system needs to be repaired and replaced.
74XXX	Relocate Old Chlorine Building Generator to Headworks	523 - Wastewater Capital	450,000	-	-	-	-	-	-	
74XXX	Replace Turblex Blowers	523 - Wastewater Capital	1,800,000	-	-	-	-	-	-	The air blowers supply essential air to the aeration basins where much of the treatment of the waste is performed.

Group 74: Wastewater Improvements

Project Number	Project Name	Proposed Funding Source	Estimated Cost/Budget	Carryover	Funding Request FY23/24	< - - - Projected - - - >				Description
						FY2024/25	FY2025/26	FY2026/27	FY2027/28	
74XXX	Replace Primary Effluent Pumps	523 - Wastewater Capital	1,100,000	-	-	-	-	-	-	Essential pumps to transport primary settled wastewater to the next step in treatment, i.e., the aeration basins
74XXX	Relocate Electrical System from Basement to Electrical Room	523 - Wastewater Capital	1,000,000	-	-	-	-	-	-	
74XXX	HVAC & Roof Replacement - WWTP - LAB/Admin Building	523 - Wastewater Capital	450,000	-	-	-	-	-	-	Life Cycle replacement strategy requires replacing these units.
74XXX	Sewer Main and Lateral Annual Replacements	523 - Wastewater Capital	6,000,000	-	-	-	-	-	-	
74XXX	Asset Management - CMMS Program Expansion	523 - Wastewater Capital	100,000	-	-	-	-	-	-	This will help refine and develop budget costing for replacement of utility equipment and will enable a more effective maintenance practice. Split between 513/523)
74106	Larch Rd Pump Station Repairs	523 - Wastewater Capital	2,461,306	-	-	-	-	-	-	
74127	Aeration Diffuser Replacement	523 - Wastewater Capital	430,248	-	-	-	-	-	-	Existing diffusers have run out of life and need replacement
74128	Security System Cameras WWTP	523 - Wastewater Capital	407,793	-	-	-	-	-	-	Fencing, Cameras, lighting upgrades, parking, paving. Project includes various plant improvements to improve safety and security of the facility. The improvements include installtion new fence at the property boundaries, grading property, security cameras, lighting, and parking within the secured area.
74138	FOG Removal & Septage Rec System	523 - Wastewater Capital	730,000	-	-	-	-	-	-	Install new FOG removal integegerated with sewer receiving station at headwork. - Evaluate and rehabilitate existing system and structures at headworks to modify and provide for new systems.
74139	Screen & Grit Removal	523 - Wastewater Capital	730,000	-	-	-	-	-	-	Replace screens with a 1) Low maintenance more efficient screens with effective removal of rags and debris 2) Without delicate side-plates or similar weaknesses and install a grit removal system to prevent any grit from reaching the screens

Group 74: Wastewater Improvements

Project Number	Project Name	Proposed Funding Source	Estimated Cost/Budget	Carryover	Funding Request FY23/24	< - - - Projected - - - >				Description
						FY2024/25	FY2025/26	FY2026/27	FY2027/28	
74160	Chemical Disinfection System Replacement & Expansion	523 - Wastewater Capital	1,875,887	-	-	-	-	-	-	Replace existing Chemcial Disenfection system with the new Chlorine Bleach and Sodium BiSulphate system. The system will accommodate existing and near future chemical disenfiction needs. Sphere of Influence under a fully developed condition.
			58,361,234	17,564,375	-	-	-	-	-	

Group 75: Water Improvements

Project Number	Project Name	Proposed Funding Source	Estimated Cost/Budget	Carryover	Funding Request FY23/24	< - - - Projected - - - >				Description
						FY2024/25	FY2025/26	FY2026/27	FY2027/28	
75130	Replace SCADA System - Water Treatment Plant	513 - Water Capital	675,000	310,535	60,000	-	-	-	-	Upgrades of Supervisor Control and Data Acquisition (SCADA) System - software and hardware which monitors and controls plant equipment and processes to maintain regulatory compliance, including necessary modifications and integration with Plant Programmable Logic Controllers (PLC).
75155	Up Flow Clarifier Rehab	513 - Water Capital	868,200	832,446	-	-	-	-	-	
75156	WTP UV Upgrade	513 - Water Capital	400,000	105,646	-	-	-	-	-	The UV system needs a complete upgrade to achieve State Validation for disinfection credit.
75160	Water Lines Lammers Rd	365 - TIMP Water	6,000,000	5,763,257	-	-	-	-	-	Construction of new water transmission main along Lammers Road to enable a connection from City-side Zone 3 in the Ellis Subdivision to the Cordes Ranch Specific Plan area.
75162	Well Improvements	513 - Water Capital	1,551,800	1,283,224	-	-	-	-	-	Well Improvement Project: In order to meet the additional water demand during the peak periods and drought conditions- This funding needs to come out of development funds. We can supply the current rate payers without this funding. This is an upgrade to the existing system to support new development during drought.
75163	Tracy Hills Zone 5 Water Booster Station	513 - Water Capital	3,800,000	1,256,819						In order to serve the development of Vesting Tentative Subdivision Map completion of the Tracy Hills Zone 5 Booster Pump Station at John Jones Water Treatment Plant is required. This pump station and associated work are depicted in the Improvement Plans titled "Tracy Hills Zone 5 Pump Station" prepared by West Yost Associates and approved by the City on October 2021.
75164	Reconstruction Bessie Avenue Between Lowell Avenue and Grant Line Road	252 - ARPA	1,750,000	1,736,768						Bessie Avenue Rehabilitation from Lowell to Grant Line: Replace water, sewer and storm drain mains, water and sewer laterals, remove and replace pavement, sidewalks, curbs and curb ramps, and street trees (as necessary)

Group 75: Water Improvements

Project Number	Project Name	Proposed Funding Source	Estimated Cost/Budget	Carryover	Funding Request FY23/24	< - - - Projected - - - >				Description
						FY2024/25	FY2025/26	FY2026/27	FY2027/28	
75166	Larch Rd 12" Water Line Replacement	513 - Water Capital	1,250,000	250,000	1,000,000	-	-	-	-	Replace 5400 LF of 12" water line and 58 services on Larch Rd. between Tracy Blvd. and Corral Hollow.
75169	Security System Implementation for City's Water Facilities	513 - Water Capital	100,000	100,000	-	-	-	-	-	
75171	Water Plant HVAC Repair	513 - Water Capital	315,500	315,500	300,000	-	-	-	-	
75XXX	Annual Water Service/Line Replacement	513 - Water Capital	100,000		100,000	100,000	100,000	100,000	100,000	
75XXX	Annual Water Valve Replacement	513 - Water Capital	100,000		100,000	100,000	100,000	100,000	100,000	
75XXX	Los Vaqueros Reservoir	513 - Water Capital	10,000,000	-	300,000	300,000	300,000	300,000	300,000	
75XXX	BF Sisk Dam	513 - Water Capital	38,000,000	-	300,000	300,000	300,000	300,000	300,000	BF Sisk Dam raise project that would provide water storage capabilities for the City of Tracy in wet years and drought relief during dry with the City's participation in the project.
75XXX	Filter Valves Replacement at JJWTP	513 - Water Capital	100,000	-	100,000	100,000	100,000	100,000	100,000	Replace 48 filter valves at JJWTP.
75XXX	Water Intake Pump Station Rehabilitation at DMC - JJWTP	513 - Water Capital	200,000	-		-	-	-	-	Replace existing pumps, mag meters and accessories at Water Intake Pump Station located at DMC - JJWTP
			65,210,500	11,954,195	2,260,000	900,000	900,000	900,000	900,000	

Group 76: Drainage Improvements

Project Number	Project Name	Proposed Funding Source	Estimated Cost/Budget	Carryover	Funding Request FY23/24	< --- Projected --- >				Description
						FY2024/25	FY2025/26	FY2026/27	FY2027/28	
76059	South MacArthur, Ph 2-From	379 - Core Storm Drain	554,007	500,547	-	-	-	-	-	Improve capacity of 6800 LF of existing V-
76087	Eastside Channel Lining from Grant Line Road to MacArthur	350 - NEI Storm Drain	2,500,000	2,500,000	-	-	-	-	-	Concrete line the bottom and sides 2500 feet of the Eastside Channel from from 400 feet north of Pescadero (downstream end of CHP channel improvements) to MacArthur
76XXX	Trash Capture devices for storm water conveyance system	301 - General Projects	8,000,000	-	500,000	-	-	-	-	The State Regional Water Quality Control Board implemented regulations in 2019 that require NPEDS MS4 storm water permit agencies begin the implementation of for trash capture systems in all storm water conveyance systems. The period of time to complete the construction of these systems is 10 years so they must be in place in 2029. The requirement is intended to prevent the flow of any trash particles larger than 5mm into waters of the US.
76XXX	Eastside Channel Desilting	301 - General Projects	700,000	-	-	-	-	-	-	Eastside Channel Desilting from Pescadero Road to Arbor Road.
			11,054,007	3,000,547	500,000	-	-	-	-	

Group 77: Airport and Transit Improvements

Project Number	Project Name	Proposed Funding Source	Estimated Cost/Budget	Carryover	Funding Request FY23/24	< - - - Projected - - - >				Description	
						FY2024/25	FY2025/26	FY2026/27	FY2027/28		
77564	Transit Station Security Cameras	242 - Transp Sales Tax	140,000	138,296	-	-	-	-	-	Installation of additional cameras at the Tracy Transit Station.	
77583	Airport Layout Plan/Geospatial Info	563 - Airport Capital	241,200	31,910	-	-	-	-	-	The Airport Layout Plan shows in detail all proposed changes to the airport over the next ten years	
77585	Tracer Bus Stop Improvements	573 - Transit Capital	500,000	500,000	-	-	-	-	-	Various improvements to bus stops throughout the City, including but not limited to installation of concrete pads, benches, shelters, trash cans, signs, pullouts, etc.	
77586	Transit Maintenance & Storage Yard (Land Acquisition)	573 - Transit Capital	2,500,000	1,000,000	1,000,000	-	-	-	-	Land Acquisition - Development of storage and maintenance facility for the Tracer bus system.	
77587	ITS infrastructure Planning & Construction	241 - TDA Funds	280,000	280,000	-	-	-	-	-	This project will create a plan for the Tracer bus system to implement Intelligent Transportation System (ITS) technology within the City of Tracy.	
	ITS infrastructure Planning & Construction	573 - Transit Capital	1,120,000	1,120,000	-	-	-	-	-		
77588	Master Plan Update for New Jerusalem Airport	301 - General Projects	250,000	250,000	-	-	-	-	-	This project consists of a master plan update that will encompass both Tracy Municipal Airport and New Jerusalem.	
77XXX	Airport Slurry Seal & Pavement Patching Entrance Road and Parking Lot	261 - Federal Grants	158,850	-	158,850	-	-	-	-	The City of Tracy has prepared and submits herewith a Preapplication for Federal Assistance for a grant under the Airport Infrastructure Grant (AIG) program for the engineering design and construction of the slurry seal and minor pavement patching of the entrance road and parking lot.	
	Airport Slurry Seal & Pavement Patching Entrance Road and Parking Lot	301 - General Projects	17,650	-	17,650	-	-	-	-		
77XXX	Transit Buses	241 - TDA Funds	2,000,000	-	2,000,000	-	-	-	-	New Transit Buses	
77XXX	Short Range Transit Plan	241 - TDA Funds	150,000	-	150,000	-	-	-	-	The Short Range Transit Plan (SRTP) is an action plan developed to guide the implementation of transit service improvements, and requires updating every 5 years. The last plan was adopted in 2019.	
77XXX	Transit Station Generator	241 - TDA Funds	1,000,000	-	1,000,000	-	-	-	-	Emergency Back Up Generator for Transit Station.	
					8,357,700	3,320,206	4,326,500	-	-	-	

Group 78: Parks and Recreation

Project Number	Project Name	Proposed Funding Source	Estimated Cost/Budget	Carryover	Funding Request FY23/24	< - - - Projected - - - >				Description
						FY2024/25	FY2025/26	FY2026/27	FY2027/28	
78054	Aquatics Center	Developer Contribution	8,000,000	-	-	-	8,000,000	-	-	
		301 - General Projects	2,000,000	749,191	-	-	-	-	-	
		307 - Measure V	53,000,000	958,152	-	-	52,000,000	-	-	
		371 - Core Public Facilities	1,992,146	1,977,782	-	-	-	-	-	
78170	Gretchen Tally Park Phase III	378 - Core Area Parks	4,098,878	3,973,580	-	-	-	-	This project is a 4.7-acre expansion of Gretchen Talley Park. Scope of work will include: a new park restroom, new small & large dog park, tennis/pickleball courts, a 2nd basketball court, fitness area, nature play area, pollinator garden, landscaping and open lawn area.	
		361 - TIMP Parks	1,501,122	984,656	-	-	-	-		
78178	Multi-Generational Rec Center	301 - General Projects	12,000,000		3,000,000	3,000,000	3,000,000	3,000,000	-	Design and construction of the multi-generational recreation center.
		307 - Measure V	31,000,000	3,881,667	-	-	-	-	-	
		Grant	5,000,000	-	-	-	-	-	-	
		Developer Contribution	4,000,000	-	-	-	-	-	-	
78184	Hoyt Park - Per Capita Improvements	301 - General Projects	363,956	274,866	-	-	-	-	The City of Tracy has the opportunity to rehabilitate existing infrastructure at Hoyt Park through the Proposition 68, Per Capita Program.	
78185	Legacy Field Site Phase 1E	307 - Measure V	21,000,000	20,267,603	-	-	-	-	Improvements would include: paving parking lots, slurry sealing existing asphalt, alternative exit south of the complex, build-out of the Eastern Wagon Wheel to closely resemble the Western Wagon Wheel, and wayfinding & signage.	

Group 78: Parks and Recreation

Project Number	Project Name	Proposed Funding Source	Estimated Cost/Budget	Carryover	Funding Request FY23/24	< --- Projected --- >				Description
						FY2024/25	FY2025/26	FY2026/27	FY2027/28	
78186	Nature Park Phase 1	307 - General Projects	8,371,000	1,371,000	-	-	-	-	-	Based on the Council-approved Master Plan, Phase 1 of this project will include: site preparation and earthmoving to create various habitats, over 2 miles of hiking paths including a walking loop with bridget and ADA accessible trails with seating and an overlook, elevated walkway and viewing platform, pre-fabricated restroom, dedicated traffic intersection with parking lot, interpretive signage and educational opportunities, wayfinding signage, windbreak trees and native understory plantings, seeding and erosion control.
78187	Ritter Family Ball Park Renovation	307 - Measure V	25,000,000	3,000,000	-	-	-	-	-	The first step in updating this dated facility is a master planning process, including public outreach, to establish a modern vision for this much needed infill project.
78188	Florence Stevens Park & Greenway Improvement	242 - Transp Sales Tax	75,000	75,000	-	-	-	-	-	Renovation of the playground, rehab of the sport court including replacement of equipment and addition of lighting, pathway lighting throughout greenway, replacement of site furnishings, landscape enhancements, and drought tolerant conversions, ADA barrier
		271 - LMD	475,000	475,000	-	-	-	-	-	
78189	A.R. Glover Park Improvement	301 - General Projects	725,000	725,000	-	-	-	-	-	This project would include renovation of the playground, a new picnic area, renovation of the sport court, pathway lighting, ADA barrier removal, landscaping, and site furnishing replacements.

Group 78: Parks and Recreation

Project Number	Project Name	Proposed Funding Source	Estimated Cost/Budget	Carryover	Funding Request FY23/24	< - - - Projected - - - >				Description
						FY2024/25	FY2025/26	FY2026/27	FY2027/28	
78190	Clyde Bland Park BMX Pump Track	301 - General Projects	1,000,000	999,937	-	-	-	-	-	Construct a new 1/2 acre BMX pump track (bike park) in an existing City park. The project would create a looped asphalt track with a sequence of rollers and berms for bike riders. Associated improvements would include: earthwork, drainage, accessibility, shaded seating as well as related site furnishings, and landscaping.
78191	Edgar Thoming Park & McDonald Park Sport Court Rehabilitation	301 - General Projects	600,000	600,000	-	-	-	-	-	This project would include the renovation of surfacing and fencing at two (2) tennis courts and one (1) basketball court at Edgar Thoming Park, and renovation of one (1) basketball court and two (2) handball courts at McDonald Park. The project also includes a new booster pump for Edgar Thoming Park.
78192	Flag Poles City Hall Memorial	301 - General Projects	150,000	148,916	-	-	-	-	-	This project will install six (6) new flag poles at the Tracy War Memorial in Civic Center Plaza to represent the six (6) branches of the United States Military.
78XXX	CW Bikeways Mainenance (Annual Program)		75,000			75,000	75,000	75,000	75,000	
78XXX	Tracy Sports Complex Improvement	301 - General Projects	3,250,000	-	-	-	-	-	3,250,000	Renovation and upgrades to the concession building and meeting room. Site improvements including: new restroom for east side of park, playground renovations, parking lot renovations, removal of ADA barriers, landscaping, site furnishing replacements, fencing and major renovation of existing protective netting including replacement of short poles, repainting and replacement of netting.
			169,327,102	37,438,497	3,000,000	3,075,000	55,075,000	3,075,000	3,325,000	



**CITY COUNCIL TO RECEIVE INFORMATION AND
PROVIDE FEEDBACK REGARDING**

- 1) PROPOSED FY2024 CAPITAL BUDGET**
- 2) PROPOSED FIVE-YEAR CAPITAL IMPROVEMENT PLAN**
- 3) MEASURE V UPDATES**

Finance Department

April 4, 2023

Agenda

- ❑ CIP Outlook
 - Overview
 - Definitions
 - Funding Sources
 - Categories
- ❑ Proposed FY 2023-24 CIPs and 2024-2028 CIP Outlook by Category
- ❑ General Fund Project Updates FY2022/23
- ❑ Proposed General Fund Projects FY2023/24
- ❑ Measure V Project Updates
- ❑ Next Steps





CIP Outlook



CIP Outlook Overview

- The CIP Outlook is a planning tool to assist in budget decisions and the allocation of resources required to meet the City's strategic goals that are critical to core services.
- The CIP Outlook is not static, but can and should be modified as new funding, regulations, priorities, urgency, and demands arise.



Think Inside the Triangle™

CIP Outlook Overview

The purpose of the Capital Improvement Plan (CIP) Outlook is to:

- ✓ Identify capital expenditures which are anticipated to be requested over a five-year period;
 - ✓ Determine a source of funding for the requests;
 - ✓ Provide an opportunity for long-term planning.
-
- The CIP Outlook should be monitored, updated, and reported at least annually to the City Council.

CIP Outlook Key Definitions

- A capital project has specific objectives:
 - ✓ Detailed scope of work,
 - ✓ Schedule and budget,
 - ✓ Estimated total cost in excess of \$50,000,
 - ✓ Useful life expectancy of 10 or more years.

CIP Outlook Definitions

CAPITAL MAINTENANCE

- To maintain capital assets in fully functioning form
- To rehabilitate or replace existing infrastructure/facilities
 - Examples:
 - ✓ Roadway or sidewalk rehabilitation
 - ✓ HVAC replacement
 - ✓ Utility line maintenance and replacement

CAPITAL IMPROVEMENTS

- To expand existing infrastructure and/or capital assets
- To construct new infrastructure/facilities
 - Examples:
 - ✓ Expand utility plants or city buildings
 - ✓ Widen or construct new roadways, sidewalks, bikeways to allow for more users
 - ✓ Build or improve parks for more usage

CIP Outlook Definitions

CIP Outlook is comprised of three overlapping timelines related to the availability of funding.

Active:

These are current projects that have been approved by the City Council in prior years but may cross over multiple fiscal years in the CIP Outlook.

New:

These are new or planned projects that are ready for appropriations through either the annual adoption of the Operating and Capital budget or during one of the four quarterly updates of the Operating and Capital budget.

Projected:

These are projects expected to be completed in future years (FY 2024-25 and beyond).

- They may include “Un-funded” portions of future or existing CIPs.



CIP Overview of Funding Source

- The CIP Outlook is not a budget; nor are funds appropriated when adopting the CIP Outlook.
- Funding for Capital Improvements is almost exclusively from City revenues:
 - General taxes
 - Special taxes
 - Designated through law
 - Requires voter approval
 - Rates and user fees
 - Needs rate study to demonstrate nexus to improvement
 - Some require ballot action

CIP Outlook Funding Sources

General Fund

- Revenues from General Fund committed to City Council priorities
- Examples: Measure V Capital Projects for amenities

Special Revenues Funds

- Revenues dedicated for special purpose through tax or fees
- Examples: Gas Tax for street and roads

Capital Projects Funds

- Revenues dedicated for special purpose through tax or fees
- Examples: Development Impact fees established for specific new infrastructure

Enterprise Funds

- Revenues collected through customer user fees
- Examples: Utilities or Transportation Funds rates to maintain, repair or replace existing capital assets



Proposed FY 2023-24 CIPs and 2024-2028 CIP Outlook

By Category

CIP Outlook Estimates by Categories

- The CIP is organized into groups by the type of project.
 - ✓ Group 71: General Government and Public Safety Facilities
 - ✓ Group 72: Traffic Safety
 - ✓ Group 73: Streets and Highways
 - ✓ Group 74: Wastewater Improvements
 - ✓ Group 75: Water Improvements
 - ✓ Group 76: Drainage Improvements
 - ✓ Group 77: Airport and Transit Improvements
 - ✓ Group 78: Parks and Recreation

Group 71: General Government and Public Safety Facilities

Active		New	< - - - - Projected - - - - >				
Carryover	FY 2023/24	FY 2023/24	FY 2024/25	FY 2025/26	FY 2026/27	FY 2027/28	Total
16,704,279	-	700,000	1,050,000	500,000	500,000	500,000	19,954,279

New Proposed Projects (3)		
Project Name	Fund	FY2023/24
HVAC Replacement (s) - Citywide Facilities	301 - General Projects	500,000
Joe Wilson Pool	301 - General Projects	200,000
	301 - General Projects	730,000
Total		1,430,000



Group 71: General Government and Public Safety Facilities

- **Deferred Building Maintenance** - Citywide Facilities, to address facilities deferred maintenance to address large equipment failures/repairs, City Hall HVAC, Boiler, and other city buildings.
- **Joe Wilson Pool**: The plaster recently had repairs completed to several areas due to failure of the plaster. The estimate is to replaster the entire pool surface and replace associated fixtures and tile in the pool, after the summer 2023 season.

Group 71: General Government and Public Safety Facilities

- **Arterial Landscaping, Tree Maintenance & Removal (LMD)**- Pursuant to Prop 218, revenue generated from the assessed zones in the LMD should not be utilized to support efforts which are considered a general benefit to the public. Per the Engineer's LMD report, arterial roadways are considered a general benefit to the community as individuals, businesses, and non-profits utilize them for ease of transportation and connectivity throughout the community. This project will be able to address areas of concern with one time funding, while staff is evaluating the gaps in current funding levels and will return to council at later date for discussion.



Group 72: Traffic Safety

Active		New	< - - - - Projected - - - - >				Total
Carryover	FY 2023/24	FY 2023/24	FY 2024/25	FY 2025/26	FY 2026/27	FY 2027/28	
6,660,358	1,725,000	50,000	50,000	50,000	50,000	50,000	8,635,358

New Proposed Projects		
Project Name	Fund	FY2023/24
Annual Traffic Calming Program	245 - Gas Tax	50,000
Total		50,000

Group 72: Traffic Safety

- **Annual Traffic Calming Program:** This annual program or project will be used for performing required traffic calming studies as needed to address resident concerns on traffic.

Group 73: Streets and Highways

Active		New	< - - - - Projected - - - - >				Total
Carryover	FY 2023/24	FY 2023/24	FY 2024/25	FY 2025/26	FY 2026/27	FY 2027/28	
78,188,831	-	4,850,000	7,325,000	11,325,000	6,825,000	6,825,000	115,338,831

New Proposed Projects (3)		
Project Name	Fund	FY2023/24
Annual Slurry Seal Project	248 - SB1 Gas Tax	600,000
Annual Sidewalk, Curb, and Gutter Repair	245 - Gas Tax	250,000
Pavement Management Plan	301 - General Projects	4,000,000
Total		4,850,000



Think Inside the 'Triangle'

Group 73: Streets and Highways

- **Annual Slurry Seal**: Performing Slurry Sealing of various street segments as preventative maintenance.
- **Annual Sidewalk, Curb, and Gutter Repair**
- **Pavement Management Plan** : Annual Project to fund pavement management plan, deferred street maintenance.

Group 74: Wastewater Improvements

Active		New	< - - - - - Projected - - - - - >				Total
Carryover	FY 2023/24	FY 2023/24	FY 2024/25	FY 2025/26	FY 2026/27	FY 2027/28	
17,564,375	-	-	-	-	-	-	17,564,375

There are no new proposed projects for FY2023-24 for Wastewater Improvements due to lack of funding

Group 75: Water Improvements

Active		New	< - - - - Projected - - - - >				
Carryover	FY 2023/24	FY 2023/24	FY 2024/25	FY 2025/26	FY 2026/27	FY 2027/28	Total
11,954,195	1,560,000	700,000	900,000	900,000	900,000	900,000	17,814,195

New Proposed Projects (3)		
Project Name	Fund	FY2023/24
Los Vaqueros Reservoir	513 - Water Capital	300,000
BF Sisk Dam	513 - Water Capital	300,000
Filter Valves Replacement at JJWTP	513 - Water Capital	100,000
Total		700,000



Group 75: Water Improvements

- **Los Vaqueros Reservoir & BF Sisk Dam:** these project would provide water storage capabilities for the City of Tracy in wet years and drought relief during dry with the City's participation in the project.
- **Filter Valves Replacement at JJWTP:** Capital maintenance project to replace filter valves at the John Jones

Group 76: Drainage Improvements

Active		New	< - - - - Projected - - - - >				
Carryover	FY 2022/23	FY 2022/23	FY 2023/24	FY 2024/25	FY 2025/26	FY 2026/27	Total
3,000,547	-	500,000	-	-	-	-	3,500,547

New Proposed Projects (1)		
Project Name	Fund	FY2023/24
Trash Capture devices for storm water conveyance system	301 - General Projects	500,000
	Total	500,000

Group 76: Drainage Improvements

- **Trash Capture devices for storm water conveyance system:** The State Regional Water Quality Control Board implemented regulations in 2019 that require NPEDS MS4 storm water permit agencies begin the implementation of for trash capture systems in all storm water conveyance systems. The period to complete the construction of these systems is 10 years so they must be in place in 2029. The requirement is intended to prevent the flow of any trash particles larger than 5mm into waters of the US.

Group 77: Airport and Transit Improvements

Active		New	< - - - - Projected - - - - >				Total
Carryover	FY 2022/23	FY 2022/23	FY 2023/24	FY 2024/25	FY 2025/26	FY 2026/27	
3,320,206	1,000,000	3,326,500	-	-	-	-	7,646,706

New Proposed Projects (4)		
Project Name	Fund	FY2023/24
Airport Slurry Seal & Pavement Patching Entrance Road and Parking Lot	261 - Federal Grants	158,850
Airport Slurry Seal & Pavement Patching Entrance Road and Parking Lot	301 - General Projects	17,650
Fixed Route Transit Bus Replacements	241 - TDA Funds	2,000,000
Short Range Transit Plan	241 - TDA Funds	150,000
Transit Station Generator	241 - TDA Funds	1,000,000
	Total	3,326,500



Group 77: Airport and Transit Improvements

- **Airport Slurry Seal & Pavement Patching Entrance Road and Parking Lot:** The City of Tracy has prepared and submits herewith a Preapplication for Federal Assistance for a grant under the Airport Infrastructure Grant (AIG) program for the engineering design and construction of the slurry seal and minor pavement patching of the entrance road and parking lot.
- **Fixed Route Transit Bus Replacements**



Group 77: Airport and Transit Improvements

- **Short Range Transit Plan**: The Short-Range Transit Plan (SRTP) is an action plan developed to guide the implementation of transit service improvements and requires updating every 5 years. The last plan was adopted in 2019.
- **Transit Station Generator**: Emergency Back Up Generator for Transit Station

Group 78: Parks and Recreation

Active		New	< - - - - Projected - - - - >				
Carryover	FY 2022/23	FY 2022/23	FY 2023/24	FY 2024/25	FY 2025/26	FY 2026/27	Total
37,438,497	3,000,000	-	3,075,000	55,075,000	3,075,000	3,325,000	104,988,497

There are no new proposed projects for FY2023-24 for Parks and Recreation.



General Fund Project Updates



General Fund Project Updates

Project Name	Update	Amount FY22/23
71110 - Multipurpose Reality Based Training Facility	Permits are final, and the project has been advertised for bids. It is anticipated that the award will go to Council this April. Material lead time is anticipated to be 8-10 month, with construction to be completed in the Spring of 2024.	2,800,000
71111 - Grand Theater Repair	Phases 2 & 3 – Permits are final, and the project has been advertised for bids. It is anticipated that the award will go to Council this May, with construction expected to be complete by the Fall of 2023.	2,079,000
71117 – Police Headquarters Cooling System Study	Engineering is working with a consultant to develop the scope of work and execute a notice to proceed.	80,000
71118 – Central Garage Carport Enclosure	Staff met with consultant on site to discuss options on to proceed with project.	50,000
71120 - General Plan Update	City is beginning the update with the Housing Element and there is a scheduled workshop to have a joint meeting with the Planning Commission & Council.	3,500,000
73192 – Bessie Avenue Re-Construction	The design is 95% complete, advertisement for construction March, with the award expected in May/June.	3,500,000



General Fund Project Updates

Project Name	Update	Amount FY22/23
77588 - Master Plan Update for New Jerusalem Airport	The city is applying this Spring for an FAA Systems grant to fund 90% of the Master Plan Update. State of California Division of Aeronautics will provide a 5% match to the FAA grant if awarded.	250,000
78189 - A.R. Glover Park Improvement	Currently in Design, requesting proposals from on-call consultants and targeting contract award late spring to early summer 2023. Project completion Summer 2024 (tentative).	725,000
78190 - Clyde Bland Park BMX Pump Track	Currently in Design, requesting proposals from on-call consultants and targeting contract award late spring to early summer 2023. Project completion Summer 2024 (tentative). Staff completed two public meetings and received support to locate the project at Clyde Bland Park. The Parks & Community Services Commission also supported the location at the March 2, 2023 meeting.	1,000,000
78191 - Edgar Thoming Park and McDonald Park Sport Court Rehabilitation	Currently in Design, requesting proposals from on-call consultants and targeting contract award late spring to early summer 2023. Project completion Summer 2024 (tentative).	600,000
78192 - Flag Poles City Hall Memorial	Currently in Design (City staff). Project completion Summer 2023 (tentative).	150,000



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Proposed General Fund Projects



Proposed General Fund FY2022/23

Project Name	FY2023/24	FY2024/25	FY2025/26	FY2026/27	FY2027/28
HVAC Replacement (s) - Citywide Facilities	500,000	500,000	500,000	500,000	500,000
Joe Wilson Pool	200,000				
Trash Capture devices for storm water conveyance system	500,000				
Airport Slurry Seal & Pavement Patching Entrance Road and Parking Lot	17,650				
Pavement Management Plan	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000
Multi-Generational Rec Center (78178) El Pescadero Park Improvements	3,000,000	3,000,000	3,000,000	3,000,000	
Arterial Landscaping, Tree Maintenance & Removal (LMD)	730,000				
Tracy Sports Complex Improvement					3,250,000
	8,947,650	7,500,000	7,500,000	7,500,000	7,750,000










Measure V Project Updates



Measure V Projects

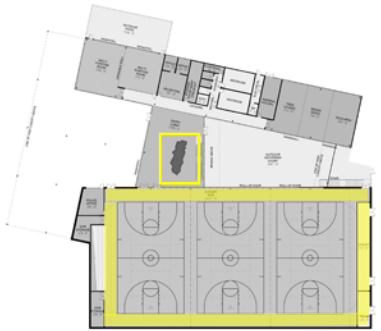
PROJECT	MEASURE V COMMITTED	FUND BALANCE	OTHER CONTRIBUTIONS	ESTIMATED COST
 Legacy Field (Phase 1E)	\$19 M (debt)	N/A	none	\$19 M
 Multi-Generational Recreation Center	\$31 M	\$4 M	\$9 M	\$88 M
 Aquatic Center	\$55 M	\$41 M	\$12 M	\$65 M
 Nature Park (Phase 1)	\$1 M	\$1 M	\$371,000	\$8.4 M
 Ritter Family Ball Park Renovation	\$3 M	\$3 M	none	\$25 M+



Multi-Generational Recreation Center

Recap of 10/18/22 Council Direction

- Proceed with Cost Option 3 on MGRC
 - ✓ 3-Court Gym
 - ✓ Enlarged Running Track
 - ✓ Addition of Bouldering Wall
 - ✓ Includes Council Priority Programming
- ✓ Proceed with El Pescadero Park Conceptual Plan improvements plus inclusion of full-size basketball court (possibly lighted)



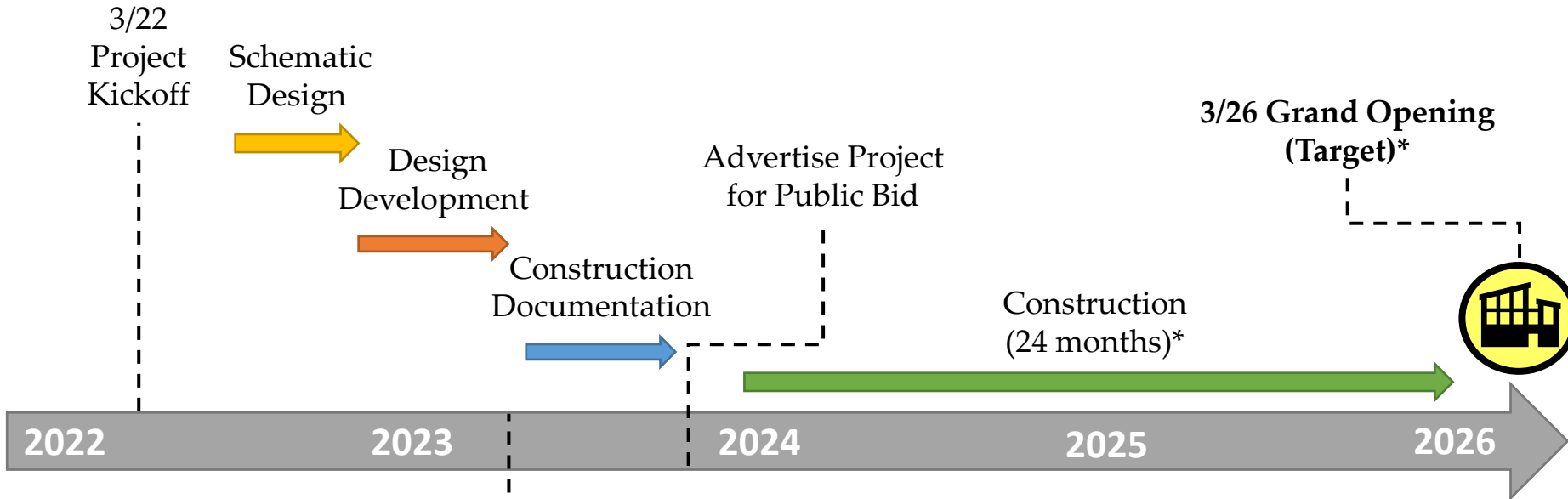


Recent Project Activity

- ✓ **Schematic Design Package complete**
 - ✓ Current estimated total project cost for Rec Center and El Pescadero Park Improvements is at \$88,000,000.
 - ✓ Aligns with project budget range presented to Council 10/18/22
- ✓ **Design Development Package complete**
- ✓ **Community Workshop 3 complete**
 - ✓ Focus groups for skate park, dog park and splash pad
- ✓ **Virtual Skate Park Workshop complete**
- ✓ **Parks Commission Design Update 3/2/23**



Work Plan



**WE
ARE
HERE**

**Expanded scope and expanded supply chain issues extended timeline by 12 months from schedule shown to Council in October 2022*



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MGRC Design Updates





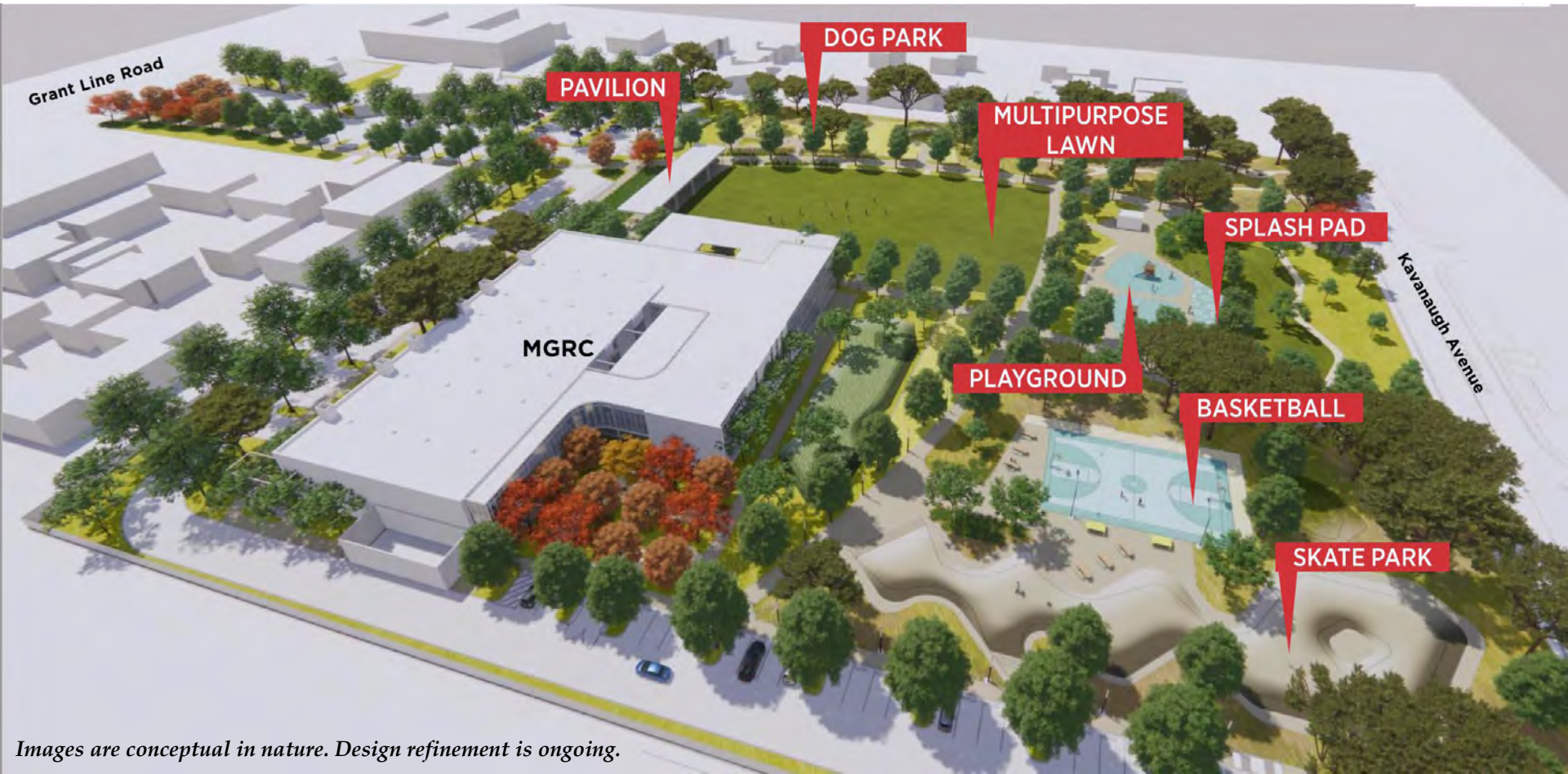
View Looking East at MGRC Entry



Images are conceptual in nature. Design refinement is ongoing.



Bird's Eye View of Park



Images are conceptual in nature. Design refinement is ongoing.



View of Multi-Use Lawn and MGRC



Images are conceptual in nature. Design refinement is ongoing.



View of Promenade & Park





View of Lobby Area



Images are conceptual in nature. Design refinement is ongoing.



View of Reception & Equipment Checkout Area



Images are conceptual in nature. Design refinement is ongoing.



Interior View of Gymnasium



Images are conceptual in nature. Design refinement is ongoing.



View of MGRC Courtyard



Images are conceptual in nature. Design refinement is ongoing.



View of Teen Lounge/Tech Area/ Micro-Library/Makers Space



Images are conceptual in nature. Design refinement is ongoing.



Project Budget Analysis

MGRC SCHEMATIC DESIGN ESTIMATE

ITEM	COST
• MGRC Improvements	\$69 million
• El Pescadero Park Improvements	\$19 million
<i>TOTAL ESTIMATED COMBINED PROJECT COST</i>	<i>\$88 million</i>

COMMITTED FUNDING SOURCES

ITEM	AMOUNT
• MGRC Budget (CIP 78178)	\$31 million (Measure V Lease Revenue Bond)
• MGRC Budget (CIP 78178)	\$5 million (State Grant)
• MGRC Budget (CIP 78178)	\$4 million (Community Benefits)
<i>TOTAL COMMITTED (CIP 78178)</i>	<i>\$40 million</i>

RECOMMENDED SUPPLEMENTAL FUNDING SOURCES

ITEM	AMOUNT
• Measure V Funds	\$17 million
• Eligible Development Impact Fees – Public Facilities + Public Safety (Police)	\$17 million
• Transit (TDA) Funds – Bikeway/Promenade through Park	\$2 million
• Reallocate Parks Capital Funds for Deferred Maintenance FY23-FY26	\$12 million
<i>TOTAL POTENTIAL FUNDING SOURCES</i>	<i>\$48 million</i>



LEGACY FIELDS PHASE 1E

Construction Update

- Current work includes concrete pours, soil preparation, sod installation and landscaping, electrical work, sump pump installation
- Approximately 65% complete
- Targeting Summer 2023 completion





LEGACY FIELDS OPERATIONS

- City hired Pros Consulting in 2021 to evaluate operations, maintenance and management of facility
- Agenda item coming back to City Council requesting one-time and ongoing appropriations of funds to purchase new equipment and add staffing
- Goal is to have new staff and equipment in place prior to completion of Phase 1E (Summer 2023)



City Council committed through Resolution 2019-232 that 25% of Measure V revenue be dedicated to operational costs of projects funded by Measure V



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OTHER MEASURE V PROJECT UPDATES



Aquatic Center

- City Council Agenda item planned this June to discuss project and next steps

Nature Park Phase 1 & Ritter Family Ball Park Renovation



- Staff planning to engage on-call list for landscape architectural services for both projects in the next several months to begin design process

Next Steps

- May 24th - CIP Chapter presented to Planning Commission.
- June 6th - CIP included with FY23/24 Budget for adoption.

Summary

- The Capital Improvement Plan (CIP) Outlook is not intended to provide for precise budgeting assumptions.
- The adoption of the CIP Outlook does not provide for appropriations of funds into the City's budget.
- It is recommended that the City Council receive this report and provide feedback on the Proposed FY 2023-24 Capital Improvement Program (CIP) Budget and Measure V Update.

Agenda Item 3.C

RECOMMENDATION

Staff recommends that the City Council: (1) adopt a Resolution of Intention to approve an amendment to the contract between the City of Tracy and the Board of Administration of the Public Employees' Retirement System to provide Public Service Credit for Peace Corps, AmeriCorps Vista, or AmeriCorps Service for all local miscellaneous members and all local police members, and (2) introduce an Ordinance authorizing an amendment to the contract between the City of Tracy and the California Public Employees' Retirement System Plan to provide Public Service Credit for Peace Corps, AmeriCorps Vista, or AmeriCorps Services for all local miscellaneous members and all local police members, pursuant to Government Code section 20471.

EXECUTIVE SUMMARY

This item for consideration by the City Council approves an amendment to the contract with the California Public Employee Retirement System (CalPERS) to allow for City of Tracy employees in the CalPERS local miscellaneous group and local police group to purchase public service credit for volunteer service time in the Peace Corps, AmeriCorps Vista or AmeriCorps Service. In addition, staff is recommending that the City Council authorizes an Ordinance amending the California Public Employees' Retirement System Plan to provide Section 21023.5 (Public Service Credit for Peace Corps, AmeriCorps Vista, or AmeriCorps Service) for all local miscellaneous members and all local Police members.

BACKGROUND AND LEGISLATIVE HISTORY

California Public Employees' Retirement Law permits public agencies and their employees to participate in the California Public Employees' Retirement System (CalPERS). The City's retirement contract with CalPERS covers two classifications of employees (1) Police safety and (2) Miscellaneous (non-sworn) employees. The Public Employees' Retirement Law includes optional provisions an agency may contract through CalPERS retirement contract. Addition of optional benefits to a CalPERS retirement contract requires an amendment to the CalPERS retirement contract. The timing and steps to amend the City's CalPERS retirement contract are dictated by CalPERS and the California Government Code as follows:

1. Approval of the Resolution of Intention is required to initiate the final contract amendment. (Attachment A)
2. Introduction and first reading of the Ordinance. (Attachment B)
3. Second reading and adoption of the Ordinance. Pursuant to Government Code Section 20471, a 20-day period between the adoption of the Resolution of Intention and the adoption of the final Ordinance is required.
4. The contract amendment becomes effective 30 days after the adoption of the ordinance. (Attachment C)

ANALYSIS

Human Resources conducted a review of optional benefits offered through the California Public

Employees' Retirement System. As a recruitment enhancement tool, staff recommends inclusion of Section 21023.5 (Public Service Credit for Peace Corps, AmeriCorps Vista, or AmeriCorps Service) to recognize City employees who served in the Peace Corps, AmeriCorps Vista or AmeriCorps Service by allowing the employee to purchase up to three years of public service credit for service in this capacity. The City's CalPERS contract currently provides a similar benefit for employees with prior military service.

FISCAL IMPACT

There is no fiscal impact to the current budget associated with approval of this action. The majority of cost for purchase of service credit time under Section 21023.5 is born by the employee at the time-of-service credit purchase with a nominal cost to the City. Actual costs to the City will emerge in future CalPERS valuations approximately two (2) years from the date of service credit purchase.

STRATEGIC PLAN

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

Governance Strategy

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

Objective 1b: Affirm organizational values.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council, by resolution, (1) adopt a Resolution of Intention to approve an amendment to the contract between the City of Tracy and the Board of Administration of the Public Employees' Retirement System to provide Public Service Credit for Peace Corps, AmeriCorps Vista, or AmeriCorps Service for all local miscellaneous members and all local police members, and (2) introduce an Ordinance authorizing an amendment to the contract between the City of Tracy and the California Public Employees' Retirement System Plan to provide Public Service Credit for Peace Corps, AmeriCorps Vista, or AmeriCorps Services for all local miscellaneous members and all local police members, pursuant to Government Code section 20471.

Prepared by: Judy Carlos, Human Resources Analyst

Reviewed by: Kimberly Murdaugh, Director of Human Resources
Sara Cowell, Director of Finance
Nancy Ashjian, Assistant City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, Acting City Manager

Attachments:

A – Resolution of Intention

B – Ordinance

C – Exhibit Amendment to Contract Between the Board of Administration CalPERS and the City of Tracy City Council

**RESOLUTION OF INTENTION
TO APPROVE AN AMENDMENT TO CONTRACT
BETWEEN THE
BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
AND THE
CITY COUNCIL
CITY OF TRACY**

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, one of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed change:

To provide Section 21023.5 Public Service Credit for Peace Corps, AmeriCorps VISTA, or AmeriCorps Service for local miscellaneous members and local police members.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the above agency does hereby give notice of intention to approve an amendment to the contract between said public agency and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment being attached hereto, as an "Exhibit" and by this reference made a part hereof.

By: _____
Presiding Officer

Title

Date adopted and approved

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF TRACY AND THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM PLAN TO PROVIDE PUBLIC SERVICE CREDIT FOR PEACE CORPS, AMERICORPS VISTA, OR AMERICORPS SERVICES FOR ALL LOCAL MISCELLANEOUS MEMBERS AND ALL LOCAL POLICE MEMBERS, PURSUANT TO GOVERNMENT CODE SECTION 20471.

WHEREAS, The Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said contract; and

WHEREAS, The Government Code sets forth procedures to amend this contract; and

WHEREAS, One of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of an ordinance to approve an amendment to said contract; and

WHEREAS, The following is a statement of the proposed change: To provide Section 21023.5 Public Service Credit for Peace Corps, AmeriCorps Vista, or AmeriCorps Service for local miscellaneous members and local police members; and

WHEREAS, A Resolution of Intention (Resolution # 2023-XXX) to approve the Public Employees' Retirement System contract amendment was adopted on April 4, 2023; and

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

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

SECTION 2. That an amendment to the contract between the City Council of the City of Tracy and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said amendment being attached hereto, marked as Exhibit, and by such reference made part hereof as though herein set out in full.

SECTION 3. That the Mayor of the City of Tracy is hereby authorized, empowered, and directed to execute said amendment for and on behalf of the City of Tracy.

SECTION 4. CEQA Determination. The City Council finds and determines this Ordinance is not a project within the meaning of section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change in the environment, either directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION 5. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 6. Effective Date. This ordinance shall become effective upon the thirtieth (30th) day after final adoption, and prior to the expiration of twenty (20) days from the passage thereof shall be published one in the Tri-Valley Herald, a newspaper of general circulation, published and circulated in the City of Tracy and thenceforth and thereafter the same shall be in full force and effect.

SECTION 7. Publication. The City Clerk is directed to publish this ordinance in a manner required by law.

SECTION 8. Codification. This Ordinance shall not be codified in the Tracy Municipal Code.

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the 4th day of April 2023, and finally adopted on the 2nd day of May, 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

Date of Attestation: _____

**EXHIBIT**

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Tracy

The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective October 1, 1948, and witnessed September 8, 1948, and as amended effective January 1, 1960, June 1, 1972, November 1, 1972, March 19, 1974, July 1, 1978, February 1, 1983, September 1, 1983, May 3, 1985, January 18, 1991, June 30, 1997, November 16, 1997, June 1, 2000, January 1, 2004, January 1, 2005, January 1, 2006, October 1, 2006, July 2, 2010, December 17, 2010, July 16, 2016, and December 16, 2016, which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 20 are hereby stricken from said contract as executed effective December 16, 2016, and hereby replaced by the following paragraphs numbered 1 through 20 inclusive:
 1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for classic local miscellaneous members, age 62 for new local miscellaneous members, age 50 for classic local police members entering membership in the police classification on or prior to July 2, 2010, age 55 for classic local police members entering membership for the first time in the police classification after July 2, 2010, age 55 for classic local fire members and age 57 for new local safety members.

2. Public Agency shall participate in the Public Employees' Retirement System from and after January 10, 1948, making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.
3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorney fees that may arise as a result of any of the following:
 - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
 - (b) Any dispute, disagreement, claim, or proceeding (including without limitation arbitration, administrative hearing, or litigation) between Public Agency and its employees (or their representatives) which relates to Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than such employees' existing retirement benefits, provisions or formulas.
 - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
 - a. Local Fire Fighters (herein referred to as local safety members);
 - b. Local Police Officers (herein referred to as local safety members);
 - c. Employees other than local safety members (herein referred to as local miscellaneous members).

5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:

NO ADDITIONAL EXCLUSIONS

6. Prior to January 1, 1975, those members who were hired by Public Agency on a temporary and/or seasonal basis not to exceed 6 months were excluded from PERS membership by contract. Government Code Section 20336 superseded this contract provision by providing that any such temporary and/or seasonal employees are excluded from PERS membership subsequent to January 1, 1975. Legislation repealed and replaced said Section with Government Code Section 20305 effective July 1, 1994.
7. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member in employment before and not on or after October 1, 2006, shall be determined in accordance with Section 21354 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2% at age 55 Modified).
8. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member in employment on or after October 1, 2006, and not entering membership for the first time in the miscellaneous classification after December 17, 2010, shall be determined in accordance with Section 21354.4 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2.5% at age 55 Modified).
9. The percentage of final compensation to be provided for each year of credited current service as a classic local miscellaneous member entering membership in the miscellaneous classification after December 17, 2010, shall be determined in accordance with Section 21354 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2% at age 55 Modified).
10. The percentage of final compensation to be provided for each year of credited prior and current service as a new local miscellaneous member shall be determined in accordance with Section 7522.20 of said Retirement Law (2% at age 62 Supplemental to Federal Social Security).
11. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local police member entering membership in the police classification on or prior to July 2, 2010, shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).

12. The percentage of final compensation to be provided for each year of credited current service as a classic local police member entering membership in the police classification after July 2, 2010, shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
13. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local fire member shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
14. The percentage of final compensation to be provided for each year of credited prior and current service as a new local safety member shall be determined in accordance with Section 7522.25(d) of said Retirement Law (2.7% at age 57 Full).
15. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance) for local safety members only.
 - b. Section 21574 (Fourth Level of 1959 Survivor Benefits) for local safety members only.
 - c. Section 20965 (Credit for Unused Sick Leave) for local fire members entering membership on or prior to May 3, 1985, only.
 - d. Section 20475 (Different Level of Benefits). Section 20965 (Credit for Unused Sick Leave) is not applicable to classic local fire members entering membership for the first time with this agency in the fire classification after May 3, 1985.

Section 21363.1 (3% @ 55 Full formula) is applicable to classic local police members entering membership for the first time with this agency in the police classification after July 2, 2010.

Section 21354 (2% @ 55 Modified formula) and Section 20037 (Three-Year Final Compensation) are applicable to classic local miscellaneous members entering membership for the first time with this agency in the miscellaneous classification after December 17, 2010.
 - e. Section 20903 (Two Years Additional Service Credit).
 - f. Section 21024 (Military Service Credit as Public Service).

- g. Section 20042 (One-Year Final Compensation) for classic local miscellaneous members entering membership on or prior to December 17, 2010, and classic local safety members.
 - h. Section 20516 (Employees Sharing Additional Cost):
 - From and after July 16, 2016, 3% for local miscellaneous members in the Confidential Mid-Managers Unit.
 - From and after July 16, 2016, 3% for local police members in the Tracy Police Management Association.
 - From and after July 16, 2016, 3% for local fire members in the Confidential Mid-Managers Unit.
 - From and after December 16, 2016, 3% for local police Members in the Tracy Police Officers Association.
 - i. Section 21023.5 (Public Service Credit for Peace Corps, AmeriCorps VISTA, or AmeriCorps Service) for local miscellaneous members and local police members only.
16. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on February 1, 1983. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.
17. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
18. Public Agency shall also contribute to said Retirement System as follows:
- a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21574 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local safety members.
 - b. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.

- c. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.
- 19. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.
- 20. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _____, _____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF TRACY

BY _____
 MELODY BENAVIDES, CHIEF
 PENSION CONTRACTS AND PREFUNDING
 PROGRAMS DIVISION
 PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
 PRESIDING OFFICER

Witness Date

Attest:

Clerk

PLEASE DO NOT SIGN "EXHIBIT ONLY"

PLEASE DO NOT SIGN "EXHIBIT ONLY"

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

ADOPT A RESOLUTION OF INTENTION TO APPROVE AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF TRACY AND THE BOARD OF ADMINISTRATION OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO PROVIDE PUBLIC SERVICE CREDIT FOR PEACE CORPS, AMERICORPS VISTA, OR AMERICORPS SERVICE FOR ALL LOCAL MISCELLANEOUS MEMBERS AND ALL LOCAL POLICE MEMBERS

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, amendment to the CalPERS retirement contract requires the adoption by the governing body of the public agency a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed change:

To provide Section 21023.5 Public Service Credit for Peace Corps, AmeriCorps Vista, or AmeriCorps Service for local miscellaneous members and local police members.

RESOLVED: That the City Council of Tracy adopts a Resolution of Intention to approve an amendment to the contract between City of Tracy and the Board of Administration of the Public Employees' Retirement System to provide Public Service Credit for Peace Corps, AmeriCorps Vista, or AmeriCorps Service for all local miscellaneous members and all local police members.

The foregoing Resolution 2023-_____ was adopted by the Tracy City Council on April 4, 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