



TRACY CITY COUNCIL

REGULAR MEETING AGENDA

Tuesday, September 17, 2024, 7:00 P.M.

Tracy City Hall Chambers, 333 Civic Center Plaza, Tracy

Web Site: www.cityoftracy.org

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

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

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

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

Remote Public Comment:

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

- *Comments via:*
 - **Online by visiting** <https://cityoftracyevents.webex.com> and using the following **Event Number: 2559 433 4098** 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 25594334098 #8722922# Press *3** to raise the hand icon to speak on an item.

- *Protocols for commenting via WebEx:*
 - *If you wish to comment on the "Consent Calendar", "Items from the Audience/Public Comment" or "Regular Agenda" portions of the agenda:*
 - 1) *Listen for the Mayor to open that portion of the agenda for discussion, then raise your hand to speak by clicking on the Hand icon on the Participants panel to the right of your screen.*
 - 2) *If you no longer wish to comment, you may lower your hand by clicking on the Hand icon again.*
 - *Comments for the "Consent Calendar" "Items from the Agenda/Public Comment" or "Regular Agenda" portions of the agenda will be accepted until the public comment for that item is closed.*
 - *Comments received on Webex outside of the comment periods outlined above will not be included in the record.*

Date Posted: September 13, 2024

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: September 13, 2024

CALL TO ORDER

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

ROLL CALL AND DECLARATION OF CONFLICTS

PLEDGE OF ALLEGIANCE

INVOCATION

PRESENTATIONS

1. Proclamation – Tracy Connects Day

ORDER OF BUSINESS

1. CONSENT CALENDAR

- 1.A. Approval of August 27, 2024 Special Meeting Minutes, September 3, 2024, Closed Session Meeting Minutes and September 3, 2024 Regular Meeting Minutes.
- 1.B. Staff recommends that the City Council adopt a resolution approving a Professional Services Agreement with Raftelis Financial Consultants, Inc for a total not-to-exceed amount of \$529,800 over a three-year contract for project management support to select and implement a Computerized Maintenance Management System software.
- 1.C. Staff recommends that City Council adopt a resolution 1) approving and authorizing the execution of a Lease Agreement with Arnaudo Bros. Transport, Inc., a California Corporation, with a term of ten years and initial annual rent in the amount of \$57,600, adjusted at a three percent increase annually.
- 1.D. Staff recommends that the City Council adopt a resolution 1) approving a Master Professional Service Agreement for Roadway Design Services with Mark Thomas & Company, Inc. for an initial term of three years and for a total not-to-exceed amount of \$600,000 per fiscal year, and 2) authorizing two administrative options to extend for one-year term each.

2. ITEMS FROM THE AUDIENCE

3. REGULAR AGENDA

- 3.A. Staff recommends that the City Council:
 1. Conduct a hearing on the Resolutions of Necessity (RON) to authorize the acquisition of abutter's rights and access thereto from two properties already the subject of eminent domain actions for the I-580/Patterson Road Interchange Project (CIP 73147) and to make the required findings for these two properties owned by and located at:
 1. ARP Minimart Corporation – 25775 Patterson Pass Road (Assessor's Parcel Number 209-100-040) (Minimart); and
 2. Harminder Kaur; Rajwinder Kaur; Gupreet Singh; Charnit Singh and Ramandeep Kaur, Trustees – 25883 S. Patterson Pass Road (Assessor's Parcel Number 209-100-280) (Kaur et al).

2. Adopt RONS for Minimart and Kaur et al., Finding that the Public Interest, Convenience and Necessity Require the Acquisition of Certain Property Interests for the Project, Authorizing the Acquisition Thereof, and Directing the City Attorney to File Eminent Domain Proceedings.
- 3.B. Staff recommends that the City Council conduct a public hearing, and upon conclusion, introduce an ordinance amending Tracy Municipal Code Section 10.08.2356 to provide an alternative to the current 120-foot width lot standard in the Community Recreation Support Services Zoning District.
- 3.C. Staff recommends that City Council take the following actions: 1) Adopt an Urgency Ordinance, pursuant to Government Code, § 36937(d): (A) rescinding Urgency Ordinance 1346 that established a moratorium on the processing of business taxes under Section 6.04.310 of the Tracy Municipal Code (TMC) and (B) adopting amendments to Chapter 6.04 of the TMC reflecting revised business tax rates and categories; and 2) Introduce an Ordinance amending Chapter 6.04 of the TMC to reflect revised business tax rates and categories.
- 3.D. Staff recommends that the City Council take the following actions for the League of California Cities 2024 Annual Conference Business meeting: 1) Designate, by motion, a voting delegate and up to two alternate voting delegates; and 2) Discuss General Resolution No. 1 and determine, by motion, how to authorize the appointed delegate to vote.
- 3.E. Staff recommends that the City Council adopt a resolution: (1) determining that strict compliance with the bidding process is not in the best interest of the City pursuant to Tracy Municipal Code 2.20.180(b)(4) and dispensing such requirements for actions herein; and (2) approving a Master Service Agreement with Flock Group, Inc. for the purchase, installation, operation, and maintenance of new and existing equipment and technology for a five-year term and for a total not-to-exceed amount of \$1,092,850.
- 3.F. Staff recommends that the City Council adopt a Resolution approving a Professional Services Agreement with Group 4 Architecture, Research + Planning, Inc. for architectural, engineering, and associated design services related to the development of the City of Tracy Aquatic Center, Capital Improvement Project 78054, for a total not-to-exceed amount of \$5,665,261, and an initial term of 4 years with an administrative option to extend for up to another 2 years.
4. ITEMS FROM THE AUDIENCE
5. STAFF ITEMS
6. COUNCIL ITEMS
7. ADJOURNMENT

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

August 27, 2024, 7:00 p.m.

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

1. Mayor Pro Tem Davis called the meeting to order at 7:00 p.m.
2. There were no actions taken pursuant to AB 2449.
3. Roll call found Council Members Arriola, Bedolla, Evans, and Mayor Pro Tem Davis present. There was no declaration of conflicts. Mayor Young absent.
4. ITEMS FROM THE AUDIENCE – Frank Lozano expressed concerns regarding drivers speeding through crosswalks at Sycamore and Dove, by Wanda Hirsh School. There should be a stop sign at Dove, Raven and Sycamore. Need LED lights in crosswalk and lit stop signs that run on solar. Nine months of the year is a school zone and people are going too fast.

Robert Tanner stated since July 4 there have been six items in the Tracy Press dealing with fireworks. Hope the new City Council reviews the process of selling fireworks in town and makes it illegal totally. Fireworks put on by staff should be the only ones allowed. Safe and sane are not necessarily safe and sane. Need more stringent laws so Police can nail everyone.

Veronica Vargas stated the City has approved the Urban Forestry Plan but it does not address irrigation and replacement of trees. A lot of trees have been cut down especially on Corral Hollow and MacArthur and requested Council pass a resolution that for every tree taken down, replant three trees and allow some dollars to be attached for replacement and irrigation. Ms. Vargas also stated on 11th Street nothing went forward regarding crosswalks. Most inexpensive improvement a City can do is painting bike lanes green and painting the crosswalks. Make it a priority and Public Works has allocation to paint.

5. DISCUSSION ITEMS

- 5.A. 1) Discuss and approve a response letter to the San Joaquin County Civil Grand Jury's Report of "Second Look: 2018-2019 San Joaquin County Civil Grand Jury Report Cold Cases In San Joaquin County: On The Back Burner Case #0318" and 2) Adopt a Resolution authorizing the City Manager to execute the letter and transmit it to the Presiding Judge.

Sekou Millington, Police Chief introduced the item and responded to questions.

Jose Silva, Police Lieutenant provided the staff report.

Council questions followed.

Arturo Sanchez, Assistant City Manager clarified that the direction provided appeared to have a clerical error because it said Items 1 and 2 but the report states Recommendations 1 and 1.1. There was no Recommendation 2 within

the Grand Jury Report. Staff was trying to be as responsive as possible to the report itself, but they had no Recommendation 2 spelled out.

There was no public comment.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Bedolla to adopt **Resolution 2024-140** approving the proposed recommendations as they appear in Attachment B to the staff report. Roll call found Council Members Arriola, Bedolla, Evans and Mayor Pro Tem Davis in favor; passed and so ordered. Mayor Young absent.

5.B The City Council 1) Continue discussion on responses to the 2023-2024 San Joaquin County Civil Grand Jury's Report titled: "City of Tracy: Public Trust Still Not Restored" Case No. 0323 and, upon conclusion, 2) adopt a Resolution approving the final form of response letter and authorizing the City Manager and City Attorney to jointly execute and transmit the response letter to the Presiding Judge.

Midori Lichtwardt, City Manager provided the staff report.

Michel Bazinet stated his comments are directed at the Council majority running the show. In 20 years of coming to Council meetings he has never seen such pretension and shared his concerns regarding Council's behavior and not being accountable for actions and words.

Karin Schnaider, Assistant City Manager read out the findings, Council's consensus and responses for Findings F.1 to F.3 which were voted on at the August 20, 2024, Special Council meeting.

Ms. Schnaider announced Mayor Pro Tem Davis has provided additional responses for the Council to consider.

City Council made amendments to the responses approved at the August 20, 2024, Special Council meeting.

Bijal Patel, City Attorney and Patrick Donegan, Best Best & Krieger responded to Council questions.

1.0 City Council

FINDINGS

F1.1 *Through their unprofessional behavior and inability to work cohesively, members of the Tracy City Council have been unable to govern effectively.*

Response to Finding F1.1 - The City Council disagrees partially with finding F1.1.

The City Council has adopted a Code of Conduct and Meeting Protocols to facilitate professional and productive Council Meetings. The Code of Conduct, Section 3.6 Code of Conduct Compliance and Enforcement, provides the

framework for the Council to address actions by fellow Council Members and/or Commissioners that may be considered unprofessional or prohibit the City Council's ability to govern effectively.

For meetings where four of the five Council Members were in attendance, the four City Council Members worked very well together. Although we disagreed on some items, we worked well and made great progress working together. The City Council has demonstrated its ability to govern effectively.

Some examples of good governance are the rectification for unusable shelter units, addressing homelessness, expanding housing for unsheltered, and assuring safety at El Pescadero Park by adopting legislation ensuring safe use of parks by youth by adopting a sensitive use policy. Other examples of good governance include the acceptance of the 16 acres of the Aquatic Center land; we established the first ambulance services in the City; as well as approved funding for the first regional fire training facility within the City.

Council Members Bedolla, Evans and Mayor Pro Tem Davis agreed to the above response.

Council Member Arriola disagreed with the City Council's assessment of the finding and agreed with the statements in the Civil Grand Jury's finding.

Mayor Young absent.

F 1.2 Tracy City Council has violated the Brown Act in multiple ways: discussing personnel issues in an open meeting and posting personnel issues on an open Council agenda.

Response to Finding F1.2 - The City Council disagrees wholly with finding F1.2.

The City of Tracy, like all employers, is restricted in what information it can and should share regarding personnel matters. The City takes seriously its responsibility to respect the privacy rights of its current and former employees. The Brown Act affords certain protections pertaining to personnel matters. In addition, any written allegations of Brown Act violations have been formally addressed by the City Council.

Council Members Bedolla, Evans and Mayor Pro Tem Davis agreed to the above response.

Council Member Arriola agreed with the Grand Jury's Findings.

Mayor Young absent.

F 1.3 Some Tracy City Council Members have created a toxic work environment within City Hall by spreading accusation of corruption and alleged illegal activities by upper management, staff and other Council Members.

Response to Finding F1.3 - The City Council disagrees wholly with finding F1.3.

To the extent that there is a perception of a toxic work environment, the City Council disagrees that more than one member created such an environment.

The City of Tracy, like all employers, strives to foster a safe, respectful, and dignified workplace for its employees. It prides itself on having responsive and ethical professional staff. Staff will work to assure that additional and appropriate workplace training occurs.

Council Members Bedolla, Evans and Mayor Pro Tem Davis agreed to the above response.

Council Member Arriola agreed with the Grand Jury's Findings.

Mayor Young absent.

***F 1.4** Tracy City Council's behavior has resulted in poor morale within City Hall.*

Response to Finding F1.4 - The City Council disagrees wholly with finding F1.4.

The Council disagrees that the behavior of the Council body as a whole has resulted in poor morale within City Hall. There were multiple actions attributed to one member of the City Council that may have attributed to the poor morale. There are multiple reports, videos, and minutes that support the Council's position.

The City of Tracy strives to foster a workplace environment of dignity, respect, professionalism, and community. The City Council has adopted a Code of Conduct and Meeting Protocols to facilitate a professional and productive working environment for all City staff. The Code of Conduct, Section 4.1: Relationship/Communications with staff, provides the framework for Council and staff interactions. In addition, Section 3.6: Code of Conduct Compliance and Enforcement, provides the framework for the Council to address actions by fellow Council Members and/or Commissioners that may be considered unprofessional.

Council Members Bedolla, Evans and Mayor Pro Tem Davis agreed to the above response.

Council Member Arriola disagreed with the Council's position and agrees with the findings in the Grand Jury Report.

Mayor Young absent.

***F 1.5** The City Council created a void in City administration and leadership through the resignation of another City Manager. It should be noted that there have been six City Managers and four City Attorneys in the past five years.*

Response to Finding F1.5 - The City Council disagree wholly with finding F1.5.

The City Council did not create a void in the city administration and leadership as it appointed an Interim City Manager immediately following the resignation of the prior City Manager. The Interim City Manager at that time had served the City of

Tracy for more than 25 years and subsequently was permanently appointed by the City Council as City Manager.

This Council, on which the investigation is focused, has been intact since 2022, less than two years. Any references to previous Councils would be reflective of conduct not associated with this Council body. Only two City Managers have served under this Council body. No Council body should be expected to be responsible for any former City Councils' actions.

The City of Tracy continues to work to recruit and retain professional staff committed to the City and its workforce.

Council Members Bedolla, Evans and Mayor Pro Tem Davis agreed to the above response.

Council Member Arriola disagreed with the evaluation and agreed with the findings of the Grand Jury.

Mayor Young absent.

***F 1.6** The unprofessional Council behavior during Council meetings has negatively impacted the City's reputation, affecting new business development and recruitment of potential City employees.*

Response to Finding F1.6 - The City Council disagree partially with Finding F1.6.

The City Council disagrees partially as just one member has consistently demonstrated unprofessional behavior and has negatively impacted the City's reputation, affecting new business development and recruitment of potential City employees. This is part due to untrue accusations of racism against their fellow Council members and the City.

The City recognizes that the public deserves to see and be served in a professional and dignified way. The City Council has adopted a Code of Conduct and Meeting Protocols to facilitate a professional and productive Council Meeting. The Code of Conduct, Section 3.6: Code of Conduct Compliance and Enforcement, provides the framework for the Council to address actions by fellow Council members and/or Commissioners that may be considered unprofessional or prohibit the City Council's ability to govern effectively. The City endeavors to establish a thriving and growing community that attract new businesses and employees.

Council Members Bedolla, Evans and Mayor Pro Tem Davis agreed to the above response.

Council Member Arriola agreed with the findings of the Grand Jury Reports F1.6.

Mayor Young absent.

***F 1.7** Members of City Council attempted to undermine the ordinance requiring a supermajority vote to remove the City Manager to a simple majority vote.*

Response to Finding F 1.7 - The City Council disagrees wholly with finding F1.7.

The legislative body has a duty to act in the best interest of the community. It is clear that there were alliances between some Council Members, staff, and developers that would make it all but impossible to achieve a supermajority vote for dismissal.

As a general law city, ordinances are adopted on a simple majority vote, unless a supermajority vote is otherwise required by State law.

Council Members Bedolla, Evans and Mayor Pro Tem Davis agreed to the above response.

Council Member Arriola stated he absolutely dissents to this especially for the fact that this language either explicitly or implicitly names him saying that he has an alliance to anyone. His alliance is only to the City of Tracy.

Mayor Young absent.

***F 1.8** There are no established measurable performance goals and objectives for the City Manager and City Attorney; therefore, the City Council cannot conduct effective annual evaluations.*

Response to Finding F1.8 - The City Council disagree partially with finding F1.8.

This current City Council was not aware of a standardized City practice developed under any past City Councils. Established measurable performance goals and objectives is preferred and ideal, however, lack of them does not prohibit a member of the Council body from effectively evaluating performance.

Prior to the publication of the Grand Jury Report, the City Manager and City Attorney began working with a consultant and the Council body to develop respective performance goals and objectives to ensure a positive working relationship with clear expectations on both sides is established going forward.

Council Members Bedolla, Evans and Mayor Pro Tem Davis agreed to the above response.

Council Member Arriola partially disagreed and has no concerns effectively evaluating the City Manager and City Attorney.

Mayor Young absent.

F 1.9 *Serving as Parliamentarian for Council meetings puts the City Attorney in a conflicting situation. Each decision by the Parliamentarian can be seen as partial to one side or the other.*

Response to Finding F1.9 - The City Council disagrees wholly with finding F1.9.

The City Attorney is a neutral party serving at the pleasure of the Council. The City Attorney's duties as a Parliamentarian provide legal guidance. The City Attorney serves in an advisory capacity, cannot vote, and has no authority over any member of the Council.

Per League of California Cities: Understanding Your City's Departments, "The city attorney also may serve as the council's parliamentarian." The City Attorney is governed by the State Bar of California Rules of Professional Conduct, requiring attorneys to provide unbiased legal advice to their clients. The City is not aware of a structure in which the City Attorney is not the Parliamentarian of the Council body.

Council Members Bedolla, Evans and Mayor Pro Tem Davis agreed to the above response.

Council Member Arriola disagreed partially. The Parliamentarian and City Attorney should be advisory only as it relates to this finding.

Mayor Young absent.

RECOMMENDATIONS:

R1.1 – *By October 1, 2024, members of the City Council need in-depth and continuous training on the understanding and the effective utilization of the City of Tracy Code of Conduct, City of Tracy Council meeting Protocols and Rules of Procedures, and Rosenberg's Rules. Member of the City Council and the City Attorney should refer to the League of California Cities: Counsel and Council: A Guild to Building a Productive City <http://www.calcities.org/>.*

Response to Recommendation R1.1 - The recommendation has been implemented.

The City Council receives ongoing and continuous training on these practices and no additional training is required by October 1, 2024.

More specifically during the City Council's term, it has received in-depth and continuous training on the understanding and the effective utilization of the City of Tracy Code of Conduct, City of Tracy Council meeting Protocols and Rules of Procedures, and Rosenberg's Rules. In addition, new and existing City Council members are encouraged to take trainings with League of California Cities, including Mayor and Council Academy and the Annual Conference.

The City Council reviews their Code of Conduct, Meeting Protocols, and Rosenberg's Rules during their biennial Strategic Retreats. The City Council

may request reviews between these regularly scheduled trainings, as needed. For example, the City Council member recently completed a comprehensive review of the Code of Conduct and Meeting Protocols in May 2023. The City Council had previously requested a review of the Meeting Protocols and Code of Conduct to return in September 2024.

Council Members Bedolla, Evans and Mayor Pro Tem Davis agreed to the above response.

Council Member Arriola stated he disagreed and would be voting that the recommendation has not been implemented and to implement it in the future.

Mayor Young absent.

R1.2 – R1.6 – *By October 1, 2024, members of the City Council need in-depth and continuous training in understanding the requirements of the Brown Act.*

Response to Recommendations R1.2 – R1.6 - The recommendation has been implemented.

The City Council receives ongoing and continuous training on these practices and no additional training is required by October 1, 2024.

More specifically during this City Council's term, the Council body has completed the required training on the understanding of the Brown Act. In addition, new and existing City Council members have access to and are encouraged to take additional trainings with League of California Cities and other associations, including Brown Act and AB1234 (Ethics) trainings.

Council Members Bedolla, Evans and Mayor Pro Tem Davis agreed to the above response.

Council Member Arriola supported not being implemented and should be implemented in the future.

Mayor Young absent.

R1.7 - *By October 1, 2024, City Council should approve an ordinance requiring a supermajority vote to modify any ordinance requiring a 4/1 vote. Additionally, a 90-day public notice to change this vote requirement should be mandatory.*

Response to Recommendation R1.7 - The City Council will not implement this recommendation.

As a general law city, the authority for the City's powers are granted by State law, including the ability to adopt ordinances. Absent on point authority to the contrary, divesting this Council or a future Council of its power to legislate pursuant to the prescribed powers in the Government Code is legally tenuous and may be subject to challenge. The Council retains its rights to change a super majority to a simple majority.

Council Member Arriola shared as it relates to Recommendation 1.7 he shares the same legal conclusion as Mr. Donegan however, as it relates to the second sentence and would be supporting implementation in the future of a 90 day public notice period to change the vote requirements for the recommendations that were implemented from Civil Grand Jury Reports.

Council Members Bedolla, Evans and Mayor Pro Tem Davis agreed to the above response.

Council Member Arriola dissented with the Council recommendation.

Mr. Donegan provided suggested language.

Mayor Young absent.

R1.8 - *By October 1, 2024, the employment contracts for the City Manager and the City Attorney should require individual performance goals and objectives established within 90 days of hire. These goals and objectives should be evaluated annually.*

Response to Recommendation R1.8 - This recommendation is implemented.

Prior to the publication of the Grand Jury Report, the City Manager and City Attorney's employment contracts already included the language to require individual performance goals and objectives and the requirement for an annual evaluation.

Council Members Bedolla, Evans and Mayor Pro Tem Davis agreed to the above response.

Council Member Arriola stated up to the point where the goals and objectives have been finalized for both positions, his position would be to vote to implement this in the future.

Mayor Young absent.

R1.9 - *By October 1, 2024, if a Parliamentarian is deemed necessary at City Council meetings, the position should be held by an independent third party.*

Response to Recommendation R1.9 - The City Council will not implement this recommendation.

Per League of California Cities: Understanding Your City's Departments, "The City Attorney also may serve as the Council's parliamentarian." Staff is not aware of a structure in which the City Attorney is not the Parliamentarian of the Council.

Council Members Bedolla, Evans and Mayor Pro Tem Davis agreed to the above response.

Council Member Arriola stated as it relates to Recommendation 1.9 he would vote not to implement because it is not warranted, the position is advisory only.

Mayor Young absent.

2.0 CITY ATTORNEY AND 3.0 HIRED STAFF

Mayor Pro Tem Davis confirmed with Ms. Patel that in this section the responses come from the department and was she asking Council to give blessing to the language.

Ms. Patel responded as done on the previous item when there is operational issues or recommendations and findings specifically related to a department the practice across the City is to have deference to those departments to give their initial determinations on both the findings and recommendations. Procedurally, under the Penal Code the City Council as a body still has to adopt the overall statements to the extent that certain tweaks may be necessary, that should be discussed.

Council Member Arriola asked since Council has had an opportunity to review this for a second time now, was there disagreement with a majority of the proposed language for Sections *2.0 City Attorney and 3.0 Council Hired Staff* or can it be done in one vote.

Bijal Patel, City Attorney responded yes it can be done in one vote, Council does not need to read each one into the record.

Mayor Pro Tem Davis asked Council if they read through Section 2.0 and Section 3.0 and was there anything that needed to be addressed, and if not, she would be open to doing a blanket vote.

Council Member Bedolla responded yes, he read it and is good with going with staff's findings.

Council Member Evans agreed with Council Member Bedolla.

Council Member Arriola stated as it relates to Sections 2.0 related to *City Attorney* and 3.0 related to *Council Hired Staff* his position on each of the findings would be agree and his position on each of the recommendations would be to implement in the future.

City Council discussed including attachments or additional language to the response to the Grand Jury Report.

Mayor Pro Tem Davis read out alternative language to add to what has already been written to the response to the Grand Jury Report and requested an attachment.

Council Member Evans did not have any issues with Mayor Pro Tem Davis's language and attachments.

Council Member Arriola objected to the inclusion of Mayor Pro Tem Davis's language and attachments.

Council Member Bedolla asked for outside counsel's opinion on inclusion of the language and attachments.

Mr. Donegan in hearing the language he did not see much in the way of objection to those changes and if they effectuate Council's will as a whole, he recommends inclusion of the attachments.

Council discussion continued.

Council Member Evans read out a letter he requested to include with the response along with attachments.

Council Member Arriola objected to Council Member Evans comments and stated he did vote in support of the land exchange.

Ms. Patel responded to Council questions.

Council Member Bedolla was in agreement with providing attachments and asked if the Council would agree to include the attachments that do not compromise the legal position as a City and would Council be ok with staff sifting through them.

Mayor Pro Tem Davis was in support of Council Member Bedolla and Council Member Evans submitting all documents to be included in the Grand Jury Response to provide the Judge with more context and why they are coming to the conclusions.

Council Member Bedolla supported any Council Member submitting additional documents in the Grand Jury Response as long as it is made transparent.

Ms. Patel asked before submitting into the record would Council be ok with the City Attorney reviewing the documents to make sure there are no privileged documents or violations.

Council Members Bedolla, Evans and Mayor Pro Tem Davis agreed to allow the City Attorney and City Manager to review the documents.

Midori Lichtwardt, City Manager suggested language in the first paragraph of the letter to point to the attachments.

Mayor Pro Tem Davis stated she was ok with leaving out the language she suggested to add to the letter but wanted her attachment she had submitted at the August 20, 2024, special Council meeting to be included as an attachment to the letter.

Council Members Bedolla, Evans, and Mayor Pro Tem Davis agreed to include the following language to the response letter: For additional context to the City Council's responses found below, the City Council approved attachments individually prepared by Mayor Pro Tem Davis, Council Member Bedolla, and Council Member Evans to be included as a part of this response.

City Council shared their general comments related to the item.

ACTION: Motion was made by Council Member Bedolla and seconded by Council Member Evans to adopt **Resolution 2024-141** approving the response letter to the San Joaquin County Grand Jury Report “City of Tracy: Public Trust Still Not Restored” 2023-2024 Case No. 0323; and 2) authorizing the City Manager and City Attorney to jointly execute and transmit the response letter to the Presiding Judge. Roll call found Council Member Bedolla, Evans and Mayor Pro Tem Davis in favor; passed and so ordered. Council Member Arriola opposed. Mayor Young absent.

6. Council Items and Comments – Council Member Bedolla mentioned the Valley Link Board Meeting will be held here in Tracy on either September 15, 16 or 17 at 10:30 a.m. at the Transit Station. Any member of Council and the public is invited to listen.

Council Member Evans thanked all his colleagues on the dais stating this Council functioned just fine. This meeting alone is proof that a lot of what we are reading and responding to is just not reality.

Council Member Arriola wished everyone a happy Labor Day.

7. Adjournment – Time: 10:46 p.m.

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

The above agenda was posted at the Tracy City Hall on August 24, 2024. The above are action minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

September 3, 2024, 5:00 p.m.

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

1. Mayor Pro Tem Davis called the meeting to order at 5:00 p.m.
2. There were no actions taken pursuant to AB 2449.
3. Roll call found Council Members Arriola, Bedolla, Evans and Mayor Pro Tem Davis were present. There was no declaration of conflicts. Mayor Young absent.
4. Items from the Audience – Sandy Taylor expressed frustration with Council and the disrespect that Council showed the Grand Jury Report, the accusations towards the Grand Jury of biased actions and, pointing the collective finger at two colleagues. Council should be ashamed because the City deserves leaders with vision, enrich business and the community members.

Council Member Evans responded to Ms. Taylor's comments.

Michel Bazinet asked that Council Member Evans's response to the Grand Jury be shared, regarding the findings specifically regarding employee morale, expressed lack of surprise based on Council majority behavior, lack of awareness to the problem, lack of the care and lack of consideration for the wellbeing of those employees that deliver public services to the community.

Mayor Pro Tem Davis responded to Mr. Bazinet's comments.

Council Member Evans also responded to Mr. Bazinet.

5. Request to Conduct Closed Session: Time: 5:08 p.m.
 - 5.A. Personnel Matter (Gov. Code § 54957(b)(1))
Public Employee Appointment, Employment, Evaluation of Performance, Discipline, or Dismissal
Position Title: City Manager
 - 5.B. Personnel Matter (Gov. Code § 54957(b)(1))
Public Employee Appointment, Employment, Evaluation of Performance, Discipline, or Dismissal
Position Title: City Attorney
There was no public comment.

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

6. Reconvene to Open Session – Time: 6:47 p.m.

7. Report of Final Action, if Any – There was no reportable final action.
8. Council Items and Comments - None
9. Adjournment – Time: 6:48 p.m.

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

The above agenda was posted at the Tracy City Hall on August 29, 2024. The above are action minutes. A recording is available at the office of the City Clerk.

ATTEST:

Mayor

City Clerk

September 3, 2024, 7:00 p.m.

City Hall, 333 Civic Center Plaza, Tracy

Web Site: www.cityoftracy.org

Mayor Pro Tem Davis called the meeting to order at 7:01 p.m.

There were no actions taken pursuant to AB 2449.

Roll call and Declaration of Conflicts – Council Members Arriola, Bedolla, Evans, Mayor Pro Tem Davis present. There was no declaration of conflicts. Mayor Young absent.

Mayor Pro Tem Davis led the Pledge of Allegiance.

Pastor Scott McFarland from Journey Christian Church offered the invocation.

Midori Lichtwardt, City Manager presented Employee of the Month Award for September to Nick Romo, Innovation and Technology Department.

Mayor Pro Tem Davis and Council Member Bedolla presented Proclamation for National Hispanic Heritage Month to Southside Community Organization and MEChA.

1. CONSENT CALENDAR – Item 1.I was pulled by Council Member Evans and item 1.J was pulled by Mayor Pro Tem Davis.
 - 1.A. Approval of August 13, 2024 Special Meeting Minutes, August 20, 2024 Special Meeting Minutes, August 20, 2024, Regular Meeting Minutes and August 20, 2024, Closed Session Meeting Minutes. – **Minutes were adopted.**
 - 1.B. Staff recommends that the City Council adopt a resolution (1) accepting the construction improvements for The Grand Theatre Center for the Performing Arts, completed by Best Contracting Services, Inc., (2) authorizing the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office, and (3) authorizing the City Engineer to release the improvement security and retention payment in accordance with the Project Contract and Tracy Municipal Code Section 12.36.080. – **Resolution 2024-142**
 - 1.C. Staff recommends that the City Council adopt a resolution: approving a Professional Service Agreement with Nickerson Investigative Services, a sole proprietor, to conduct pre-employment background investigations to meet the Commission on Peace Officer Standards and Training for a three(3)-year term and a total not to exceed amount of \$150,000. – **Resolution 2024-143**
 - 1.D. Staff recommends that the City Council adopt a resolution: (1) determining that strict compliance with the bidding process is not in the best interest of the City pursuant to Tracy Municipal Code Section 2.20.180(b)(4) and dispensing such requirements for the actions herein; and (2) approving a Master Service Agreement with Axon Enterprise, Inc. for the purchase, training, usage, and on-going maintenance of the Police Department's specified equipment and

software services for a term of five years and for a total not-to-exceed amount of \$2,500,000. – Resolution 2024-144

- 1.E. Staff recommends that the City Council adopt a resolution: (1) determining that compliance with standard procurement processes is not in the best interests of the City pursuant to Tracy Municipal Code 2.20.180 (b)(4) and dispensing such requirement for the actions herein, and; (2) approving a Service Agreement with Motorola Solutions, Inc. for police communications maintenance with a total not to exceed amount of \$120,000 and for the term of 12 months effective retroactively from July 1, 2024. – Resolution 2024-145
- 1.F. Staff recommends that the City Council adopt a Resolution approving a Professional Service Agreement with CDW Government LLC, utilizing OMNIA Partners cooperative purchase agreement for Information Technology Solutions and Services, for a not to exceed amount of \$915,000 annually, for a term of four years. – Resolution 2024-146
- 1.G. Staff recommends that the City Council adopt a resolution (1) accepting offsite improvements for USLP Tracy Distribution Center as complete and assuming all future operations and maintenance, (2) authorizing the City Engineer to release improvement security in accordance with the Offsite Improvement Agreement, (3) authorizing the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office, and (4) authorizing the City Clerk to accept (A) a fee dedication of land widening Grant Line Road (B) a public utility easement along Grant Line Road and (C) an emergency vehicle access easement, and file them with the San Joaquin County Recorder's Office. – Resolution 2024-147
- 1.H. Staff recommends that the City Council adopt a Resolution authorizing amendments to the City's Personnel Rules and Regulations to comply with recent legal updates, integrate best practices, address operational requirements, and enhance clarity. – Resolution 2024-148
- 1.I. Staff recommends that the City Council adopt a Resolution: 1) approving the award of the Mayor's Community Youth Support Network Reconnecting Our Youth grants for Fiscal Year 2024-2025 in the total amount of \$175,000 to six non-profit organizations; and 2) authorizing the execution of the funding agreements for each grant. – Resolution 2024-149

Katy Akre, Recreation Program Coordinator and Brian MacDonald Director of Parks and Recreation and Community Services Department provided Council with an overview of the outreach and selection processes.

Dotty Nygard, Director of Tracy Earth Project shared that the non-profit industry fills the gaps or voids between the City and businesses, would like non-profits recognized as businesses, would like to see non-profit organizations register with the Chamber of Commerce and be listed on the Chamber directory, agreed that more work can be done to capture all the non-profits that are serving the community.

Jarrold Lakey, Owner of Jay's Gourmet and Game On, The Lakey's Youth Foundation shared the resources and activities that they provide the youth and community, shared that they did not receive any information regarding the opportunity to participate in the Mayor's Community Youth Support

Network Reconnecting Our Youth grants and requested that the process be reopened so that they can have the opportunity to apply.

- 1.J. Staff recommends that the City Council adopt a Resolution (1) transferring \$54,746 from the Edgar Thoming Park Improvement Capital Improvement Project (CIP) 78191 to the City Hall Memorial Flag Poles Project (CIP 78192) to increase the budget, (2) awarding a construction contract to GCJ, Inc. of Stockton, California for CIP 78192 in the amount of \$148,085, and (3) authorizing the City Manager to approve change orders up to the contingency amount of \$14,808, if needed, pursuant to Tracy Municipal Code Section 2.20.090(b). – **Resolution 2024-150**

Mayor Pro Tem Davis pulled the item.

Bruce Cleaver, President of the Tracy War Memorial Association shared historical information and urged Council to approve the additional funds needed to finalize this project and get it completed by November 8, 2024, in time for Veterans Day.

- 1.K. Staff recommends that the City Council adopt a resolution: (1) accepting the construction of the Sewer Connection at Lincoln and 11th Street Project by Tracy Grading & Paving, Inc., of Tracy, California as complete; (2) approving a retroactive increase of \$37,000 to the contingency amount for the Project; (3) authorizing the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office, and (4) authorizing the City Engineer to release the bonds and retention payment. – **Resolution 2024-151**
- 1.L. Staff recommends that the City Council adopt a resolution approving and authorizing the execution of a Cooperative Agreement with the California Department of Transportation for the Project Initiation Document Phase of the Interstate 580/Corral Hollow Interchange Project, Capital Improvement Project 73198, for a total not-to-exceed amount \$130,000. – **Resolution 2024-152**
- 1.M. Staff recommends that the City Council adopt a resolution (1) appropriating \$340,000 from South San Joaquin County Fire Authority for the construction of the Fire Training Facility at the NEI Reservoir, (2) awarding a construction contract to GradeTech Inc. of Livermore, California, in the amount of \$3,441,656.01, (3) authorizing the City Manager to approve change orders up to the contingency amount of \$172,083, if needed, and (4) approving a total not-to-exceed Project budget of \$3,805,780.01. – **Resolution 2024-153**

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

2. ITEMS FROM THE AUDIENCE – Robert Tanner expressed his concerns regarding letters to the editor about the City Council, joke among San Joaquin County, reminded the community that elections are coming and urged Council to get their act together for the citizens of Tracy.

Alice English announced that there will be a meeting on September 17, 2024 starting at 8:30 a.m. at the Tracy Transit Station for the mobile food vendor ordinance and urged that three Council Members stand up for what is right and continue standing on their principles and integrity, noted that it is the same individuals that speak on behalf of developers.

Vannie Dart congratulated Mayor Pro Tem Davis for facilitating a harmonious and productive meeting, expressed frustration with the Mayor and her behavior and lack of professionalism, frustration with the aquatic park, the school and the dog park. Urged Council to hurry and get these amenities built and reminded Council that the developers do not run the City.

Dotty Nygard expressed gratitude for Tracy Earth Project being selected for the Mayor's Community Youth Support Network Reconnecting Our Youth grant and that this award was on the same night as the Hispanic Heritage Month and Mexican Independence, thanked Council Members Bedolla and Arriola for representing the Mexican culture, hopes to maintain the success of the bike program for many years to come and shared some of the successes that the participants of this program had.

3. REGULAR AGENDA

3.A. Staff recommends that the City Council receive an update on the League of California Cities City Manager's Sales Tax Working Group: E-Commerce Policy Recommendations.

Karin Schnaider, Assistant City Manager provided the staff report and responded to questions.

Council comments and questions followed.

There were no public comments.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Bedolla to Accept the update on the League of California Cities City Manager's Sales Tax Working Group: E-Commerce Policy Recommendations. Roll call found Council Members Arriola, Bedolla, Evans, Mayor Pro Tem Davis in favor; passed and so ordered. Mayor Young absent.

4. ITEMS FROM THE AUDIENCE – Alice English expressed gratitude for the proclamation that was presented to the Southside Community Organization, expressed support for all first responders but expressed disappointment regarding a less than favorable interaction between a Tracy Police Officer and one of the members running the St. Bernard Fair.

5. STAFF ITEMS - Midori Lichtwardt City Manager shared:

- September 12, 2024, from 9:30 a.m. to 10:30 a.m. at McDonald Park for the Stroll with Patrol Officers and Badges for Books event.
- September 17, 2024, there will be a groundbreaking event for the Multi-Generational Recreation Center at 4:00 p.m.

6. COUNCIL ITEMS – Council Member Evans expressed gratitude to colleagues for working well cohesively, efficiently, regardless of the narrative that is out there, and that the four at the dais work well together.

Council Member Arriola thanked Council for Proclaiming the Hispanic Heritage Month and wished everyone a Happy Mexican Independence Day and looks forward to celebrating at the parade the Southside Community Organization sponsors.

Mayor Pro Tem Davis expressed concerns for the students in Tracy Hills and the walking distance for these children to get to school, requested support to see if the City can help in the interim until the School District can get their transportation systems in place, asked if there was a way that a Tracer Bus could be provided in the interim; Council Member Evans supported.

Karin Schnaider Assistant City Manager shared that Jefferson School District would have to be contacted and analysis would need to take place regarding transportation regulations, the soonest that it can be presented to Council would be the second meeting in October.

Mayor Pro Tem Davis expressed concerns regarding the timeline and requested that staff bring back the analysis as soon as possible but no later than the second meeting in October.

Mayor Pro Tem Davis wished everyone Happy Mexican Independence Day and invited community to the Southside Community Organization's parade and celebration at Lincoln Park on September 14, 2024.

Council Member Bedolla shared that from September 15 to October 15, 2024 is Hispanic Heritage Month and expressed gratitude to Fatima, Kelly and the administrators that represented MEChA.

Mayor Pro Tem Davis commended City staff on addressing the concerns of a community member and completing the crosswalk painting on being done so quickly.

7. ADJOURNMENT: Time: 8:19 p.m.

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

The above agenda was posted at the Tracy City Hall on August 29, 2024. The above are action minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk

September 17, 2024

Agenda Item 1.B

RECOMMENDATION

Staff recommends that the City Council adopt a resolution approving a Professional Services Agreement with Raftelis Financial Consultants, Inc. for a total not-to-exceed amount of \$529,800 over a three-year contract for project management support to select and implement a Computerized Maintenance Management System software.

EXECUTIVE SUMMARY

This agenda item seeks adoption of a resolution approving a Professional Services Agreement (PSA) with Raftelis Financial Consultants, Inc. (Consultant) for project management support to select and implement a Computerized Maintenance Management System (CMMS) for a total not to exceed amount of \$529,800 over three years. The City issued a Request for Proposals (RFP) for these services and has determined that Consultant is the most qualified and responsible proposer, and best fits the City's needs for competence and professional qualifications necessary for the work.

BACKGROUND AND LEGISLATIVE HISTORY

The City is responsible for the maintenance and management of all assets throughout the City. In order to accurately track the maintenance of these assets and associated labor, the City requires a CMMS software application. The City has made substantial financial investments in a wide array of assets that it currently maintains. These assets encompass critical infrastructure and public amenities, including but not limited to roads, water pumps, park benches, fleet, and equipment. Each of these assets necessitates ongoing maintenance and data collection to accurately track their condition and forecast their replacement needs. Effective management of these assets is crucial for efficiency, public safety, asset longevity, and regulatory compliance. A CMMS software will provide detailed insights into asset performance, maintenance history, and future needs, thereby supporting informed decision-making and strategic planning.

Public Works, as the lead department, seeks the expertise of a specialized consultant for project management support to assist in the selection and implementation of a CMMS software that will be used throughout several City departments. Currently, the City has multiple software applications that track City assets, as well as, their maintenance and replacement information. These software applications are incompatible with one another; and in some instances, the software applications are no longer supported as the software was purchased many years ago. Staff is seeking to select a single CMMS software that capture all the City's asset data across multiple departments. Given the complexity of each department's needs and the diversity of their assets, Public Works is requesting the approval of a Consultant that will serve as project manager to facilitate the selection and coordinate the implementation of the new Citywide CMMS software.

ANALYSIS

On April 10, 2024, the City issued an RFP for consultants to provide project management support in the selection and implementation of a CMMS software. On May 8, 2024, three

proposals were received. All proposals were reviewed and follow up interviews were performed by staff from Public Works, Parks, and Information Systems (IT) departments. A scoring system was used to evaluate and select the finalist. Based on these evaluations and scoring, City staff has determined that Raftelis Financial Consultants, Inc. (Consultant) demonstrated that it was the best qualified and the most responsible proposer, and best fits the City's needs for competence and professional qualifications necessary for the work.

Over the next three years, the Consultant will provide services for the selection and implementation of a new CMMS software (Attachment A). While Public Works is the lead department, this software will be utilized in almost every department in the City. The Consultant is being contracted to complete a citywide and departments' needs assessment that will inform the development of an RFP for the CMMS software, proposal review and vendor procurement, and finally the implementation of the selected CMMS for users. Currently, the CMMS software purchase is an unfunded Capital Improvement Project (CIP). Staff will return to the City Council for the discussion on the funding options for the CIP prior to the release of the CMMS RFP, such as lease or purchase agreements. As mentioned above, the new single CMMS software will be replacing several existing software applications. Staff will be consolidating these budget allocations as it considers funding options for the new CMMS software.

FISCAL IMPACT

The proposed Professional Services Agreement with Raftelis Financial Consultants Inc. has a cost not-to-exceed \$529,800 over three years. The Consultant's contract will be funded across four distinct funding sources within the existing professional services budget of Parks-Parks Maintenance 30%, Public Works-Operations 30%, Public Works-Utilities 35%, and Public Works-Transit 5%.

The cost of procuring the CMMS software, as well as the funding options and funding sources has not been determined at this time. Staff proposes to return with the discussion on funding after this PSA is executed and the Consultant provides guidance.

COORDINATION

The proposed project and PSA involved coordination among multiple City departments including Public Works, Parks and Recreation, City Manager's Office, Engineering, Finance, and IT.

STRATEGIC PLAN

This agenda item aligns with the City Council's adopted 2023-2025 Strategic Priorities of Good Governance (Goal No. 5) and Quality of Life (Goal No. 7).

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution approving a Professional Services Agreement with Raftelis Financial Consultants, Inc. for a total not-to-exceed amount of \$529,800 over a three-year contract for project management support to select and implement a Computerized Maintenance Management System (CMMS) software.

Agenda Item 1.B
September 17, 2024
Page 3

Prepared by: John Newman, Operations Superintendent

Reviewed by: David Murphy, Assistant Director, Operations
Brian MacDonald, Director of Parks and Recreation
Sara Castro, Finance Director
Bijal M. Patel, City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

Attachments: A- Professional Services Agreement with Raftelis Financial Consultants, Inc.

CITY OF TRACY
PROFESSIONAL SERVICES AGREEMENT WITH
Raftelis Financial Consultants, Inc.

This Professional Services Agreement (“Agreement”) is entered into between the City of Tracy, a municipal corporation (“City”), and Raftelis Financial Consultants, Inc., a North Carolina Corporation (“Consultant”). City and Consultant are referred to individually as “Party” and collectively as “Parties.”

Recitals

- A.** City desires to retain the professional services of consultant to provide project management support for the Computerized Maintenance Management System (CMMS) selection and implementation (hereinafter “Project”) as further described herein and in Exhibit A.
- B.** On April 10, 2024, the City issued a Request for Proposals (RFP) for the Scope of Work defined below. On May 8, 2024, the City received three (3) proposals. After reviewing the proposals, the City has determined that Consultant demonstrated that it was the best qualified and most responsible proposer, and best fits the City’s needs for competence and professional qualifications necessary for the Project.
- C.** After negotiations between the City and Consultant, the Parties have reached an agreement for Consultant’s professional services as set forth in this Agreement.
- D.** This Agreement is being executed pursuant to Tracy Municipal Code Section 2.20.140(a)(2) and 2.20.130 and pursuant to Resolution No. 2024 - _____, which was adopted by the City Council for the City of Tracy on August 20, 2024.

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

- 1. Scope of Work.** Consultant shall perform the professional services, tasks, and scope of work described in Exhibit A attached hereto and incorporated herein by this reference (“Scope of Work”). The Scope of Work shall be performed by, or under the direct supervision of, Consultant’s “Authorized Representative”: Doug A. Spiers, Vice President. 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 the City’s prior written consent. The City may terminate this Agreement if Consultant makes any such change or uses or replaces any such subcontractor or subconsultant. Unless otherwise stated on Exhibit A, Consultant shall furnish, at its own expense, the materials, equipment, supplies, and other resources necessary to perform the Scope of Work. The City reserves the right to contract with other firms and/or consultants during the term of this Agreement to provide the City with the same or similar Scope of Work as described in Exhibit A.
- 2. Time of Performance.** Time is of the essence in the performance of the Scope of Work under this Agreement and the timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. If dates for performance are set out in Exhibit A, Consultant shall begin performance, and shall complete all required Scope of Work 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. If Exhibit A indicates that Scope of Work shall only be performed upon request, or if the City otherwise

Professional Services Agreement between:
The City of Tracy and Raftelis Financial Consultants, Inc.

communicates the same to Consultant, Consultant shall not perform said Scope of Work until the City requests such performance. Consultant shall submit all requests for time extensions to the City in writing no later than ten (10) days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. The City may grant or deny such requests in its sole and absolute discretion.

2.1 Term. The term of this Agreement shall commence on August 20, 2024 and end once the City confirms that the Project is completed and all Services were performed to the City's satisfaction unless terminated with Section 6 of this Agreement ("Term"). This Agreement shall not be extended except pursuant to the writing signed by both Parties.

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

3.1 Not to Exceed Amount. Consultant's total compensation under this Agreement shall not exceed \$529,800 (Five Hundred Twenty-Nine Thousand Eight Hundred) Dollars. Notwithstanding the foregoing, the payment of any funds under this Agreement shall be subject to the City of Tracy appropriation of funds for the Scope of Work. This Agreement shall automatically terminate in the event that such funds are not appropriated. Unless specifically stated otherwise or agreed to in writing and approved by City Council, the fees proposed by Consultant, as set forth in Exhibit B hereto, shall remain unchanged for the entire term of this Agreement and any extensions of this Agreement. It is understood and agreed that Consultant may not receive compensation up to the Not-to-Exceed Amount (or any other amount), and Consultant's total compensation under this Agreement will depend on the Scope of Work requested and approved by the City. 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 "Not-to-Exceed Amount" provided in this section without the City's prior written approval.

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

3.2 Invoices. Consultant shall submit monthly invoice(s) to the City that describe in detail satisfactory to the City: the services performed, the times and dates of performance, and the names of the person(s) performing the Scope of Work.

3.2.1 If Consultant is providing the Scope of Work 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 this Section may result in the City rejecting said invoice(s) and thereby delaying payment to Consultant.

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

*Professional Services Agreement between:
The City of Tracy and Raftelis Financial Consultants, Inc.*

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 and portions of Scope of Work described on the invoice(s) and approved by the City.

3.4 Final Payment. The acceptance by Consultant of the final payment made under this Agreement shall constitute a release of City from all claims and liabilities for compensation to Consultant for anything completed, finished or relating to Consultant's services or performance of the Scope of Work. Consultant agrees that payment by City shall not constitute nor be deemed a release of the responsibility and liability of Consultant or its employees, subcontractors, agents and subconsultants for the accuracy and competency of the information provided and/or services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Consultant, its employees, subcontractors, agents and subconsultants.

3.5 Books and Accounts. Consultant agrees to maintain books, accounts, payroll records and other information relating to the performance of Consultant's obligations under the Agreement, which shall adequately and correctly reflect the expenses incurred by the Consultant in the performance of Consultant's work under the Agreement. Such books and records shall be open to inspection and audit by the City during regular business hours for three years after expiration or termination of this Agreement.

4. Indemnification. Consultant shall indemnify, and hold harmless the City from and against all liabilities, obligations, losses, damages, injunctions, suits, actions, fines, penalties, claims, demands, judicial proceedings, judgments, costs and expenses including, without limitation, reasonable attorneys' fees and court costs ("**Claims**") to Consultant's obligations under this Agreement; and/or Consultant's breach of this Agreement, except to the extent such Claim is caused solely by the active negligence or willful misconduct of the City. In this Section 4, "City" means the City, its officials, officers, employees and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors, who provide services hereunder at the direction of Consultant. In no event shall Consultant have any obligation to indemnify City or any other indemnified person against liability for claims by a third party for failure to comply with its obligation under Article XIII D of the California Constitution (Proposition 218).

In the event there is a finding and/or determination that Consultant is not an independent contractor and/or is an employee of City, including but not limited to any such finding and/or determination made by the California Public Employees' Retirement System (CalPERS), the Department of Industrial Relations (DIR), or the Internal Revenue Service (IRS), Consultant shall indemnify, and hold harmless the City from and against all Claims in such a finding and/or determination.

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

*Professional Services Agreement between:
The City of Tracy and Raftelis Financial Consultants, Inc.*

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 in 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 and, in any event, within five (5) days of such request.

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 in its sole and absolute discretion, without cause, by giving ten (10) days’ written notice to Consultant. Within five (5) days of such a termination, Consultant shall return and deliver to City all original documents relating to the Scope of Work in Consultant’s possession or control, including, without limitation, preliminary drafts and supporting documents, and any other documents prepared by Consultant pursuant to this Agreement. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date the termination notice is given.

Professional Services Agreement between:
The City of Tracy and Raftelis Financial Consultants, Inc.

7. Ownership of Work. All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's Scope of Work, upon termination of this Agreement, or within five (5) days of any demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

8. Independent Contractor Status. Consultant is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Consultant is not City's employee and Consultant shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Consultant is free to work for other entities while under contract with the City. Consultant, and its agents or employees, are not entitled to City benefits. Consultant shall be solely responsible for, and shall save the City harmless from, all matters relating to the payment of Consultant's employees, agents, subcontractors and subconsultants, including compliance with social security requirements, federal and state income tax withholding and all other regulations governing employer-employee relations.

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

10. Rebates, Kickbacks, or Other Unlawful Consideration. Consultant warrants that this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For any 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 the value of the rebate, kickback, or other unlawful consideration; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

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

To the City:
City of Tracy
Attn: David Murphy
520 S. Tracy Blvd
Tracy, CA 95376

To Consultant:
Raftelis Financial Consultants, Inc.
Attn: Douglas A. Spiers
445 S. Figueroa Street, Suite 1925
Los Angeles, CA 90071

With a copy to:

Professional Services Agreement between:
The City of Tracy and Raftelis Financial Consultants, Inc.

City Attorney
333 Civic Center Plaza
Tracy, CA 95376

12. **General Provisions.**

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

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

12.3 Waivers. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement. No waiver shall be effective unless it is in writing and signed by the waiving party.

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

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

12.6 Compliance with the Law. Consultant shall comply with all applicable local, state, and federal laws, including, without limitation, those identified below, whether or not such laws are expressly stated in this Agreement.

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

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

Professional Services Agreement between:
The City of Tracy and Raftelis Financial Consultants, Inc.

12.7 Business Entity Status. Consultant is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Consultant. By entering into this Agreement, Consultant represents that it is authorized to do business in California, in good standing with the Secretary of State, and in good standing with all agencies having jurisdiction over Consultant (including any licensing agencies). If Consultant is a suspended entity at the time it enters into this Agreement, City may take steps to have this Agreement declared voidable.

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

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

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

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

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

12.13 Entire Agreement. This Agreement and the attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed and the matters contemplated herein. This Agreement supersedes all prior negotiations, representations or agreements (in each case, whether oral or in writing). All exhibits attached hereto are incorporated by reference herein.

12.14 Counterparts. City and Consultant agree that this Agreement may be executed in two or more counterparts, each of which shall be deemed an original.

12.15 Expenses for Enforcement. Consultant and City agree that the prevailing party's reasonable costs, attorneys' fees and expenses, including investigation fees and expert witness fees, shall be paid by the non-prevailing party in any dispute involving the terms and conditions of this Agreement.

13. 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.

[Signature Page to Follow]

Professional Services Agreement between:
The City of Tracy and Raftelis Financial Consultants, Inc.

As of the date of last signature below, the undersigned Parties agree to the full performance of the terms set forth in this Agreement and have caused this Agreement to be duly executed.

City of Tracy, a Municipal Corporation

By: _____
Nancy D. Young
Title: Mayor
Date: _____


Attest:

Adrienne Richardson, City Clerk

Approved as to form:

Bijal M. Patel, City Attorney

Raftelis Financial Consultants, Inc., a North Carolina Corporation

DocuSigned by:


By: Doug Spiers
Title: Vice President
Date: 7/23/2024 | 7:31 PM PDT

Federal Employer Tax ID No. _____

Signed by:


By: Christine McIntyre

Title: Chief Financial Officer
Date: 7/24/2024 | 3:19 AM PDT

Exhibits:

- A Scope of Work
- B Compensation

EXHIBIT A - Scope of Work

The City's primary objective for this Agreement is to obtain professional support in assisting the City to project management support for the Computerized Maintenance Management System (CMMS) selection and implementation.

The Consultant is to provide the following project management services:

Request For Proposal (RFP) Development Support:

- Assist in the development of a comprehensive RFP for the CMMS solution, including the definition of functional and technical requirements, evaluation criteria, and vendor selection process.
- Facilitate workshops and meetings with key stakeholders from various City departments (e.g., Public Works, Facilities Maintenance, Fleet Services, Information Technology) to gather and document requirements.
- Provide guidance on industry best practices, trends, and emerging technologies related to CMMS solutions.
- Ensure alignment of the RFP with the City's overall strategic goals, policies, and regulatory requirements.
- Review and provide feedback on the draft RFP document before finalization.

Vendor Selection Support:

- Participate in the vendor evaluation and selection process, including the review of proposals, demonstrations, and reference checks.
- Facilitate vendor presentations and demonstrations for the evaluation team.
- Provide subject matter expertise and recommendations to the City's evaluation team based on industry best practices and vendor capabilities.
- Assist in contract negotiations with the selected vendor, including reviewing and providing feedback on contract terms and conditions.

Implementation Support:

- Develop and manage a comprehensive project plan for the CMMS implementation, including milestones, timelines, resource allocation, and dependencies.
- Facilitate project kickoff meetings and regular status meetings with the project team, vendor, and key stakeholders.
- Coordinate and oversee the implementation activities, including data migration, system configuration, integration with existing systems, testing, and user training.
- Develop and implement a communication plan to keep stakeholders informed about project progress, milestones, and impacts.
- Manage project risks, issues, and change requests throughout the implementation phase, ensuring timely resolution and effective communication.
- Ensure adherence to project timelines, budgets, and quality standards through regular monitoring and reporting.
- Prepare regular status reports and updates to City stakeholders, including executive leadership and governing bodies as required.
- Facilitate user acceptance testing and coordinate the transition to the production environment.
- Develop and implement a post-implementation support plan, including user training and knowledge transfer to City staff.

Vendor Collaboration and Organizational Change Management:

Professional Services Agreement between:
The City of Tracy and Raftelis Financial Consultants, Inc.

- Work closely with the software vendor's implementation team to ensure a seamless and coordinated implementation process.
- Facilitate communication and collaboration between the City's project team, stakeholders, and the vendor's team to ensure alignment and progress.
- Monitor and manage the vendor's performance against agreed-upon timelines, deliverables, and service level agreements.
- Identify and address any potential risks or issues that may impact the vendor's ability to deliver on time and within budget.
- Develop and implement an Organizational Change Management (OCM) plan to facilitate user adoption, address resistance to change, and ensure a smooth transition to the new CMMS solution.
- Conduct change readiness assessments and develop strategies to address gaps and potential barriers to user adoption.
- Plan and facilitate end-user training sessions, ensuring that users are equipped with the necessary skills and knowledge to effectively utilize the new system.
- Promote and reinforce the benefits of the new CMMS solution to stakeholders and end-users, fostering a positive attitude towards the change.

Reporting and Governance:

- Prepare regular status reports on project progress, risks, issues, and upcoming milestones, and distribute them to relevant stakeholders.
- Provide quarterly updates to the project steering committee, highlighting key achievements, challenges, and any necessary course corrections.
- Ensure proper documentation and record-keeping for project activities, decisions, and deliverables.

Work Location and Duration

The consultant is expected to work partially on-site and partially remote. The estimated on-site presence is between 5 to 10 days per month, depending on the project phase and specific activities. During critical phases, such as requirements gathering, vendor demonstrations, user acceptance testing, and end-user training, the consultant may be required to be on-site for extended periods.

The overall project duration is estimated to be between 12 to 20 months, considering the time required for RFP development, vendor selection, implementation, testing, and user training.

Key Personnel

- Doug Spiers, PE (DS)
- Nancy Hetrick (NH)
- Albair Hanna, PE (AH)
- Scott Parker (SP)
- Jason Small (JS)
- Chris McPhee (CM)
- Chris Saill (CS)
- Johnathan Ingram (JI)

Professional Services Agreement between:
The City of Tracy and Raftelis Financial Consultants, Inc.

EXHIBIT B - Compensation

The compensation under this Agreement shall not exceed \$529,800 (Five Hundred Twenty-Nine Thousand Eight Hundred Dollars) total.

Tasks	Hours									Total Fees		
	DS	NH	CS	JI	AH	JS	SP	CM	Total	Labor	Expenses	Total
Phase 1 - CMMS Design	48	6	48	24	8	16	0	0	150	\$44,450	\$3,500	\$47,950
<i>Task 100: CMMS Procurement and Implementation Roadmap</i>	48	6	48	24	8	16	0	0	150	\$44,450	\$3,500	\$47,950
<i>Fees per Person</i>	\$15,600	\$1,650	\$13,200	\$7,800	\$2,200	\$4,000	\$0	\$0				
Phase 2 - CMMS Procurement	120	6	160	56	16	16	0	0	374	\$111,250	\$7,500	\$118,750
<i>Task 200: CMMS RFP Development</i>	60	4	80	40	12	12	0	0	208	\$61,900	\$3,500	\$65,400
<i>Task 300: CMMS Selection</i>	60	2	80	16	4	4	0	0	166	\$49,350	\$4,000	\$53,350
<i>Fees per Person</i>	\$39,000	\$1,650	\$44,000	\$18,200	\$4,400	\$4,000	\$0	\$0	\$111,250			
Phase 3 - CMMS Implementation Support	120	8	888	84	24	48	24	28	1224	\$345,600	\$17,500	\$363,100
<i>Task 400: CMMS Go Live Support</i>	80	6	768	60	16	40	24	24	1018	\$285,950	\$15,000	\$300,950
<i>Task 500: CMMS Post Live Support</i>	40	2	120	24	8	8	0	4	206	\$59,650	\$2,500	\$62,150
<i>Fees per Person</i>	\$39,000	\$2,200	\$244,200	\$27,300	\$6,600	\$12,000	\$6,600	\$7,700	\$345,600			
Total Meetings / Hours	288	20	1096	164	48	80	24	28	1748			
Hourly Billing Rate	\$325	\$275	\$275	\$325	\$275	\$250	\$275	\$275				
Total Fees	\$93,600	\$5,500	\$301,400	\$53,300	\$13,200	\$20,000	\$6,600	\$7,700	\$501,300	\$501,300	\$28,500	\$529,800

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH RAFTELIS FINANCIAL CONSULTANTS, INC. FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$529,800 OVER A THREE-YEAR CONTRACT FOR PROJECT MANAGEMENT SUPPORT TO SELECT AND IMPLEMENT A COMPUTERIZED MAINTENANCE MANAGEMENT SYSTEM SOFTWARE.

WHEREAS, the City is responsible for the maintenance and management of all assets throughout the City; and

WHEREAS, in order to accurately track the maintenance of these assets and associated labor, the City requires a Computerized Maintenance Management System (CMMS) software application; and

WHEREAS, the City has made substantial financial investments in a wide array of assets that it currently maintains; and

WHEREAS, these assets encompass critical infrastructure and public amenities, including but not limited to roads, water pumps, park benches, fleet, and equipment; and

WHEREAS, effective management of these assets is crucial for efficiency, public safety, asset longevity, and regulatory compliance; and

WHEREAS, a CMMS software will provide detailed insights into asset performance, maintenance history, and future needs, thereby supporting informed decision-making and strategic planning; and

WHEREAS, Public Works, as the lead department, seeks the expertise of a specialized consultant for project management support to assist in the selection and implementation of a CMMS software that will be used throughout several City departments; and

WHEREAS, on April 10, 2024, the City issued a Request for Proposals (RFP) for consultants to provide project management support with a CMMS selection and implementation; and

WHEREAS, on May 8, 2024, Raftelis Financial Consultants, Inc. (Consultant) submitted its proposal for the Project to the City and City staff has determined that the Consultant demonstrated that it was the best qualified and the most responsible proposer, and best fits the City's needs for competence and professional qualifications necessary for the Project; and

WHEREAS, the Consultant is being contracted to complete a Citywide and departments' needs assessment that will inform the development of an RFP for the CMMS software, proposal review and vendor procurement, and finally the implementation of the selected CMMS for users and the proposed Professional Services Agreement (PSA) with the Consultants has a cost not-to-exceed \$529,800 for a three-year contract; and

WHEREAS, the Consultant's contract will be funded across four distinct funding sources within the existing professional services budget of Parks-Parks Maintenance 30%, Public Works-Operations 30%, Public Works-Utilities 35%, and Public Works-Transit 5%.

WHEREAS, the cost of procuring the CMMS software, as well as the funding options and funding sources has not been determined at this time, but will return to the City Council for consideration prior to the release of the CMMS software RFP; and

WHEREAS, this agenda item aligns with the City Council's adopted 2023-2025 Strategic Priorities of Good Governance (Goal No. 5) and Quality of Life (Goal No. 7); now, therefore, be it

RESOLVED: That that the City Council of the City of Tracy hereby approves a Professional Services Agreement, in the form attached as Exhibit 1, with Raftelis Financial Consultants, Inc., for a total not-to-exceed amount of \$529,800 over a three-year contract for project management support to select and implement a Computerized Maintenance Management System software; and be it further

RESOLVED: That this authorization is for the PSA only and the purchase of any software will require further consideration and approval by the City Council

The foregoing Resolution 2024-_____ was adopted by the Tracy City Council on September 17, 2024, 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 City Council adopt a resolution 1) approving and authorizing the execution of a Lease Agreement with Arnaudo Bros. Transport, Inc., a California Corporation, with a term of ten years and initial annual rent in the amount of \$57,600, adjusted at a three percent increase annually.

EXECUTIVE SUMMARY

In 2003, the City of Tracy Wastewater Treatment Plant purchased approximately 1200 acres of land generally located northerly between Corral Hollow Road and Holly Drive, within and outside the existing City limit line, for future plant expansion needs (Attachment A). The properties are defined as agricultural and leased for farming and other related agricultural practices such as silage production. The leases create an ongoing revenue stream for the City's Wastewater Fund (521) until the land is needed for expansion purposes. These properties do not require consideration under the Surplus Land Act (SLA), because a lease for surplus land on which no development or demolition will occur, regardless of the term of the lease, is exempted from the SLA.

Staff is recommending that the City Council approve a new lease with long term tenant Arnaudo Bros. Transport, Inc. for a term of ten (10) years and set the rent received from the lease of the agricultural land at \$4,800 per month for an annual revenue of \$57,600 and increasing each July 1 by three percent (3%) annually. As the land was purchased by the Wastewater facility (Attachment B), revenue generated on it would go to the Wastewater Fund (521).

BACKGROUND AND LEGISLATIVE HISTORY

On August 1, 2008, by Resolution 2008-126, the City Council approved a three-year lease with Arnaudo Bros., LLC., to lease one of two 56-acre parcels located on APN 212-16-005 (Attachment C) with a monthly lease payment of four-thousand dollars (\$4,000) for the delivery, processing, storage, and distribution of silage on an existing paved drying bed. On June 21, 2011, by Resolution 2011-123, the City Council approved a second three-year lease agreement with the Arnaudo Bros., LLC., for the same parcel under the same conditions. This agreement was amended on June 3, 2014, by Resolution 2014-088, increasing the term of the agreement an additional five-years to June 30, 2019. On January 15, 2019, by Resolution 2019-008, the City Council approved a third agreement with Arnaudo Bros., LLC., for a five-year term ending on June 30, 2024, and adjusted the rent amount to four-thousand two hundred (\$4,200) per month.

ANALYSIS

The City of Tracy Wastewater Treatment Plant currently owns and leases nearly 1200 acres of agricultural lands that was purchased in 2003 in anticipation of future growth and capacity needs. Pursuant to the SLA Guidelines, this land is exempted from the SLA as it is used primarily for agricultural practices, and nothing will be developed or demoed on this property by any lessee. The City and the Arnaudo Bros., Inc. have a long-standing partnership that enables the Wastewater Fund to recoup some of its investments through monthly leases and provides

non-farmable land to be utilized to aid the lessee with its silage practices.

The City Council has approved several five-year terms for this property and adjusted the rate once since 2008. It is recommended due to the long-standing relationship with the lessee, to approve a ten (10) year term and to adjust the monthly rental rate to capture inflation and continue supplementing the Wastewater Fund from these revenues.

The tenant has leased land from the City under the name Arnaudo Bros., Inc; however, they were identified in previous leases as a limited liability company which was incorrect. The new lease is with their factual entity name Arnaudo Bros. Transport Inc., a California Corporation.

Staff recommends that the City Council approve this agreement with long standing tenant, the Arnaudo Bros. Transport, Inc., for a ten (10) year term to expire on June 30, 2034, and set the monthly lease payment at four-thousand eight hundred (\$4,800) per month for an annual revenue to the Wastewater Fund in the amount of \$57,600, increasing each July 1 by three percent (3%) annually.

CEQA DETERMINATION

The approval of the agreement will not result in a physical change in the environment and therefore is not considered as a “project” as defined by Section 21065 of the Public Resources Code.

STRATEGIC PLAN

This agenda item is consistent with the City’s Quality of Life Strategy and meets the goal of providing a quality of life by cultivating connections to promote positive change in our community through partnerships and advancement of Wastewater Treatment Plant expansion.

FISCAL IMPACT

This agreement will provide an annual (fiscal year) revenue from leases of agricultural lands to the Wastewater Fund (521) in the following amounts based on a three (3) percent annual increase:

July 1 each year = 3% increase				Percentage Increase	
YEAR	3.00%	assumed	New Monthly Fee	Total Revenue - Annually	
2024			\$ 4,800.00	\$	57,600.00
2025	\$	144.00	\$ 4,944.00	\$	59,328.00
2026	\$	148.32	\$ 5,092.32	\$	61,107.84
2027	\$	152.77	\$ 5,245.09	\$	62,941.08
2028	\$	157.35	\$ 5,402.44	\$	64,829.31
2029	\$	162.07	\$ 5,564.52	\$	66,774.19
2030	\$	166.94	\$ 5,731.45	\$	68,777.41
2031	\$	171.94	\$ 5,903.39	\$	70,840.73
2032	\$	177.10	\$ 6,080.50	\$	72,965.96
2033	\$	182.41	\$ 6,262.91	\$	75,154.94
2034	End of Term		\$ 6,262.91	\$	75,154.94

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that City Council adopt a resolution 1) approving and authorizing the execution of a Lease Agreement with Arnaudo Bros. Transport, Inc., a California Corporation, with a term of ten years and initial annual rent in the amount of \$57,600, adjusted at a three percent increase annually

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

Reviewed by: Sara Castro, Director of Finance
Bijal Patel, City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

Attachments: A - Wastewater Expansion Parcels
B - Resolution 2003-129
C – Map of APN 212-16-005
D – Lease Agreement – fully executed on 3-21-2019

ATTACHMENT A



RESOLUTION 2003-129

APPROVE PURCHASE OF THE HOLLY SUGAR RANCH FROM THE HOLLY SUGAR CORPORATION FOR THE PURCHASE PRICE OF \$5,745,696, AUTHORIZE SUPPLEMENTAL APPROPRIATIONS OF \$5,845,696 FROM VARIOUS FUNDS, AND AUTHORIZE THE MAYOR TO EXECUTE THE PURCHASE AGREEMENT

WHEREAS, The Holly Sugar Ranch property is for sale and staff proposes purchase by the City, and

WHEREAS, Tracy Municipal Code section 2.20.090 requires that the acquisition of real property be in accordance with state law, and

WHEREAS, The City of Tracy has complied with the requirements of Government Code sections 7267 and following, and

WHEREAS, Government Code Section 65402 requires a report from the Planning Commission regarding general plan conformance before a public agency acquires real property, and

WHEREAS, No land use change is proposed as part of this real property acquisition, and

WHEREAS, On Wednesday, April 9th, the Planning Commission voted 3-2 that the proposed real property acquisition was not consistent with the City's general plan, and

WHEREAS, Tracy Municipal Code section 2.20.080 requires City Council approval of this proposed acquisition, and

WHEREAS, The property that is for sale consists of 1,197.02 acres with approximately 820 acres useable for agricultural production, and

WHEREAS, A study prepared by CH2M Hill has shown that the site could be used for future treatment of wastewater, and

WHEREAS, The property could also be used for disposal of a limited amount of treated effluent generated from development, and

WHEREAS, As funds for this purchase were not budgeted in Fiscal Year 2002-03, and supplemental appropriations are required to CIP 7448, and


WHEREAS, There is no fiscal impact to the General Fund, and

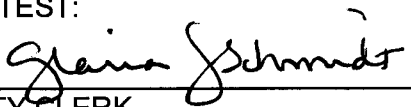
WHEREAS, Because the City has not yet initiated an application to convert the property's use from farming to wastewater application, the property acquisition is not a "project" subject to the California Environmental Quality Act as defined by Public Resources Code section 21065;

NOW, THEREFORE, BE IT RESOLVED That the City Council hereby approves the purchase of the Holly Sugar Ranch from the Holly Sugar Corporation for the purchase price of \$5,745,696; authorizes supplemental appropriations to CIP 7448 from Wastewater Fund (Fund 521) \$5,015,607; I-205 Area (Fund 353) \$216,291; Plan C (Fund 325) \$309,822; Northeast Industrial Area (Fund 351) \$233,828; South MacArthur Area (Fund 352) \$35,074; Presidio Area (Fund 355) \$35,074; and authorizes the Mayor to execute the purchase agreement.

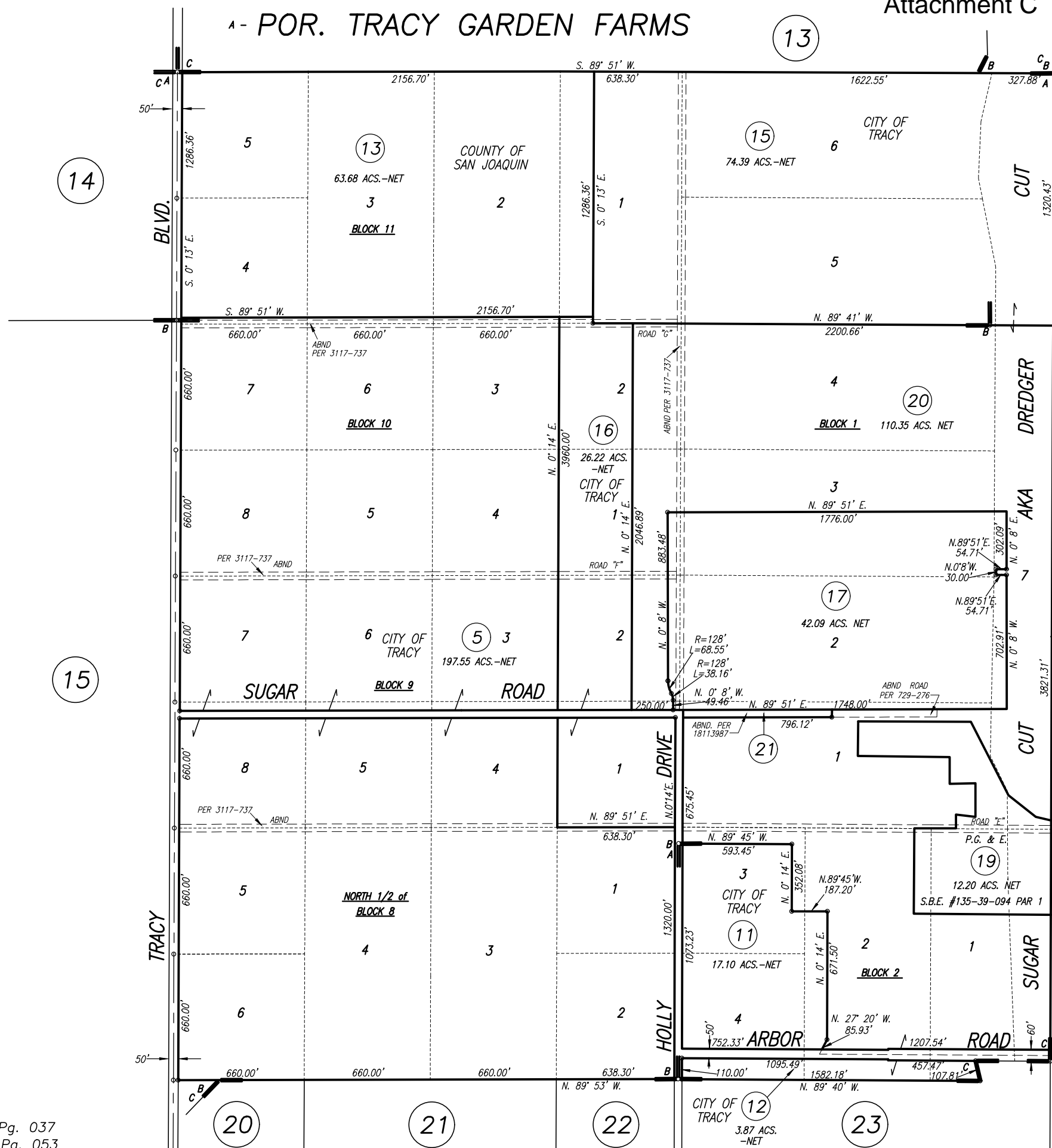
The foregoing Resolution 2003-129 was passed and adopted by the Tracy City Council on the 15th day of April, 2003, by the following vote:

AYES: COUNCIL MEMBERS: HUFFMAN, TOLBERT, TUCKER, BILBREY
NOES: COUNCIL MEMBERS: NONE
ABSENT: COUNCIL MEMBERS: IVES
ABSTAIN: COUNCIL MEMBERS: NONE


MAYOR

ATTEST:

CITY CLERK

03-040703kl
PW



DISCLAIMER
 The sole purpose of this document is for the assessment and collection of County property taxes. County makes no representation or warranty, express or implied, about the completeness, accuracy, reliability or authenticity of the information set forth in this document. Therefore, this document should not be relied upon to determine the legal ownership of any specific parcel(s), nor to facilitate any real property transaction(s) between private parties. County is not liable for any loss or damage whatsoever arising from or in connection with the use of or reliance upon this document(s).

HIGHEST A.P.N. USED			
YEAR	PAR. #	PAR. #	PAR. #
90-91	3		
03-04	8		
04-05	12		
12-13	14		
16-17	16		
18-19	18	20	
21-22	21		

Bk. 213

C - R. S. Bk. 34 Pg. 037
 B - R. S. Vol. 04 Pg. 053
 A - R. M. Bk. 08 Pg. 001

NOTE: Boundaries of Blocks 8-11 are the centerlines of abnd roads E-G

NOTE: Assessor's Parcel Numbers Shown in Circles. Assessor's Block Numbers Shown in Ellipses.

CITY OF TRACY
 Assessor's Map Bk.212 Pg.16
 County of San Joaquin, Calif.

Recorded at the request of and after recording, return to:
City Clerk, City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
(No recording fee, under Government Code §27383)

LEASE AGREEMENT

THIS Lease Agreement (hereinafter "Agreement") is made and entered into by and between the City of Tracy, a municipal corporation (hereinafter "City"), and Arnaudo Bros. Transport, Inc., a California Corporation (hereinafter "Lessee").

RECITALS

- A. City owns approximately 1200 acres of agricultural land generally located between Corral Hollow Road to the West, Whitehall Rd and South Tracy Boulevard to the North, MacArthur Drive to the East and Larch Road to the South, which was acquired in 2003 as part of the Holly Sugar property purchase (the "Property").
- B. The Property was purchased to provide future expansion of the wastewater treatment plant and the City seeks to lease it for agricultural purposes until it is needed for capacity and treatment of wastewater processing.
- C. The Property consist primarily of farmable land, along with a residence and other agricultural-related structures. City desires to lease the Property for agricultural uses only and no development or demolition shall be allowed.
- D. This Agreement is not subject to the Surplus Land Act, as the exemption for entering of a lease for surplus land on which no development or demolition will occur, regardless of the term of the lease, is applicable.
- E. Lessee is a California corporation engaged in the delivery, processing, storage, and distribution of livestock feed.
- F. Lessee, previously known as, Arnaudo Bros., Inc., has leased 56 acres (APN: 212-16-005 – Attachment A) known as the Ovals (the "Premises") from the City since 2008. Their current five-year lease expired on June 30, 2024, and is currently on a month-month holdover lease status.
- G. Lessee, now known as Arnaudo Bros. Transport, Inc., a California Corporation, wishes to enter into a new long term lease for the Premises.
- H. City desires to lease the Premises to Lessee, and Lessee desires to lease said Premises from City, which is the subject of this Agreement.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE upon the following terms and conditions:

1. Term.

This Agreement will commence on October 1, 2024, and will run through June 30, 2034, unless otherwise terminated by either City or Lessee. City or Lessee may terminate this Agreement by giving written notice to the other six months in advance of the termination date.

2. Lease Payment:

Lessee agrees to pay City a fixed rate lump sum in the amount of four-thousand, eight hundred dollars (\$4,800) per month through June 30, 2025. Beginning July 1, 2025, the monthly lease payment will increase by a flat rate of three percent (3%) annually on July 1 of each subsequent year through the term of the contract.

July 1 each year = 3% increase				Percentage Increase
YEA R	3%	assumed	New Monthly Fee	Total Revenue - Annually
2024			\$ 4,800.00	\$ 57,600.00
2025	\$	144.00	\$ 4,944.00	\$ 59,328.00
2026	\$	148.32	\$ 5,092.32	\$ 61,107.84
2027	\$	152.77	\$ 5,245.09	\$ 62,941.08
2028	\$	157.35	\$ 5,402.44	\$ 64,829.31
2029	\$	162.07	\$ 5,564.52	\$ 66,774.19
2030	\$	166.94	\$ 5,731.45	\$ 68,777.41
2031	\$	171.94	\$ 5,903.39	\$ 70,840.73
2032	\$	177.10	\$ 6,080.50	\$ 72,965.96
2033	\$	182.41	\$ 6,262.91	\$ 75,154.94
2034	End of Term		\$ 6,262.91	\$ 75,154.94

Lease payment is due in an aggregate amount, on the first day of January and the first day of July, in an amount equal to the lease payment due for the succeeding six (6) month period that the Agreement is in effect (By way of example, lease payment due on January 1, 2025, would be \$29,664 for the period commencing on January 1, 2025, and ending on June 30, 2025). Notwithstanding the foregoing, lease payment in the amount of \$14,400 for the period commencing on October 1, 2024, and ending on December 31, 2024, shall be due on October 15, 2024.

Payment shall be sent to:

City of Tracy
 Re: Arnaudo Drying Bed Lease
 Finance Department
 333 Civic Center Plaza
 Tracy, CA 95376

3. Property:

For the Term and subject to the rights and obligations set forth in this Agreement, the City hereby leases to Lessee, and Lessee leases from City, the Property.

4. Permitted Uses.

Lessee agrees as follows:

- 4.1 Use of the Property shall conform to all applicable rules and regulations governing the property, including, but not limited to, local zoning, building and fire codes.
- 4.2 Lessee is responsible for safely securing all property and equipment and for safely storing all materials in accordance with State and local laws.
- 4.3 Lessee and its employees, agents or invitees shall access the Property from the driveway and gate on Tracy Boulevard only.
- 4.4 Lessee shall use the Property only for the delivery, processing, storage, and distribution of silage and/or bulk livestock feed. No storage or processing of olive pomace, grape pomace, tomato pomace, or distillers' grain shall be allowed. Drying of fresh tomato cannery waste is permissible, provided that such use creates minimal odors. Other materials may be received/ processed/stored, only upon the prior approval in writing by the City. All materials must be contained on-site.

5. Acceptance and Maintenance of Property:

- 5.1 Lessee acknowledges and agrees that it accepts the Property in its "AS IS/WITH ALL FAULTS" condition, without any liability or obligation on the part of City to make any alterations, improvements or repairs of any kind which would constitute a change to the present condition of the Property. Lessee further acknowledges and agrees that it has inspected and evaluated the Property and determined that it is suitable for the permitted uses, without reliance on any statements made by the City. that agrees to prepare and maintain the Property, all at Lessee's own cost and expense
- 5.2 Lessee shall maintain and repair, as needed, the Property throughout the Term, at its sole cost and expense, and Lessee shall be liable for any and all damage to the Property caused by the Lessee, its employees, agents, or invitees.
- 5.3 Lessee shall keep the Property free and clear of all rubbish, trash, and weeds.
- 5.4 At the expiration or earlier termination of this Agreement, Lessee shall return the Property to the same, or substantially similar, condition as exists on the commencement date of this Agreement.

6. Alterations and Modifications:

Lessee covenants and agrees not to install any fixtures or make any alterations, additions, erecting of structures or improvements to the Property without the prior written approval of City. All fixtures installed or additions and improvements made to the Property shall become City's property and shall remain on the Property at the termination of this Agreement, without compensation or payment to Lessee. A truck scale is permitted and will remain the property of the Lessee, which Lessee shall have the right to remove at the termination of this Agreement.

7. Sublease:

Lessee may not voluntarily or involuntarily assign or sublease this Lease without first obtaining City's written consent. Lessee acknowledges and agrees that any such consent would require formal action by the City Council and may include the payment of consideration for such additional rights.

8. Regulations:

Lessee's use of Property shall comply with all Federal, State, and local regulations, laws, rules, ordinances, and directives of competent authority applicable to the use of the Property.

9. Hold Harmless:

Lessee shall defend, indemnify, and hold the City, its officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses, or suits, including attorneys' fees, arising out of or in connection with the performance of this Agreement, including, but not limited to, those claims, injuries, damages, losses, or suits, and attorneys' fees based upon nuisance or inverse condemnation, excepting however, those claims, injuries, damages, losses, or suits, including attorneys' fees, for injuries and damages caused by the sole negligence of the City.

10. Taxes:

Lessee shall pay, when due, any real property taxes levied against the Property as a result of any possessory interest taxes which may be imposed on Lessee's interest in the Property. This provision constitutes written notice to Lessee pursuant to California Revenue and Taxation Code Section 107. City shall not be responsible for payment of any such tax. No such tax shall in any way reduce or substitute for the charges or fees required to be paid as a condition of this Agreement or as otherwise required by the City.

11. Entry and Inspection:

City reserves the right to enter the Property at any time and by whatever means necessary, including, but not limited to, the following situations: (a) in case of emergency, (b) to make necessary repairs and improvements, (c) to supply necessary services, (d) when City reasonably believes that the Lessee has abandoned or surrendered the Property, (e) to inspect the Property for compliance, (f) pursuant to court order, (g) for necessary tests or surveying, or (h) installation and maintenance of irrigation facilities. When entering the Property, City shall take care to minimize disruption to Lessee's operations. City agrees to provide appropriate notification to Lessee of any approved entries to Property that City has given to any third party.

12. Default:

12.1 Lessee shall be in default of this Lease, if City determines that any of the following conditions exist (which conditions are not intended to constitute the exclusive basis for default):

- (a) Lessee is insolvent, bankrupt, or makes a general assignment of the benefit of the creditors.
- (b) Lessee abandons the Property.
- (c) Lessee violates any legal requirement relating to the Use of the Property.
- (d) Lessee fails to remit payment of any installment or rent or of any amount owed to City
- (e) Lessee fails to abide by any covenant or condition contained in this Lease, including but not limited to Section 4 "Use".

12.2 In the event Lessee, fails within twenty (20) calendar days after receipt of written notice, to either cure the default or provide adequate written assurance to the reasonable satisfaction of City that the cure will be promptly commenced and diligently prosecuted to its completion, the City may, in its discretion, take any or all of the following actions:

- (a) Terminate the lease.

- (b) File an unlawful detainer action against Lessee to regain possession of the Property.
- (c) Any other judicial remedies available to City.

13. Insurance:

- 13.1 Lessee shall, throughout the duration of this Agreement, maintain insurance to cover Lessee, its agents, representatives, and employees in connection with the use of the Property and this Agreement at the minimum levels set forth here.
- 13.2 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.
- 13.3 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 \$2,000,000 per accident for bodily injury and property damage.
- 13.4 Workers' Compensation coverage shall be maintained as required by the State of California.
- 13.5 Endorsements. Lessee shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions:
 - 13.5.1 The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."
 - 13.5.2 For any claims related to this Agreement, Lessee's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Lessee's insurance and shall not contribute with it.
- 13.6 Notice of Cancellation. Lessee 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. Lessee shall immediately obtain a replacement policy.
- 13.7 Authorized Insurers. All insurance companies providing coverage to Lessee 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.
- 13.8 Insurance Certificate. Lessee 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.
- 13.9 Substitute Certificates. No later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement, Lessee shall provide a substitute certificate of insurance.
- 13.10 Lessee's Obligation. Maintenance of insurance by Lessee as specified in this Agreement shall in no way be interpreted as relieving Lessee of any responsibility whatsoever (including indemnity obligations under this Agreement), and Lessee may carry, at its own expense, such additional insurance as it deems necessary.

14 Waiver:

The waiver by either party of any provision or condition of this Agreement shall not be construed to be a waiver of any other provision or condition of this Agreement and shall not preclude the other party from demanding performance in accord with the other terms thereof nor

shall any such waiver be construed to be permanent unless such waiver is in writing and signed by both City and Lessee.

15 Force Majeure:

Except as to the payment of rent and for damages chargeable to the responsible party, neither City nor Lessee shall be chargeable with, liable for, or responsible to the other for anything or in any amount for any delay caused by fire, earthquake, explosion, the elements, acts of God, riots, strikes, lockouts and any delay due to said causes or any of them shall not be deemed a breach of or default in the performance of this Agreement.

16 Relationship of Parties:

The relationship between City and Lessee shall always and only be that of lessor and lessee. Lessee shall never at any time during the term of this Agreement become the agent of City, and City shall not be responsible for the acts or omissions of Lessee or its agents.

17 Severability:

The unenforceability, invalidity, or illegality of any of provision herein shall not render the other provisions unenforceable, invalid, or illegal.

18 Recordation:

Pursuant to Government Code § 37393, this Agreement may be recorded in the Office of the County Recorder, County of San Joaquin, State of California.

19 Notices:

All notices to the parties shall be in writing and shall be addressed and mailed to their representatives as follows:

City:

City of Tracy
Director of Public Works
520 Tracy Boulevard
Tracy, CA 95376

Lessee:

Arnaudo Bros. Transport, Inc.
16505 S. Tracy Blvd.
Tracy, CA 95304

With a copy to:

City Attorney
333 Civic Center Plaza
Tracy, CA 95376


20. Signatures.

The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of Lessee and City. This Agreement shall insure to the benefit of and be

binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the parties agree to the full performance of the terms set forth.

LESSEE: ARNAUDO BROS. TRANSPORT, INC. LESSOR: CITY OF TRACY

By: 
Garrett Arnaudo
Chief Executive Officer/Chief Financial Officer

By: _____
Nancy D. Young
Mayor of the City of Tracy, California

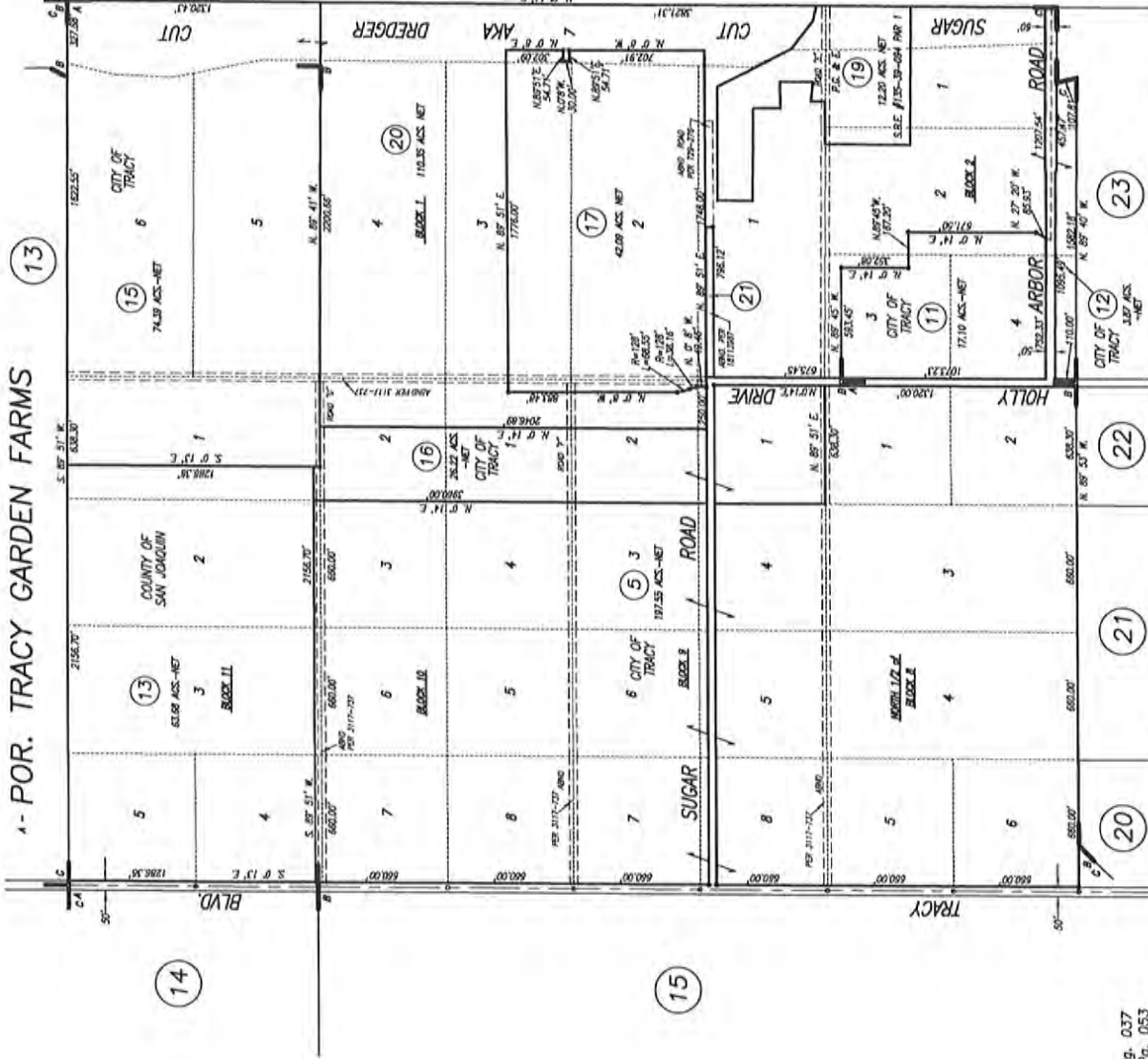
Date: 8-14-24

Date: _____

Attest: _____
Adrienne Richardson, City Clerk

APPROVED AS TO FORM:

By: _____
Bijal M. Patel, City Attorney



Bk. 213

HIGHEST A.P.N. USED		
YEAR	PAR. #	PAR. #
90-91	J	
03-04	6	
04-05	12	
10-13	14	
16-17	16	
18-19	18	20
21-22	21	

CITY OF TRACY
Assessor's Map Bk.212 Pg.16
County of San Joaquin, Calif.

NOTE: Assessor's Parcel Numbers Shown in Circles.
Assessor's Block Numbers Shown in Ellipses.

NOTE: Boundaries of Blocks B-11 are the centerlines of abnd roads E-G

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C - R. S. Bk. 34 Pg. 037
B - R. S. Vol. 04 Pg. 053
A - R. M. Bk. 08 Pg. 001

CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of San Joaquin }

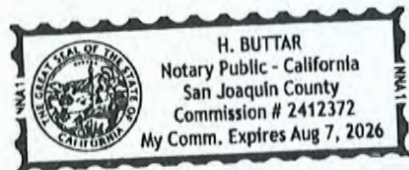
On 8/15/2024 before me, H. Buttar Notary Public
Date Here Insert Name and Title of the Officer

personally appeared _____
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature H. Buttar
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Lease Agreement
Document Date: 8/15/2024 Number of Pages: 1
Signer(s) Other Than Named Above: N/A

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer – Title(s): _____
 Partner – Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer is Representing: _____

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION 2024 - _____

APPROVING AND AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT WITH ARNAUDO BROS. TRANSPORT, INC., A CALIFORNIA CORPORATION, WITH A TERM OF TEN YEARS AND INITIAL ANNUAL RENT IN THE AMOUNT OF \$57,600, ADJUSTED AT A THREE PERCENT INCREASE ANNUALLY

WHEREAS, The City of Tracy (City) owns approximately 1200 acres of agricultural land generally located northerly between Corral Hollow Road and Holly Drive, within and outside the existing City limit line which it acquired in 2003 as part of the Holly Sugar property purchase; and

WHEREAS, These agricultural parcels were purchased by the Wastewater Treatment Plant in 2003 to provide future expansion of the wastewater treatment plant and these parcels are now shown assets in the Wastewater Fund (521); and

WHEREAS, These agricultural parcels are currently leased until they are needed to provide capacity and treatment for the City of its wastewater collections; and

WHEREAS, On August 1, 2008, by Resolution 2008-126, the City Council approved a three-year lease with Arnaudo Bros., Inc., (hereafter "Lessee") to lease one of two 56-acre parcels located on APN 212-16-005 with a monthly rental of four-thousand dollars (\$4,000) for the delivery, processing, storage, and distribution of silage on an existing paved drying bed; and

WHEREAS, On June 21, 2011, by Resolution 2011-123, the City Council approved a second three-year lease agreement with the Lessee expiring on June 30, 2014, for the same parcel under the same conditions; and

WHEREAS, The 2011 agreement was amended on June 3, 2014, by Resolution 2014-088 increasing the term of the agreement an additional five-years to June 30, 2019; and

WHEREAS, On January 15, 2019, by Resolution 2019-008, the City Council approved a third agreement with Arnaudo Bros., Inc., for a five-year term ending on June 30, 2024, and adjusted the rent amount to four-thousand two hundred (\$4,200) per month; and

WHEREAS, It was identified that in previous lease agreements and amendments, the Arnaudo Bros., Inc. business name was incorrectly identified as a limited liability company; and

WHEREAS, The correct business entity has been incorporated in the new lease agreement as Arnaudo Bros. Transport, Inc., a California Corporation; and

WHEREAS, The City and the Lessee desire to continue their long standing partnership where the City desires to lease the Property to Lessee, and Lessee desires to lease said Property from City, which is the subject of this Agreement; and

WHEREAS, The proposed lease is not subject to consideration under the Surplus Land Act (SLA) as the exemption under the SLA Guidelines for entering of a lease for surplus land on which no development or demolition will occur, regardless of the term of the lease, is applicable; and now therefore be it

RESOLVED, That the City Council of the City of Tracy, hereby approves and authorizes the execution of a Lease Agreement with Arnaudo Bros. Transport, Inc., a California Corporation in the form substantially shown in Exhibit 1, with a term of 10 years, with the initial rent to be four-thousand, eight hundred dollars (\$4,800) per month, to be adjusted on July 1st of each year by 3%; and be it

FURTHER RESOLVED, The amended term will commence on September 17, 2024, and run through June 30, 2034, unless otherwise terminated by either the City or Lessee; and be it

FURTHER RESOLVED, That the City Council approves that this action is not considered a project as defined by Section 21065 of the Public Resources Code.

The foregoing Resolution 2024 - _____ was adopted by the Tracy City Council on September 17, 2024, 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 1) approving a Master Professional Service Agreement for Roadway Design Services with Mark Thomas & Company, Inc. for an initial term of three years and for a total not-to-exceed amount of \$600,000 per fiscal year, and 2) authorizing two administrative options to extend for one-year term each.

EXECUTIVE SUMMARY

This agenda item seeks adoption of a resolution approving a Master Professional Service Agreement (MPSA) with Mark Thomas and Company, Inc. (Consultant) for roadway design services for an initial term of three years and for a total not-to-exceed amount of \$600,000 per fiscal year. Staff is also requesting an authorization for two administrative options to extend for one-year terms, based on performance, if needed. The Consultant has been selected from an on-call list approved pursuant to Resolution No. 2024-084. Staff has successfully worked with Mark Thomas & Company, Inc. on several engineering projects since 2017 and is seeking to utilize their skills to further benefit the City.

BACKGROUND AND LEGISLATIVE HISTORY

On March 1, 2024, the City issued a Request for Proposals (RFP) for On-Call Roadway and Utility Design Services. The requested services include, but are not limited to, the preparation of Plans, Specifications, and Estimates, engineering operational support, and environmental document preparation. On April 4, 2024, the City received nine (9) separate proposals, including one from Mark Thomas & Company, Inc. The City's consultant selection committee carefully evaluated all the received proposals based on the criteria described in the RFP. The selection committee determined that all the Consultants possessed the skills, experience, competence, professional qualifications, and certifications required to provide at least one of the roadway and utility design services requested by the City.

On June 4, 2024, the City Council adopted Resolution No. 2024-084 approving the nine (9) consultants for an on-call professional service list valid for five (5) years. This on-call list of selected Consultants created an efficient process for future project proposal requests and does not bind the City or its budgets to a particular scope of work until it is required as City needs arise. Having previously undertaken the public contracting procedures for each Consultant on the list, as the project needs arise, the City may more readily move into contracting with one of the Consultants on the list and then return to the City Council for approval of a project-specific professional services agreement.

ANALYSIS

The City of Tracy Engineering Division consists of the Capital Improvement Program (CIP), Land Development, and Traffic Engineering, to include a variety of projects generally consisting of roadway design, including the design of existing and new roadways, road widening, roadway repair safety enhancements, intersection improvements, Americans with Disabilities Act (ADA) compliances, sidewalk curb and gutter improvements, bicycle facility improvements, pavement

rehabilitation. Utility Design includes potable and non-potable water facilities, sewer system facilities including lift stations, storm drain systems facilities including pump stations, joint trench facilities, and street lighting.

The need to utilize a capable and qualified consultant for roadway design services has prompted staff to recommend that the City Council award an MPSA to Consultant to assist with engineering projects. Staff has successfully worked with the Consultant since 2017 on several CIPs and seeks to continue to utilize their services to further implement roadway improvements for the community.

The term of this MPSA will be for three (3) fiscal years with an option to extend for two (2) consecutive one (1) year terms based on the performance if needed, with an annual fiscal year not-to-exceed a budget of \$600,000.

FISCAL IMPACT

The cost of the work performed by the Consultant will be cost recoverable in part, through the developer's fee, Capital Improvement Project budgets, or Federal and State grant funds. Funding for the agreement with Mark Thomas & Company, Inc. exists on an annual basis within the department's adopted budget and the contract includes the ability to terminate if there is insufficient budget availability.

CEQA DETERMINATION

The MPSA is for services equivalent to "planning and feasibility services" and, therefore, is not considered a "project" as defined by Section 21065 of the Public Resources Code. Any projects for which such services are performed will be reviewed as required under the California Environmental Quality Act (CEQA) before future discretionary actions are taken.

STRATEGIC PLAN

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

ACTION REQUESTED OF THE CITY COUNCIL

That the City Council, by resolution, 1) approve a Master Professional Service Agreement for Roadway Design Services with Mark Thomas & Company, Inc. for an initial term of three years and for a total not-to-exceed amount of \$600,000 per fiscal year, and 2) authorize two administrative options to extend for one-year term each.

Prepared by: Sharat Bandugula, PE, Senior Civil Engineer
Habibullah Habib, PE, Associate Civil Engineer

Reviewed by: Koosun Kim, PE, City Engineer
Sara Castro, Finance Director
Bijal M. Patel, City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

ATTACHMENTS

Attachment A – Master Professional Service Agreement with Mark Thomas & Company, Inc.

**CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH**

Mark Thomas & Company, Inc. for future Roadway Design Services including Design of Existing and New Roadways, Roadway Repair Safety Enhancements, Intersection Improvements, ADA Compliance, Sidewalk Curb and Gutter Improvements, and Bicycle Facility Improvements.

This Master Professional Services Agreement (“Agreement”) is entered into between the City of Tracy, a municipal corporation (“City”), and Mark Thomas & Company, Inc., a California Corporation (“Consultant”). City and Consultant are referred to individually as “Party” and collectively as “Parties.”

Recitals

A. City desires to retain Consultant to provide future Roadway Design Services including the design of Existing and New Roadways, Roadway Repair Safety Enhancements, Intersection Improvements, ADA Compliance, Sidewalk Curb and Gutter Improvements, Bicycle Facility Improvements as further described herein and in Exhibit A.

B. On March 1, 2024, the City issued a Request for Proposals (RFP) for on-call Roadway and Utility Design Services. On April 4, 2024, nine (9) Consultants including Mark Thomas & Company, Inc. submitted their proposals for the services to the City. On June 4, 2024, the City Council adopted Resolution No. 2024-084 approving all nine (9) consultants for an on-call professional service list valid for five (5) years. This on-call list of selected Consultants created an efficient process for future project proposal requests and does not bind the City or its budgets to a particular scope of work until it is required as City needs arise. Having previously undertaken the public contracting procedures for each Consultant on the list, as the project needs arise, the City may more readily move into contracting with one of the Consultants on the list and then return to the City Council for approval of a project-specific professional services agreement, The need to utilize a consultant from the on-call selected list for roadway design services has prompted staff to recommend to award an On-Call Master Professional Service Agreement (MPSA) to Mark Thomas & Company, Inc. (Consultant) to assist with engineering projects. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) and 2.20.130, the City has determined that the Consultant demonstrated that it was the best qualified and most responsible proposer, and best fits the City’s needs for competence and professional qualifications necessary for the satisfactory performance of the Services.

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

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

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

1. Scope of Services. Consultant shall perform professional services, tasks, and scope of work further described in Exhibit A hereto (“Services”) for the City’s benefit on an as-needed basis pursuant to individual approved Task Orders for services within the in accordance with the terms and conditions of this Agreement. The Services shall be performed by, or under the direct supervision of, Consultant’s Authorized Representative: Matt Brogan, PE. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit A, nor shall

Consultant use or replace any subcontractor or subconsultant, without City’s prior written consent. A failure to obtain the City’s prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

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

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

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

2.1 Term. The term of this Agreement shall commence on June 30,2024 and expire and terminate automatically on June 04,2027 or earlier by termination pursuant to Section 6 of this Agreement (“Term”). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of two (2) year(s) and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

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

3.1 Annual Total Not to Exceed Amount. Consultant’s total compensation for all Task Orders and Services under this Agreement shall not exceed \$600,000.00 (Six Hundred Thousand Dollars) per City fiscal year (“Total Not-to-Exceed Amount”). Consultant’s billing rates shall cover all costs and expenses for Consultant’s performance of this Agreement. No work shall be performed by Consultant in excess of the Total Not-to-Exceed Amount. Consultant acknowledges City has no obligation to compensate or reimburse Consultant for any fees or costs incurred in excess of the Total Not-to-Exceed Amount. Unless specifically stated otherwise or agreed to in writing and approved by City Council, the fees proposed by Consultant, as set forth in Exhibit B hereto, shall remain unchanged for the entire term of this Agreement and any extensions of this Agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Termination.

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

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

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

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

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

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

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

11. Notices. All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party to the addresses listed below. Communications shall be deemed to have been given and received on the first

to occur of: (1) actual receipt at the address designated below, or (2) three working days after the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

To City:

Koosun Kim
City Engineer
333 Civic Center Plaza
Tracy, CA 95376

To Consultant:

Matt Brogan, PE,
Principle and President
701 University Avenue, Suite 200
Sacramento, CA 95825

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

12. Miscellaneous.

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

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

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

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

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

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

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

employees and agents, harmless from any and all claims, costs, penalties, or interests arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

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

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

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

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

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

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

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

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

13. 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]

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

City of Tracy

By: Nancy Young

Title: Mayor

Date: _____

Attest:

Adrienne Richardson, City Clerk

Approved as to form:

Bijal M. Patel, City Attorney

Consultant

Mark Thomas & Company, Inc., California Corporation

By: Matt Brogan, PE

Title: Principal and Vice President


Signature: 

Date: 8/19/24 _____

Federal Employer Tax ID No. 94-1451490

By: Kimberly Post

Title: Chief Financial Officer

Signature: 

Date: 8/19/24 _____

Exhibits:

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

EXHIBIT A
Scope of Work

Name of Proposer	Mark Thomas & Company, Inc.
On-call Services Requested by City	On-Call Services Proposer Desires to Perform (Check all that apply)
<p>Roadway Design Services including but not limited to the design of the following:</p> <ol style="list-style-type: none"> 1. Design of existing and new roadways 2. Roadway widening 3. Roadway repair safety enhancements. 4. Intersection improvements. 5. ADA compliance. 6. Sidewalk, Curb and gutter improvements 7. Bicycle facility improvements. 	<p style="text-align: center;"> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> </p>
<p>Utility Design Services including but not limited to the design of the following:</p> <ol style="list-style-type: none"> 1. Potable and Non-Potable Water Facilities 2. Sewer System Facilities including Lift Stations 3. Storm Drain System Facilities including Pump Stations 4. Joint Trench Facilities including PG&E Rule 20A components 5. Street Lighting 	

Key Staff:

MATT BROGAN, PE | Principal in Charge & Project Manager

DAVID WILLIAMS, PE | Project Engineer

JON HERNANDEZ, PE | Project Engineer

JAMES PANGBURN, PE | Local Development Support

DAN BLOMQUIST, PE | Municipal Support

RAUL CERVANTES | Municipal Support

JASON HICKEY, SE | Structures

EXHIBIT B Compensation

Cost Proposal 2

Specific Rate of Compensation (On-Call or As-Needed Contracts)

Note: Mark-ups are Not Allowed

Consultant: Mark Thomas & Company, Inc.

Prime Consultant
 Subconsultant
 2nd Tier Subconsultant

Project No. _____ Contract No. _____ Participation Amount \$ _____ Date: 3/20/2024

For Combined Rate	Fringe Benefit 95.61% + General & Administrative 55.05%	=	Combined	150.66%
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For Home Office Rate	Fringe Benefit ___% + General & Administrative ___%	=	Home Office	___%
For Field Office Rate	Fringe Benefit ___% + General & Administrative ___%	=	Field Office	___%

	Fee	=	10%
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BILLING INFORMATION

CALCULATION INFORMATION

Name/Classification	Loaded Hourly Billing Rates		Effective Date of Hourly Rate		% Escalation Increase	Actual Hourly Rate and/or Average Hourly Rate	Hourly Range for Class
	Straight	Overtime	From	To			
Principal	\$ 426.00	N/A	5/1/2024	4/31/2025		\$ 154.50	\$ 138.00 - \$ 165.00
	\$ 447.30	N/A	5/1/2025	4/31/2026	5.00%	\$ 162.23	\$ 144.90 - \$ 173.25
	\$ 469.68	N/A	5/1/2026	4/31/2027	5.00%	\$ 170.34	\$ 152.15 - \$ 181.91
	\$ 493.14	N/A	5/1/2027	4/31/2028	5.00%	\$ 178.85	\$ 159.75 - \$ 191.01
Sr. Engineering Manager	\$ 380.01	N/A	5/1/2024	4/31/2025		\$ 137.82	\$ 112.00 - \$ 148.00
	\$ 399.01	N/A	5/1/2025	4/31/2026	5.00%	\$ 144.71	\$ 117.60 - \$ 155.40
	\$ 418.96	N/A	5/1/2026	4/31/2027	5.00%	\$ 151.95	\$ 123.48 - \$ 163.17
	\$ 439.90	N/A	5/1/2027	4/31/2028	5.00%	\$ 159.54	\$ 129.85 - \$ 171.33
Engineering Manager	\$ 318.99	N/A	5/1/2024	4/31/2025		\$ 115.69	\$ 105.00 - \$ 126.00
	\$ 334.94	N/A	5/1/2025	4/31/2026	5.00%	\$ 121.47	\$ 110.25 - \$ 132.30
	\$ 351.68	N/A	5/1/2026	4/31/2027	5.00%	\$ 127.55	\$ 115.76 - \$ 138.92
	\$ 369.27	N/A	5/1/2027	4/31/2028	5.00%	\$ 133.93	\$ 121.55 - \$ 145.88
Design Manager	\$ 318.99	N/A	5/1/2024	4/31/2025		\$ 115.69	\$ 101.00 - \$ 126.00
	\$ 334.94	N/A	5/1/2025	4/31/2026	5.00%	\$ 121.47	\$ 106.05 - \$ 132.30
	\$ 351.68	N/A	5/1/2026	4/31/2027	5.00%	\$ 127.55	\$ 111.35 - \$ 138.92
	\$ 369.27	N/A	5/1/2027	4/31/2028	5.00%	\$ 133.93	\$ 116.92 - \$ 145.88

Sr. Project Manager	\$ 265.00	N/A	5/1/2024	4/31/2025		\$ 98.11	\$ 75.00	-	\$ 107.00
	\$ 278.25	N/A	5/1/2025	4/31/2028	5.00%	\$ 100.92	\$ 78.75	-	\$ 112.35
	\$ 292.18	N/A	5/1/2026	4/31/2027	5.00%	\$ 105.96	\$ 82.69	-	\$ 117.97
	\$ 306.77	N/A	5/1/2027	4/31/2028	5.00%	\$ 111.28	\$ 86.82	-	\$ 123.87
Sr. Technical Lead	\$ 265.00	N/A	5/1/2024	4/31/2025		\$ 98.11	\$ 75.00	-	\$ 107.00
	\$ 278.25	N/A	5/1/2025	4/31/2028	5.00%	\$ 100.92	\$ 78.75	-	\$ 112.35
	\$ 292.18	N/A	5/1/2026	4/31/2027	5.00%	\$ 105.96	\$ 82.69	-	\$ 117.97
	\$ 306.77	N/A	5/1/2027	4/31/2028	5.00%	\$ 111.28	\$ 86.82	-	\$ 123.87
Project Manager	\$ 213.99	N/A	5/1/2024	4/31/2025		\$ 77.61	\$ 62.00	-	\$ 88.00
	\$ 224.69	N/A	5/1/2025	4/31/2028	5.00%	\$ 81.49	\$ 65.10	-	\$ 92.40
	\$ 235.93	N/A	5/1/2026	4/31/2027	5.00%	\$ 85.57	\$ 68.38	-	\$ 97.02
	\$ 247.72	N/A	5/1/2027	4/31/2028	5.00%	\$ 89.84	\$ 71.77	-	\$ 101.87
Technical Lead	\$ 213.99	N/A	5/1/2024	4/31/2025		\$ 77.61	\$ 62.00	-	\$ 88.00
	\$ 224.69	N/A	5/1/2025	4/31/2028	5.00%	\$ 81.49	\$ 65.10	-	\$ 92.40
	\$ 235.93	N/A	5/1/2026	4/31/2027	5.00%	\$ 85.57	\$ 68.38	-	\$ 97.02
	\$ 247.72	N/A	5/1/2027	4/31/2028	5.00%	\$ 89.84	\$ 71.77	-	\$ 101.87
Sr. Project Engineer	\$ 186.00	N/A	5/1/2024	4/31/2025		\$ 87.48	\$ 56.00	-	\$ 78.00
	\$ 195.30	N/A	5/1/2025	4/31/2028	5.00%	\$ 70.83	\$ 58.80	-	\$ 81.90
	\$ 205.07	N/A	5/1/2026	4/31/2027	5.00%	\$ 74.37	\$ 61.74	-	\$ 86.00
	\$ 215.32	N/A	5/1/2027	4/31/2028	5.00%	\$ 78.09	\$ 64.83	-	\$ 90.29
Sr. Technical Engineer	\$ 186.00	N/A	5/1/2024	4/31/2025		\$ 87.48	\$ 56.00	-	\$ 78.00
	\$ 195.30	N/A	5/1/2025	4/31/2028	5.00%	\$ 70.83	\$ 58.80	-	\$ 81.90
	\$ 205.07	N/A	5/1/2026	4/31/2027	5.00%	\$ 74.37	\$ 61.74	-	\$ 86.00
	\$ 215.32	N/A	5/1/2027	4/31/2028	5.00%	\$ 78.09	\$ 64.83	-	\$ 90.29
Project Engineer	\$ 164.00	N/A	5/1/2024	4/31/2025		\$ 58.48	\$ 50.00	-	\$ 70.00
	\$ 172.20	N/A	5/1/2025	4/31/2028	5.00%	\$ 62.45	\$ 52.50	-	\$ 73.50
	\$ 180.81	N/A	5/1/2026	4/31/2027	5.00%	\$ 65.58	\$ 55.13	-	\$ 77.18
	\$ 189.85	N/A	5/1/2027	4/31/2028	5.00%	\$ 68.86	\$ 57.88	-	\$ 81.03
Civil Engineering Designer	\$ 157.00	N/A	5/1/2024	4/31/2025		\$ 58.94	\$ 40.00	-	\$ 67.00
	\$ 164.85	N/A	5/1/2025	4/31/2028	5.00%	\$ 59.79	\$ 42.00	-	\$ 70.35
	\$ 173.09	N/A	5/1/2026	4/31/2027	5.00%	\$ 62.78	\$ 44.10	-	\$ 73.87
	\$ 181.75	N/A	5/1/2027	4/31/2028	5.00%	\$ 65.92	\$ 46.31	-	\$ 77.58
Design Engineer II	\$ 142.00	N/A	5/1/2024	4/31/2025		\$ 51.50	\$ 38.00	-	\$ 62.00
	\$ 149.10	N/A	5/1/2025	4/31/2028	5.00%	\$ 54.08	\$ 39.90	-	\$ 65.10
	\$ 156.55	N/A	5/1/2026	4/31/2027	5.00%	\$ 56.78	\$ 41.90	-	\$ 68.38
	\$ 164.38	N/A	5/1/2027	4/31/2028	5.00%	\$ 59.62	\$ 43.99	-	\$ 71.77
Design Engineer I	\$ 115.01	N/A	5/1/2024	4/31/2025		\$ 41.71	\$ 30.00	-	\$ 52.00
	\$ 120.76	N/A	5/1/2025	4/31/2028	5.00%	\$ 43.80	\$ 31.50	-	\$ 54.60
	\$ 126.79	N/A	5/1/2026	4/31/2027	5.00%	\$ 45.99	\$ 33.08	-	\$ 57.33
	\$ 133.13	N/A	5/1/2027	4/31/2028	5.00%	\$ 48.28	\$ 34.73	-	\$ 60.20

Sr. Planner	\$ 142.00	N/A	5/1/2024	4/31/2025		\$ 51.50	\$ 38.00	- \$ 62.00
	\$ 149.10	N/A	5/1/2025	4/31/2026	5.00%	\$ 54.08	\$ 39.90	- \$ 65.10
	\$ 156.55	N/A	5/1/2026	4/31/2027	5.00%	\$ 56.78	\$ 41.90	- \$ 68.36
	\$ 164.38	N/A	5/1/2027	4/31/2028	5.00%	\$ 59.62	\$ 43.99	- \$ 71.77
Planner II	\$ 118.01	N/A	5/1/2024	4/31/2025		\$ 42.80	\$ 31.00	- \$ 53.00
	\$ 123.91	N/A	5/1/2025	4/31/2026	5.00%	\$ 44.94	\$ 32.55	- \$ 55.65
	\$ 130.11	N/A	5/1/2026	4/31/2027	5.00%	\$ 47.19	\$ 34.18	- \$ 58.43
	\$ 136.61	N/A	5/1/2027	4/31/2028	5.00%	\$ 49.55	\$ 35.89	- \$ 61.35
Planner I	\$ 93.98	N/A	5/1/2024	4/31/2025		\$ 34.08	\$ 28.00	- \$ 45.00
	\$ 98.69	N/A	5/1/2025	4/31/2026	5.00%	\$ 35.78	\$ 29.40	- \$ 47.25
	\$ 103.63	N/A	5/1/2026	4/31/2027	5.00%	\$ 37.58	\$ 30.87	- \$ 49.61
	\$ 108.81	N/A	5/1/2027	4/31/2028	5.00%	\$ 39.46	\$ 32.41	- \$ 52.08
Sr. Technician	\$ 145.00	N/A	5/1/2024	4/31/2025		\$ 52.58	\$ 40.00	- \$ 63.00
	\$ 152.25	N/A	5/1/2025	4/31/2026	5.00%	\$ 55.22	\$ 42.00	- \$ 66.15
	\$ 159.87	N/A	5/1/2026	4/31/2027	5.00%	\$ 57.98	\$ 44.10	- \$ 69.48
	\$ 167.86	N/A	5/1/2027	4/31/2028	5.00%	\$ 60.88	\$ 46.31	- \$ 72.93
Technician	\$ 97.00	N/A	5/1/2024	4/31/2025		\$ 35.18	\$ 23.00	- \$ 46.00
	\$ 101.85	N/A	5/1/2025	4/31/2026	5.00%	\$ 36.94	\$ 24.15	- \$ 48.30
	\$ 106.94	N/A	5/1/2026	4/31/2027	5.00%	\$ 38.78	\$ 25.36	- \$ 50.72
	\$ 112.29	N/A	5/1/2027	4/31/2028	5.00%	\$ 40.73	\$ 26.63	- \$ 53.25
Intern	\$ 66.01	N/A	5/1/2024	4/31/2025		\$ 23.94	\$ 17.00	- \$ 34.00
	\$ 69.31	N/A	5/1/2025	4/31/2026	5.00%	\$ 25.14	\$ 17.85	- \$ 35.70
	\$ 72.77	N/A	5/1/2026	4/31/2027	5.00%	\$ 26.39	\$ 18.74	- \$ 37.49
	\$ 76.41	N/A	5/1/2027	4/31/2028	5.00%	\$ 27.71	\$ 19.68	- \$ 39.36
Survey Division Manager	\$ 317.99	N/A	5/1/2024	4/31/2025		\$ 115.33	\$ 85.00	- \$ 126.00
	\$ 333.89	N/A	5/1/2025	4/31/2026	5.00%	\$ 121.10	\$ 89.25	- \$ 132.30
	\$ 350.59	N/A	5/1/2026	4/31/2027	5.00%	\$ 127.15	\$ 93.71	- \$ 138.92
	\$ 368.12	N/A	5/1/2027	4/31/2028	5.00%	\$ 133.51	\$ 98.40	- \$ 145.86
Survey Manager II	\$ 242.00	N/A	5/1/2024	4/31/2025		\$ 87.77	\$ 74.00	- \$ 96.00
	\$ 254.10	N/A	5/1/2025	4/31/2026	5.00%	\$ 92.16	\$ 77.70	- \$ 100.80
	\$ 266.81	N/A	5/1/2026	4/31/2027	5.00%	\$ 96.77	\$ 81.59	- \$ 105.84
	\$ 280.15	N/A	5/1/2027	4/31/2028	5.00%	\$ 101.80	\$ 85.68	- \$ 111.13
Survey Manager I	\$ 217.00	N/A	5/1/2024	4/31/2025		\$ 78.70	\$ 68.00	- \$ 89.00
	\$ 227.85	N/A	5/1/2025	4/31/2026	5.00%	\$ 82.64	\$ 72.45	- \$ 93.45
	\$ 239.24	N/A	5/1/2026	4/31/2027	5.00%	\$ 86.77	\$ 76.07	- \$ 98.12
	\$ 251.20	N/A	5/1/2027	4/31/2028	5.00%	\$ 91.11	\$ 79.88	- \$ 103.03
Project Surveyor III	\$ 221.99	N/A	5/1/2024	4/31/2025		\$ 80.51	\$ 65.00	- \$ 91.00
	\$ 233.09	N/A	5/1/2025	4/31/2026	5.00%	\$ 84.54	\$ 68.25	- \$ 95.55
	\$ 244.74	N/A	5/1/2026	4/31/2027	5.00%	\$ 88.76	\$ 71.66	- \$ 100.33
	\$ 256.98	N/A	5/1/2027	4/31/2028	5.00%	\$ 93.20	\$ 75.25	- \$ 105.34

Project Surveyor II	\$ 191.99	N/A	5/1/2024	4/31/2025		\$ 89.63	\$ 80.00	-	\$ 80.00
	\$ 201.59	N/A	5/1/2025	4/31/2026	5.00%	\$ 73.11	\$ 83.00	-	\$ 84.00
	\$ 211.67	N/A	5/1/2026	4/31/2027	5.00%	\$ 76.77	\$ 86.15	-	\$ 88.20
	\$ 222.25	N/A	5/1/2027	4/31/2028	5.00%	\$ 80.61	\$ 88.46	-	\$ 92.61
Project Surveyor I	\$ 176.99	N/A	5/1/2024	4/31/2025		\$ 64.19	\$ 52.00	-	\$ 75.00
	\$ 185.84	N/A	5/1/2025	4/31/2026	5.00%	\$ 67.40	\$ 54.60	-	\$ 78.75
	\$ 195.13	N/A	5/1/2026	4/31/2027	5.00%	\$ 70.77	\$ 57.33	-	\$ 82.69
	\$ 204.89	N/A	5/1/2027	4/31/2028	5.00%	\$ 74.31	\$ 60.20	-	\$ 86.82
Asst Surveyor III	\$ 150.99	N/A	5/1/2024	4/31/2025		\$ 54.76	\$ 45.00	-	\$ 65.00
	\$ 158.54	N/A	5/1/2025	4/31/2026	5.00%	\$ 57.50	\$ 47.25	-	\$ 68.25
	\$ 166.46	N/A	5/1/2026	4/31/2027	5.00%	\$ 60.37	\$ 49.61	-	\$ 71.66
	\$ 174.79	N/A	5/1/2027	4/31/2028	5.00%	\$ 63.39	\$ 52.09	-	\$ 75.25
Asst Surveyor II	\$ 135.99	N/A	5/1/2024	4/31/2025		\$ 49.32	\$ 41.00	-	\$ 60.00
	\$ 142.79	N/A	5/1/2025	4/31/2026	5.00%	\$ 51.79	\$ 43.05	-	\$ 63.00
	\$ 149.93	N/A	5/1/2026	4/31/2027	5.00%	\$ 54.38	\$ 45.20	-	\$ 66.15
	\$ 157.42	N/A	5/1/2027	4/31/2028	5.00%	\$ 57.09	\$ 47.46	-	\$ 69.46
Asst Surveyor I	\$ 120.99	N/A	5/1/2024	4/31/2025		\$ 43.88	\$ 35.00	-	\$ 54.00
	\$ 127.04	N/A	5/1/2025	4/31/2026	5.00%	\$ 46.07	\$ 38.75	-	\$ 58.70
	\$ 133.39	N/A	5/1/2026	4/31/2027	5.00%	\$ 48.38	\$ 38.59	-	\$ 59.54
	\$ 140.06	N/A	5/1/2027	4/31/2028	5.00%	\$ 50.80	\$ 40.52	-	\$ 62.51
Survey Specialist III	\$ 211.01	N/A	5/1/2024	4/31/2025		\$ 76.53	\$ 58.00	-	\$ 87.00
	\$ 221.56	N/A	5/1/2025	4/31/2026	5.00%	\$ 80.36	\$ 60.90	-	\$ 91.35
	\$ 232.64	N/A	5/1/2026	4/31/2027	5.00%	\$ 84.37	\$ 63.95	-	\$ 95.92
	\$ 244.27	N/A	5/1/2027	4/31/2028	5.00%	\$ 88.59	\$ 67.14	-	\$ 100.71
Survey Specialist II	\$ 161.99	N/A	5/1/2024	4/31/2025		\$ 58.75	\$ 45.00	-	\$ 69.00
	\$ 170.99	N/A	5/1/2025	4/31/2026	5.00%	\$ 61.69	\$ 47.25	-	\$ 72.45
	\$ 178.59	N/A	5/1/2026	4/31/2027	5.00%	\$ 64.77	\$ 49.61	-	\$ 76.07
	\$ 187.52	N/A	5/1/2027	4/31/2028	5.00%	\$ 68.01	\$ 52.09	-	\$ 79.88
Survey Specialist I	\$ 128.01	N/A	5/1/2024	4/31/2025		\$ 45.70	\$ 35.00	-	\$ 56.00
	\$ 132.31	N/A	5/1/2025	4/31/2026	5.00%	\$ 47.99	\$ 36.75	-	\$ 58.80
	\$ 138.92	N/A	5/1/2026	4/31/2027	5.00%	\$ 50.38	\$ 38.59	-	\$ 61.74
	\$ 145.87	N/A	5/1/2027	4/31/2028	5.00%	\$ 52.90	\$ 40.52	-	\$ 64.83
Lead Survey Technician	\$ 157.00	N/A	5/1/2024	4/31/2025		\$ 56.94	\$ 46.00	-	\$ 67.00
	\$ 164.85	N/A	5/1/2025	4/31/2026	5.00%	\$ 59.79	\$ 48.30	-	\$ 70.35
	\$ 173.09	N/A	5/1/2026	4/31/2027	5.00%	\$ 62.78	\$ 50.72	-	\$ 73.87
	\$ 181.75	N/A	5/1/2027	4/31/2028	5.00%	\$ 65.92	\$ 53.25	-	\$ 77.56
Survey Technician III	\$ 135.99	N/A	5/1/2024	4/31/2025		\$ 49.32	\$ 37.00	-	\$ 60.00
	\$ 142.79	N/A	5/1/2025	4/31/2026	5.00%	\$ 51.79	\$ 38.85	-	\$ 63.00
	\$ 149.93	N/A	5/1/2026	4/31/2027	5.00%	\$ 54.38	\$ 40.79	-	\$ 66.15
	\$ 157.42	N/A	5/1/2027	4/31/2028	5.00%	\$ 57.09	\$ 42.83	-	\$ 69.46

Survey Technician II	\$ 126.01	N/A	5/1/2024	4/31/2025		\$ 45.70	\$ 34.00	-	\$ 56.00
	\$ 132.31	N/A	5/1/2025	4/31/2026	5.00%	\$ 47.99	\$ 35.70	-	\$ 58.80
	\$ 138.92	N/A	5/1/2026	4/31/2027	5.00%	\$ 50.38	\$ 37.49	-	\$ 61.74
	\$ 145.87	N/A	5/1/2027	4/31/2028	5.00%	\$ 52.90	\$ 39.36	-	\$ 64.83
Survey Technician I	\$ 111.01	N/A	5/1/2024	4/31/2025		\$ 40.26	\$ 19.00	-	\$ 51.00
	\$ 116.56	N/A	5/1/2025	4/31/2026	5.00%	\$ 42.27	\$ 19.95	-	\$ 53.55
	\$ 122.39	N/A	5/1/2026	4/31/2027	5.00%	\$ 44.39	\$ 20.95	-	\$ 56.23
	\$ 128.50	N/A	5/1/2027	4/31/2028	5.00%	\$ 46.61	\$ 21.99	-	\$ 59.04
Chief of Party (OE3)* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 171.01	\$ 256.51	5/1/2024	4/31/2025		\$ 62.02	\$ 55.00	-	\$ 73.00
	\$ 179.56	\$ 269.33	5/1/2025	4/31/2026	5.00%	\$ 65.12	\$ 57.75	-	\$ 76.65
	\$ 188.53	\$ 282.80	5/1/2026	4/31/2027	5.00%	\$ 68.38	\$ 60.64	-	\$ 80.48
	\$ 197.98	\$ 296.94	5/1/2027	4/31/2028	5.00%	\$ 71.80	\$ 63.67	-	\$ 84.51
Instrumentperson (OE3)* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 156.01	\$ 234.01	5/1/2024	4/31/2025		\$ 56.58	\$ 51.00	-	\$ 67.00
	\$ 163.81	\$ 245.71	5/1/2025	4/31/2026	5.00%	\$ 59.41	\$ 53.55	-	\$ 70.35
	\$ 172.00	\$ 257.99	5/1/2026	4/31/2027	5.00%	\$ 62.38	\$ 56.23	-	\$ 73.87
	\$ 180.60	\$ 270.89	5/1/2027	4/31/2028	5.00%	\$ 65.50	\$ 59.04	-	\$ 77.56
Chainperson (OE3)* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 150.99	\$ 226.48	5/1/2024	4/31/2025		\$ 54.76	\$ 48.00	-	\$ 65.00
	\$ 158.54	\$ 237.81	5/1/2025	4/31/2026	5.00%	\$ 57.50	\$ 50.40	-	\$ 68.25
	\$ 166.46	\$ 249.70	5/1/2026	4/31/2027	5.00%	\$ 60.37	\$ 52.92	-	\$ 71.66
	\$ 174.79	\$ 262.18	5/1/2027	4/31/2028	5.00%	\$ 63.39	\$ 55.57	-	\$ 75.25
Apprentice (OE3)* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 108.99	\$ 163.49	5/1/2024	4/31/2025		\$ 39.53	\$ 28.00	-	\$ 50.00
	\$ 114.44	\$ 171.67	5/1/2025	4/31/2026	5.00%	\$ 41.51	\$ 29.40	-	\$ 52.50
	\$ 120.17	\$ 180.25	5/1/2026	4/31/2027	5.00%	\$ 43.58	\$ 30.87	-	\$ 55.13
	\$ 126.17	\$ 189.26	5/1/2027	4/31/2028	5.00%	\$ 45.76	\$ 32.41	-	\$ 57.88
2-Person Crew (OE3)* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 328.00	\$ 492.01	5/1/2024	4/31/2025		\$ 118.96	\$ 103.00	-	\$ 129.00
	\$ 344.40	\$ 516.61	5/1/2025	4/31/2026	5.00%	\$ 124.91	\$ 108.15	-	\$ 135.45
	\$ 361.62	\$ 542.44	5/1/2026	4/31/2027	5.00%	\$ 131.15	\$ 113.56	-	\$ 142.22
	\$ 379.71	\$ 569.56	5/1/2027	4/31/2028	5.00%	\$ 137.71	\$ 119.24	-	\$ 149.33
3-Person Crew (OE3)* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 437.99	\$ 656.99	5/1/2024	4/31/2025		\$ 158.85	\$ 133.00	-	\$ 169.00
	\$ 458.89	\$ 689.84	5/1/2025	4/31/2026	5.00%	\$ 166.79	\$ 139.65	-	\$ 177.45
	\$ 482.88	\$ 724.33	5/1/2026	4/31/2027	5.00%	\$ 175.13	\$ 146.63	-	\$ 186.32
	\$ 507.03	\$ 760.54	5/1/2027	4/31/2028	5.00%	\$ 183.89	\$ 153.96	-	\$ 195.64
Utility Locator (PW North)* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 135.99	\$ 203.98	5/1/2024	4/31/2025		\$ 49.32	\$ 44.00	-	\$ 60.00
	\$ 142.79	\$ 214.18	5/1/2025	4/31/2026	5.00%	\$ 51.79	\$ 46.20	-	\$ 63.00
	\$ 149.93	\$ 224.89	5/1/2026	4/31/2027	5.00%	\$ 54.38	\$ 48.51	-	\$ 66.15
	\$ 157.42	\$ 236.13	5/1/2027	4/31/2028	5.00%	\$ 57.09	\$ 50.94	-	\$ 69.46
2-Person Utility Locate (PW North)* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 268.01	\$ 402.01	5/1/2024	4/31/2025		\$ 97.20	\$ 90.00	-	\$ 108.00
	\$ 281.41	\$ 422.11	5/1/2025	4/31/2026	5.00%	\$ 102.06	\$ 94.50	-	\$ 113.40
	\$ 295.48	\$ 443.21	5/1/2026	4/31/2027	5.00%	\$ 107.16	\$ 99.23	-	\$ 119.07
	\$ 310.25	\$ 465.38	5/1/2027	4/31/2028	5.00%	\$ 112.52	\$ 104.19	-	\$ 125.02

Chief of Party (OE12)*	\$ 202.00	\$ 303.00	5/1/2024	4/31/2025		\$ 73.28	\$ 64.00	-	\$ 84.00
<i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 212.10	\$ 318.15	5/1/2025	4/31/2026	5.00%	\$ 76.92	\$ 67.20	-	\$ 88.20
	\$ 222.70	\$ 334.05	5/1/2026	4/31/2027	5.00%	\$ 80.77	\$ 70.56	-	\$ 92.61
	\$ 233.84	\$ 350.75	5/1/2027	4/31/2028	5.00%	\$ 84.81	\$ 74.09	-	\$ 97.24
Instrumentperson (OE12)*	\$ 182.01	\$ 273.01	5/1/2024	4/31/2025		\$ 66.01	\$ 58.00	-	\$ 77.00
<i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 191.11	\$ 286.66	5/1/2025	4/31/2026	5.00%	\$ 69.31	\$ 60.90	-	\$ 80.85
	\$ 200.66	\$ 300.99	5/1/2026	4/31/2027	5.00%	\$ 72.78	\$ 63.95	-	\$ 84.89
	\$ 210.70	\$ 316.04	5/1/2027	4/31/2028	5.00%	\$ 76.41	\$ 67.14	-	\$ 89.14
Chainperson (OE12)*	\$ 176.99	\$ 265.48	5/1/2024	4/31/2025		\$ 64.19	\$ 58.00	-	\$ 75.00
<i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 185.84	\$ 278.76	5/1/2025	4/31/2026	5.00%	\$ 67.40	\$ 60.90	-	\$ 78.75
	\$ 195.13	\$ 292.69	5/1/2026	4/31/2027	5.00%	\$ 70.77	\$ 63.95	-	\$ 82.69
	\$ 204.89	\$ 307.33	5/1/2027	4/31/2028	5.00%	\$ 74.31	\$ 67.14	-	\$ 88.82
Apprentice (OE12)*	\$ 108.99	\$ 163.49	5/1/2024	4/31/2025		\$ 39.53	\$ 24.00	-	\$ 50.00
<i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 114.44	\$ 171.67	5/1/2025	4/31/2026	5.00%	\$ 41.51	\$ 25.20	-	\$ 52.50
	\$ 120.17	\$ 180.25	5/1/2026	4/31/2027	5.00%	\$ 43.58	\$ 26.46	-	\$ 55.13
	\$ 126.17	\$ 189.26	5/1/2027	4/31/2028	5.00%	\$ 45.76	\$ 27.78	-	\$ 57.88
2-Person Crew (OE12)*	\$ 379.01	\$ 588.52	5/1/2024	4/31/2025		\$ 137.46	\$ 122.00	-	\$ 148.00
<i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 397.98	\$ 596.95	5/1/2025	4/31/2026	5.00%	\$ 144.33	\$ 128.10	-	\$ 155.40
	\$ 417.86	\$ 626.79	5/1/2026	4/31/2027	5.00%	\$ 151.55	\$ 134.51	-	\$ 163.17
	\$ 438.75	\$ 658.13	5/1/2027	4/31/2028	5.00%	\$ 159.13	\$ 141.23	-	\$ 171.33
3-Person Crew (OE12)*	\$ 484.01	\$ 726.01	5/1/2024	4/31/2025		\$ 175.54	\$ 148.00	-	\$ 186.00
<i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 509.21	\$ 762.31	5/1/2025	4/31/2026	5.00%	\$ 184.32	\$ 153.30	-	\$ 195.30
	\$ 533.62	\$ 800.43	5/1/2026	4/31/2027	5.00%	\$ 193.53	\$ 160.97	-	\$ 205.07
	\$ 560.30	\$ 840.45	5/1/2027	4/31/2028	5.00%	\$ 203.21	\$ 169.01	-	\$ 215.32
Utility Locator (PW South)*	\$ 187.00	\$ 280.50	5/1/2024	4/31/2025		\$ 67.82	\$ 62.00	-	\$ 78.00
<i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 198.35	\$ 294.52	5/1/2025	4/31/2026	5.00%	\$ 71.21	\$ 65.10	-	\$ 81.90
	\$ 206.16	\$ 309.25	5/1/2026	4/31/2027	5.00%	\$ 74.77	\$ 68.36	-	\$ 86.00
	\$ 216.47	\$ 324.71	5/1/2027	4/31/2028	5.00%	\$ 78.51	\$ 71.77	-	\$ 90.29
2-Person Utility Locate (PW South)*	\$ 379.01	\$ 588.52	5/1/2024	4/31/2025		\$ 137.46	\$ 125.00	-	\$ 148.00
<i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 397.98	\$ 596.95	5/1/2025	4/31/2026	5.00%	\$ 144.33	\$ 131.25	-	\$ 155.40
	\$ 417.86	\$ 626.79	5/1/2026	4/31/2027	5.00%	\$ 151.55	\$ 137.81	-	\$ 163.17
	\$ 438.75	\$ 658.13	5/1/2027	4/31/2028	5.00%	\$ 159.13	\$ 144.70	-	\$ 171.33
LAUD Division Manager	\$ 258.99	N/A	5/1/2024	4/31/2025		\$ 93.93	\$ 85.00	-	\$ 104.00
	\$ 271.84	N/A	5/1/2025	4/31/2026	5.00%	\$ 98.63	\$ 89.25	-	\$ 109.20
	\$ 285.54	N/A	5/1/2026	4/31/2027	5.00%	\$ 103.56	\$ 93.71	-	\$ 114.66
	\$ 299.81	N/A	5/1/2027	4/31/2028	5.00%	\$ 108.74	\$ 98.40	-	\$ 120.39
Sr. LAUD Project Manager	\$ 243.00	N/A	5/1/2024	4/31/2025		\$ 88.13	\$ 77.00	-	\$ 99.00
	\$ 255.15	N/A	5/1/2025	4/31/2026	5.00%	\$ 92.54	\$ 80.85	-	\$ 103.95
	\$ 267.90	N/A	5/1/2026	4/31/2027	5.00%	\$ 97.16	\$ 84.89	-	\$ 109.15
	\$ 281.30	N/A	5/1/2027	4/31/2028	5.00%	\$ 102.02	\$ 89.14	-	\$ 114.60

LAUD Project Manager	\$ 211.01	N/A	5/1/2024	4/31/2025		\$ 76.53	\$ 65.00 - \$ 87.00
	\$ 221.58	N/A	5/1/2025	4/31/2026	5.00%	\$ 80.36	\$ 68.25 - \$ 91.36
	\$ 232.64	N/A	5/1/2026	4/31/2027	5.00%	\$ 84.37	\$ 71.66 - \$ 95.92
	\$ 244.27	N/A	5/1/2027	4/31/2028	5.00%	\$ 88.59	\$ 75.25 - \$ 100.71
Sr. Landscape Architect	\$ 163.01	N/A	5/1/2024	4/31/2025		\$ 59.12	\$ 41.00 - \$ 70.00
	\$ 171.16	N/A	5/1/2025	4/31/2026	5.00%	\$ 62.08	\$ 43.05 - \$ 73.50
	\$ 179.72	N/A	5/1/2026	4/31/2027	5.00%	\$ 65.18	\$ 45.20 - \$ 77.18
	\$ 188.70	N/A	5/1/2027	4/31/2028	5.00%	\$ 68.44	\$ 47.46 - \$ 81.03
Landscape Architect	\$ 148.01	N/A	5/1/2024	4/31/2025		\$ 53.68	\$ 38.00 - \$ 64.00
	\$ 155.41	N/A	5/1/2025	4/31/2026	5.00%	\$ 56.36	\$ 39.90 - \$ 67.20
	\$ 163.18	N/A	5/1/2026	4/31/2027	5.00%	\$ 59.18	\$ 41.90 - \$ 70.56
	\$ 171.34	N/A	5/1/2027	4/31/2028	5.00%	\$ 62.14	\$ 43.99 - \$ 74.09
Landscape Designer II	\$ 118.99	N/A	5/1/2024	4/31/2025		\$ 42.43	\$ 33.00 - \$ 53.00
	\$ 122.84	N/A	5/1/2025	4/31/2026	5.00%	\$ 44.55	\$ 34.65 - \$ 55.65
	\$ 128.98	N/A	5/1/2026	4/31/2027	5.00%	\$ 46.78	\$ 36.38 - \$ 58.43
	\$ 135.43	N/A	5/1/2027	4/31/2028	5.00%	\$ 49.12	\$ 38.20 - \$ 61.35
Landscape Designer I	\$ 93.99	N/A	5/1/2024	4/31/2025		\$ 34.09	\$ 27.00 - \$ 45.00
	\$ 98.69	N/A	5/1/2025	4/31/2026	5.00%	\$ 35.79	\$ 28.35 - \$ 47.25
	\$ 103.63	N/A	5/1/2026	4/31/2027	5.00%	\$ 37.58	\$ 29.77 - \$ 49.61
	\$ 108.81	N/A	5/1/2027	4/31/2028	5.00%	\$ 39.46	\$ 31.26 - \$ 52.09
Landscape Intern	\$ 66.01	N/A	5/1/2024	4/31/2025		\$ 23.94	\$ 17.00 - \$ 34.00
	\$ 69.31	N/A	5/1/2025	4/31/2026	5.00%	\$ 25.14	\$ 17.85 - \$ 35.70
	\$ 72.77	N/A	5/1/2026	4/31/2027	5.00%	\$ 26.39	\$ 18.74 - \$ 37.49
	\$ 76.41	N/A	5/1/2027	4/31/2028	5.00%	\$ 27.71	\$ 19.68 - \$ 39.36
District Manager-Engineer	\$ 338.99	N/A	5/1/2024	4/31/2025		\$ 122.22	\$ 110.00 - \$ 133.00
	\$ 353.84	N/A	5/1/2025	4/31/2026	5.00%	\$ 128.33	\$ 115.50 - \$ 139.65
	\$ 371.53	N/A	5/1/2026	4/31/2027	5.00%	\$ 134.75	\$ 121.28 - \$ 146.63
	\$ 390.11	N/A	5/1/2027	4/31/2028	5.00%	\$ 141.48	\$ 127.34 - \$ 153.96
Deputy District Manager	\$ 303.00	N/A	5/1/2024	4/31/2025		\$ 109.89	\$ 97.00 - \$ 120.00
	\$ 318.15	N/A	5/1/2025	4/31/2026	5.00%	\$ 115.38	\$ 101.85 - \$ 126.00
	\$ 334.05	N/A	5/1/2026	4/31/2027	5.00%	\$ 121.15	\$ 108.94 - \$ 132.30
	\$ 350.75	N/A	5/1/2027	4/31/2028	5.00%	\$ 127.21	\$ 112.29 - \$ 138.92
Operations Manager	\$ 262.99	N/A	5/1/2024	4/31/2025		\$ 95.38	\$ 78.00 - \$ 106.00
	\$ 276.14	N/A	5/1/2025	4/31/2026	5.00%	\$ 100.15	\$ 81.90 - \$ 111.30
	\$ 289.94	N/A	5/1/2026	4/31/2027	5.00%	\$ 105.16	\$ 86.00 - \$ 116.87
	\$ 304.44	N/A	5/1/2027	4/31/2028	5.00%	\$ 110.41	\$ 90.29 - \$ 122.71
Sr. Sanitary Project Engineer	\$ 234.01	N/A	5/1/2024	4/31/2025		\$ 84.87	\$ 68.00 - \$ 95.00
	\$ 245.71	N/A	5/1/2025	4/31/2026	5.00%	\$ 89.11	\$ 71.40 - \$ 99.75
	\$ 257.99	N/A	5/1/2026	4/31/2027	5.00%	\$ 93.57	\$ 74.97 - \$ 104.74
	\$ 270.89	N/A	5/1/2027	4/31/2028	5.00%	\$ 98.25	\$ 78.72 - \$ 109.97

Sanitary Project Engineer	\$ 205.99	N/A	5/1/2024	4/31/2025		\$ 74.71	\$ 57.00 - \$ 85.00
	\$ 218.29	N/A	5/1/2025	4/31/2026	5.00%	\$ 78.45	\$ 59.85 - \$ 89.25
	\$ 227.11	N/A	5/1/2026	4/31/2027	5.00%	\$ 82.37	\$ 62.84 - \$ 93.71
	\$ 238.48	N/A	5/1/2027	4/31/2028	5.00%	\$ 86.49	\$ 65.98 - \$ 98.40
Associate Sanitary Engineer	\$ 176.99	N/A	5/1/2024	4/31/2025		\$ 64.19	\$ 54.00 - \$ 75.00
	\$ 185.84	N/A	5/1/2025	4/31/2026	5.00%	\$ 67.40	\$ 56.70 - \$ 78.75
	\$ 195.13	N/A	5/1/2026	4/31/2027	5.00%	\$ 70.77	\$ 59.54 - \$ 82.69
	\$ 204.89	N/A	5/1/2027	4/31/2028	5.00%	\$ 74.31	\$ 62.51 - \$ 86.82
Assistant Sanitary Engineer	\$ 155.01	N/A	5/1/2024	4/31/2025		\$ 56.22	\$ 48.00 - \$ 67.00
	\$ 162.76	N/A	5/1/2025	4/31/2026	5.00%	\$ 59.03	\$ 50.40 - \$ 70.35
	\$ 170.90	N/A	5/1/2026	4/31/2027	5.00%	\$ 61.98	\$ 52.92 - \$ 73.87
	\$ 179.45	N/A	5/1/2027	4/31/2028	5.00%	\$ 65.08	\$ 55.57 - \$ 77.58
Sr. Inspector* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 135.99	N/A	5/1/2024	4/31/2025		\$ 49.32	\$ 42.00 - \$ 60.00
	\$ 142.79	N/A	5/1/2025	4/31/2026	5.00%	\$ 51.79	\$ 44.10 - \$ 63.00
	\$ 149.93	N/A	5/1/2026	4/31/2027	5.00%	\$ 54.38	\$ 46.31 - \$ 66.15
	\$ 157.42	N/A	5/1/2027	4/31/2028	5.00%	\$ 57.09	\$ 48.82 - \$ 69.48
Inspector* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 114.01	N/A	5/1/2024	4/31/2025		\$ 41.35	\$ 34.00 - \$ 52.00
	\$ 119.71	N/A	5/1/2025	4/31/2026	5.00%	\$ 43.42	\$ 35.70 - \$ 54.60
	\$ 125.70	N/A	5/1/2026	4/31/2027	5.00%	\$ 45.59	\$ 37.49 - \$ 57.33
	\$ 131.98	N/A	5/1/2027	4/31/2028	5.00%	\$ 47.87	\$ 39.36 - \$ 60.20
Inspector - Apprentice* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 81.01	N/A	5/1/2024	4/31/2025		\$ 28.28	\$ 21.00 - \$ 40.00
	\$ 85.06	N/A	5/1/2025	4/31/2026	5.00%	\$ 29.89	\$ 22.05 - \$ 42.00
	\$ 89.31	N/A	5/1/2026	4/31/2027	5.00%	\$ 31.18	\$ 23.15 - \$ 44.10
	\$ 93.78	N/A	5/1/2027	4/31/2028	5.00%	\$ 32.74	\$ 24.31 - \$ 46.31
Area Manager - CM	\$ 370.00	N/A	5/1/2024	4/31/2025		\$ 134.19	\$ 105.00 - \$ 145.00
	\$ 388.50	N/A	5/1/2025	4/31/2026	5.00%	\$ 140.90	\$ 110.25 - \$ 152.25
	\$ 407.92	N/A	5/1/2026	4/31/2027	5.00%	\$ 147.94	\$ 115.76 - \$ 159.88
	\$ 428.32	N/A	5/1/2027	4/31/2028	5.00%	\$ 155.34	\$ 121.55 - \$ 187.88
Division Manager - CM	\$ 340.00	N/A	5/1/2024	4/31/2025		\$ 123.31	\$ 105.00 - \$ 134.00
	\$ 357.00	N/A	5/1/2025	4/31/2026	5.00%	\$ 129.48	\$ 110.25 - \$ 140.70
	\$ 374.85	N/A	5/1/2026	4/31/2027	5.00%	\$ 135.95	\$ 115.76 - \$ 147.74
	\$ 393.59	N/A	5/1/2027	4/31/2028	5.00%	\$ 142.75	\$ 121.55 - \$ 155.12
Sr. Resident Engineer	\$ 295.99	N/A	5/1/2024	4/31/2025		\$ 107.35	\$ 90.00 - \$ 118.00
	\$ 310.79	N/A	5/1/2025	4/31/2026	5.00%	\$ 112.72	\$ 94.50 - \$ 123.90
	\$ 326.33	N/A	5/1/2026	4/31/2027	5.00%	\$ 118.35	\$ 99.23 - \$ 130.10
	\$ 342.65	N/A	5/1/2027	4/31/2028	5.00%	\$ 124.27	\$ 104.19 - \$ 136.60
Sr. Project Manager - CM	\$ 280.99	N/A	5/1/2024	4/31/2025		\$ 101.91	\$ 80.00 - \$ 112.00
	\$ 295.04	N/A	5/1/2025	4/31/2026	5.00%	\$ 107.01	\$ 84.00 - \$ 117.60
	\$ 309.79	N/A	5/1/2026	4/31/2027	5.00%	\$ 112.38	\$ 89.20 - \$ 123.48
	\$ 325.28	N/A	5/1/2027	4/31/2028	5.00%	\$ 117.97	\$ 92.61 - \$ 129.65

Project Manager - CM	\$ 256.01	N/A	5/1/2024	4/31/2025		\$ 92.85	\$ 72.00	-	\$ 103.00
	\$ 268.81	N/A	5/1/2025	4/31/2026	5.00%	\$ 97.49	\$ 75.60	-	\$ 108.15
	\$ 282.25	N/A	5/1/2026	4/31/2027	5.00%	\$ 102.37	\$ 79.38	-	\$ 113.58
	\$ 296.37	N/A	5/1/2027	4/31/2028	5.00%	\$ 107.49	\$ 83.35	-	\$ 119.24
Resident Engineer	\$ 254.00	N/A	5/1/2024	4/31/2025		\$ 92.12	\$ 72.00	-	\$ 103.00
	\$ 266.70	N/A	5/1/2025	4/31/2026	5.00%	\$ 96.73	\$ 75.60	-	\$ 108.15
	\$ 280.03	N/A	5/1/2026	4/31/2027	5.00%	\$ 101.58	\$ 79.38	-	\$ 113.58
	\$ 294.04	N/A	5/1/2027	4/31/2028	5.00%	\$ 106.64	\$ 83.35	-	\$ 119.24
Project Controls/Scheduler	\$ 213.00	N/A	5/1/2024	4/31/2025		\$ 77.25	\$ 53.00	-	\$ 88.00
	\$ 223.65	N/A	5/1/2025	4/31/2026	5.00%	\$ 81.11	\$ 55.65	-	\$ 92.40
	\$ 234.83	N/A	5/1/2026	4/31/2027	5.00%	\$ 85.17	\$ 58.43	-	\$ 97.02
	\$ 246.57	N/A	5/1/2027	4/31/2028	5.00%	\$ 89.43	\$ 61.35	-	\$ 101.87
Inspector - CM* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 213.99	N/A	5/1/2024	4/31/2025		\$ 77.61	\$ 43.00	-	\$ 88.00
	\$ 224.69	N/A	5/1/2025	4/31/2026	5.00%	\$ 81.49	\$ 45.15	-	\$ 92.40
	\$ 235.93	N/A	5/1/2026	4/31/2027	5.00%	\$ 85.57	\$ 47.41	-	\$ 97.02
	\$ 247.72	N/A	5/1/2027	4/31/2028	5.00%	\$ 89.84	\$ 49.78	-	\$ 101.87
Asst. Resident Engineer* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 217.00	N/A	5/1/2024	4/31/2025		\$ 78.70	\$ 55.00	-	\$ 89.00
	\$ 227.85	N/A	5/1/2025	4/31/2026	5.00%	\$ 82.64	\$ 57.75	-	\$ 93.45
	\$ 239.24	N/A	5/1/2026	4/31/2027	5.00%	\$ 86.77	\$ 60.64	-	\$ 98.12
	\$ 251.20	N/A	5/1/2027	4/31/2028	5.00%	\$ 91.11	\$ 63.67	-	\$ 103.03
Office Engineer	\$ 153.99	N/A	5/1/2024	4/31/2025		\$ 55.85	\$ 38.00	-	\$ 66.00
	\$ 161.69	N/A	5/1/2025	4/31/2026	5.00%	\$ 58.64	\$ 39.90	-	\$ 69.30
	\$ 169.78	N/A	5/1/2026	4/31/2027	5.00%	\$ 61.57	\$ 41.90	-	\$ 72.77
	\$ 178.27	N/A	5/1/2027	4/31/2028	5.00%	\$ 64.65	\$ 43.99	-	\$ 76.40
Office Technician	\$ 81.01	N/A	5/1/2024	4/31/2025		\$ 29.38	\$ 22.00	-	\$ 40.00
	\$ 85.06	N/A	5/1/2025	4/31/2026	5.00%	\$ 30.85	\$ 23.10	-	\$ 42.00
	\$ 89.31	N/A	5/1/2026	4/31/2027	5.00%	\$ 32.39	\$ 24.28	-	\$ 44.10
	\$ 93.78	N/A	5/1/2027	4/31/2028	5.00%	\$ 34.01	\$ 25.47	-	\$ 46.31
Expert Witness	\$ 493.99	N/A	5/1/2024	4/31/2025		\$ 179.16	\$ 170.00	-	\$ 185.00
	\$ 518.69	N/A	5/1/2025	4/31/2026	5.00%	\$ 188.12	\$ 178.50	-	\$ 194.25
	\$ 544.62	N/A	5/1/2026	4/31/2027	5.00%	\$ 197.52	\$ 187.43	-	\$ 203.98
	\$ 571.86	N/A	5/1/2027	4/31/2028	5.00%	\$ 207.40	\$ 196.80	-	\$ 214.16
Strategic Consulting	\$ 493.99	N/A	5/1/2024	4/31/2025		\$ 179.16	\$ 170.00	-	\$ 185.00
	\$ 518.69	N/A	5/1/2025	4/31/2026	5.00%	\$ 188.12	\$ 178.50	-	\$ 194.25
	\$ 544.62	N/A	5/1/2026	4/31/2027	5.00%	\$ 197.52	\$ 187.43	-	\$ 203.98
	\$ 571.86	N/A	5/1/2027	4/31/2028	5.00%	\$ 207.40	\$ 196.80	-	\$ 214.16
Funding Manager	\$ 284.99	N/A	5/1/2024	4/31/2025		\$ 103.36	\$ 88.00	-	\$ 114.00
	\$ 299.24	N/A	5/1/2025	4/31/2026	5.00%	\$ 108.53	\$ 92.40	-	\$ 119.70
	\$ 314.20	N/A	5/1/2026	4/31/2027	5.00%	\$ 113.95	\$ 97.02	-	\$ 125.69
	\$ 329.91	N/A	5/1/2027	4/31/2028	5.00%	\$ 119.65	\$ 101.87	-	\$ 131.97

Sr. Funding Specialist	\$ 185.01	N/A	5/1/2024	4/31/2025		\$ 87.10	\$ 52.00 - \$ 78.00
	\$ 194.26	N/A	5/1/2025	4/31/2026	5.00%	\$ 70.46	\$ 54.60 - \$ 81.90
	\$ 203.98	N/A	5/1/2026	4/31/2027	5.00%	\$ 73.98	\$ 57.33 - \$ 86.00
	\$ 214.17	N/A	5/1/2027	4/31/2028	5.00%	\$ 77.68	\$ 60.20 - \$ 90.29
Funding Specialist	\$ 157.00	N/A	5/1/2024	4/31/2025		\$ 56.94	\$ 38.00 - \$ 87.00
	\$ 164.85	N/A	5/1/2025	4/31/2026	5.00%	\$ 59.79	\$ 39.90 - \$ 70.35
	\$ 173.09	N/A	5/1/2026	4/31/2027	5.00%	\$ 62.78	\$ 41.90 - \$ 73.87
	\$ 181.75	N/A	5/1/2027	4/31/2028	5.00%	\$ 65.92	\$ 43.99 - \$ 77.56
Project Accountant Manager	\$ 185.01	N/A	5/1/2024	4/31/2025		\$ 87.10	\$ 55.00 - \$ 78.00
	\$ 194.26	N/A	5/1/2025	4/31/2026	5.00%	\$ 70.46	\$ 57.75 - \$ 81.90
	\$ 203.98	N/A	5/1/2026	4/31/2027	5.00%	\$ 73.98	\$ 60.64 - \$ 86.00
	\$ 214.17	N/A	5/1/2027	4/31/2028	5.00%	\$ 77.68	\$ 63.67 - \$ 90.29
Sr. Project Accountant	\$ 146.00	N/A	5/1/2024	4/31/2025		\$ 52.95	\$ 41.00 - \$ 63.00
	\$ 153.30	N/A	5/1/2025	4/31/2026	5.00%	\$ 55.60	\$ 43.05 - \$ 66.15
	\$ 160.96	N/A	5/1/2026	4/31/2027	5.00%	\$ 58.38	\$ 45.20 - \$ 69.46
	\$ 169.01	N/A	5/1/2027	4/31/2028	5.00%	\$ 61.30	\$ 47.46 - \$ 72.93
Project Accountant	\$ 129.01	N/A	5/1/2024	4/31/2025		\$ 46.79	\$ 36.00 - \$ 57.00
	\$ 135.46	N/A	5/1/2025	4/31/2026	5.00%	\$ 49.13	\$ 37.80 - \$ 59.85
	\$ 142.24	N/A	5/1/2026	4/31/2027	5.00%	\$ 51.59	\$ 39.69 - \$ 62.84
	\$ 149.35	N/A	5/1/2027	4/31/2028	5.00%	\$ 54.17	\$ 41.67 - \$ 65.98
Sr. Project Coordinator	\$ 145.00	N/A	5/1/2024	4/31/2025		\$ 52.59	\$ 43.00 - \$ 63.00
	\$ 152.25	N/A	5/1/2025	4/31/2026	5.00%	\$ 55.22	\$ 45.15 - \$ 66.15
	\$ 159.87	N/A	5/1/2026	4/31/2027	5.00%	\$ 57.98	\$ 47.41 - \$ 69.46
	\$ 167.86	N/A	5/1/2027	4/31/2028	5.00%	\$ 60.88	\$ 49.78 - \$ 72.93
Project Coordinator	\$ 115.01	N/A	5/1/2024	4/31/2025		\$ 41.71	\$ 33.00 - \$ 52.00
	\$ 120.76	N/A	5/1/2025	4/31/2026	5.00%	\$ 43.80	\$ 34.65 - \$ 54.60
	\$ 126.79	N/A	5/1/2026	4/31/2027	5.00%	\$ 45.99	\$ 36.38 - \$ 57.33
	\$ 133.13	N/A	5/1/2027	4/31/2028	5.00%	\$ 48.28	\$ 38.20 - \$ 60.20
Sr. Project Assistant	\$ 114.01	N/A	5/1/2024	4/31/2025		\$ 41.35	\$ 34.00 - \$ 52.00
	\$ 119.71	N/A	5/1/2025	4/31/2026	5.00%	\$ 43.42	\$ 35.70 - \$ 54.60
	\$ 125.70	N/A	5/1/2026	4/31/2027	5.00%	\$ 45.59	\$ 37.49 - \$ 57.33
	\$ 131.98	N/A	5/1/2027	4/31/2028	5.00%	\$ 47.87	\$ 39.38 - \$ 60.20
Project Assistant	\$ 88.01	N/A	5/1/2024	4/31/2025		\$ 31.92	\$ 24.00 - \$ 42.00
	\$ 92.41	N/A	5/1/2025	4/31/2026	5.00%	\$ 33.52	\$ 25.20 - \$ 44.10
	\$ 97.03	N/A	5/1/2026	4/31/2027	5.00%	\$ 35.19	\$ 26.46 - \$ 46.31
	\$ 101.88	N/A	5/1/2027	4/31/2028	5.00%	\$ 36.95	\$ 27.78 - \$ 48.62
Sr. Technical Writer	\$ 135.00	N/A	5/1/2024	4/31/2025		\$ 48.96	\$ 35.00 - \$ 59.00
	\$ 141.75	N/A	5/1/2025	4/31/2026	5.00%	\$ 51.41	\$ 36.75 - \$ 61.95
	\$ 148.83	N/A	5/1/2026	4/31/2027	5.00%	\$ 53.98	\$ 38.59 - \$ 65.05
	\$ 156.27	N/A	5/1/2027	4/31/2028	5.00%	\$ 56.68	\$ 40.52 - \$ 68.30

Technical Writer	\$ 88.01	N/A	5/1/2024	4/31/2025		\$ 31.92	\$ 21.00	-	\$ 42.00
	\$ 92.41	N/A	5/1/2025	4/31/2026	5.00%	\$ 33.52	\$ 22.05	-	\$ 44.10
	\$ 97.03	N/A	5/1/2026	4/31/2027	5.00%	\$ 35.19	\$ 23.15	-	\$ 46.31
	\$ 101.88	N/A	5/1/2027	4/31/2028	5.00%	\$ 36.95	\$ 24.31	-	\$ 48.62
Sr. Graphic Manager	\$ 172.99	N/A	5/1/2024	4/31/2025		\$ 62.74	\$ 50.00	-	\$ 73.00
	\$ 181.64	N/A	5/1/2025	4/31/2026	5.00%	\$ 65.88	\$ 52.50	-	\$ 76.65
	\$ 190.72	N/A	5/1/2026	4/31/2027	5.00%	\$ 69.17	\$ 55.13	-	\$ 80.48
	\$ 200.26	N/A	5/1/2027	4/31/2028	5.00%	\$ 72.63	\$ 57.88	-	\$ 84.51
Sr. Graphic Designer	\$ 148.01	N/A	5/1/2024	4/31/2025		\$ 53.68	\$ 40.00	-	\$ 64.00
	\$ 155.41	N/A	5/1/2025	4/31/2026	5.00%	\$ 56.36	\$ 42.00	-	\$ 67.20
	\$ 163.18	N/A	5/1/2026	4/31/2027	5.00%	\$ 59.18	\$ 44.10	-	\$ 70.56
	\$ 171.34	N/A	5/1/2027	4/31/2028	5.00%	\$ 62.14	\$ 46.31	-	\$ 74.09
Graphic Designer	\$ 126.01	N/A	5/1/2024	4/31/2025		\$ 45.70	\$ 35.00	-	\$ 56.00
	\$ 132.31	N/A	5/1/2025	4/31/2026	5.00%	\$ 47.99	\$ 36.75	-	\$ 58.80
	\$ 138.92	N/A	5/1/2026	4/31/2027	5.00%	\$ 50.38	\$ 38.59	-	\$ 61.74
	\$ 145.87	N/A	5/1/2027	4/31/2028	5.00%	\$ 52.90	\$ 40.52	-	\$ 64.83

- Names and classifications of consultant (key staff) team members must be listed. Provide separate sheets for prime and all subconsultant firms.
- Billing rate = actual hourly rate * (1+ ICR) * (1+ Fee). Agreed upon billing rates are not adjustable for the term of contract.
- For named employees enter the actual hourly rate. For classifications only, enter the average hourly rate for that classification.

Note:

- Denote all employees subject to prevailing wage with an asterisks (*)
- For "Other Direct Cost" listing, see page 2 of this Exhibit

Consultant: Mark Thomas & Company, Inc.

Prime Consultant

Subconsultant

2nd Tier Subconsultant

Project No. _____

Contract No. _____

Date: _____

SCHEDULE OF OTHER DIRECT COST ITEMS (Add additional pages as necessary)				
Description of Item	Quantity	Unit	Unit Cost	Total
Mileage Costs			IRS Rate	\$ -
Reproductions (half sheet)			At Cost	\$ -
Reproductions (whole sheet)			At Cost	\$ -
Postage/Delivery/Overnight			At Cost	\$ -
Per Diem			At Cost	\$ -
Lodging			At Cost	\$ -
Traffic Control			At Cost	\$ -
Subconsultant 1:				\$ -
Subconsultant 2:				\$ -
Subconsultant 3:				\$ -
Subconsultant 4:				\$ -
Subconsultant 5:				\$ -

NOTES:

- List direct cost items with estimated costs. These costs should be competitive in their respective industries and supported with appropriate documentations.
- Proposed ODC items should be consistently billed regardless of client and contract type.
- Items when incurred for the same purpose, in like circumstance, should not be included in any indirect cost pool or in the overhead rate.
- Items such as special tooling, will be reimbursed at actual cost with supporting documentation (invoice)
- Items listed above that would be considered "tools of the trade" are not reimbursable as other direct cost.
- Travel related costs should be pre-approved by the contracting agency and shall not exceed current State Department of Personnel Administration rules.


Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

1. Generally Accepted Accounting Principles (GAAP)
2. Terms and conditions of the contract
3. Title 23 United States Code Section 112 - Letting of Contracts
4. 48 Code of Federal Regulations Part 31 - Contract Cost Principles and Procedures
5. 23 Code of Federal Regulations Part 172 - Procurement, Management and Administration of Engineering and Design Related Service
6. 48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement. Local governments are responsible for applying only cognizant agency or Caltrans accepted Indirect Cost Rate(s).

Prime Consultant or Subconsultant Certifying:

Name:	<u>Matt Brogan</u>	Title *:	<u>Principal + Vice President</u>
Signature:		Date of Certification:	<u>3/20/2024</u>
Email:	<u>mbrogan@markthomas.com</u>	Phone number:	<u>(916) 381-9100</u>
Address:	<u>701 University Avenue, Suite 200, Sacramento, CA 95825</u>		

* An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:



BENNETT ENGINEERING SERVICES + Y&C TRANSPORTATION CONSULTANTS
Professional Staff Rate Schedule | 2023/2024 Fiscal Year

Billing Classifications	Rate Class	Charge Rate
ENGINEER / SURVEYOR		
	10	\$296
	9	\$280
	8	\$264
	7	\$248
	6	\$232
	5	\$218
	4	\$204
	3	\$192
	2	\$180
	1	\$170

Billing Classifications	Rate Class	Charge Rate
DESIGNER/TECH		
	7	\$190
	6	\$174
	5	\$158
	4	\$142
	3	\$128
	2	\$114
	1	\$100
PROJECT ADMINISTRATOR		
	5	\$170
	4	\$148
	3	\$125
	2	\$100
	1	\$85

- ▶ Direct expenses (including, but not limited to, mileage, reproduction, postage, online assessor mapping fees, etc.) and subconsultant costs will be billed at cost plus fifteen percent (15%) for administration, coordination, and handling.
- ▶ Standard hourly rates do not apply to a demand to perform work during an overtime period. Work required to be performed during an overtime period (as mandated by California law) will be charged at a 50% premium. Work mandated by Prevailing Wage laws will be charged accordingly.
- ▶ Hourly rates include all compensation for wages, salary-related benefits, overhead, general office administration, and profit. Direct project administrative hours will be billed at the rate shown above.
- ▶ Classifications may be added or removed as-needed without notice.
- ▶ Changes in the requested scope of work or projected schedule may result in the revision of the proposed fees and amendment to the total contract amount.
- ▶ Rates are subject to change annually effective July 1, 2024



Sacramento
Eureka
Madison
Pleasanton
Santa Rosa
Seattle
Ukiah

Crawford & Associates, Inc. - 2024 Standard Fee Schedule

PROFESSIONAL TITLE	RATE	CONSTRUCTION/EQUIPMENT	RATE	DETAIL
Principal	\$ 250.00	Traffic Control (Major) OSE or PW **	\$ 2,500.00	DAY
Senior Project Manager	\$ 210.00	Traffic Control (Minor)	\$ 700.00	DAY
Project Manager	\$ 190.00	Selismic Refraction (12 Channel)	\$ 1,300.00	DAY
Senior Engineer / Geologist	\$ 170.00	Core Machine with Generator **	\$ 2,600.00	DAY
Project Engineer II / Geologist	\$ 160.00	Core Machine Bit	\$ 3.00	INCH
Project Engineer I / Geologist	\$ 140.00	Core Box	\$ 17.25	EACH
Project Engineer I / Geologist - OT	\$ 210.00	Hot Mix Asphalt Patching (1st Core) **	\$ 1,000.00	FIRST
Staff Engineer / Geologist	\$ 135.00	Hot Mix Asphalt Patching (2 or More) **	\$ 500.00	EACH AFTER
Staff Engineer / Geologist - OT	\$ 202.50	Wildcat DCP Equipment **	\$ 750.00	DAY
Project Coordinator	\$ 127.00	Wildcat DCP Tip	\$ 20.00	EACH
Administrative Assistant	\$ 110.00	Survey Equipment (Tripod, Level, Rod)	\$ 150.00	DAY
Welding / Steel Technician (Non-PW)	\$ 160.00	Survey Equipment (Liquid Level)	\$ 150.00	DAY
Senior Technician (Non-PW)	\$ 135.00	Percolation Equipment	\$ 200.00	DAY
Senior Technician - OT (Non-PW)	\$ 190.00	Hand Auger **	\$ 200.00	DAY
Staff Technician (Non-PW)	\$ 125.00	Backfill	\$ 8.00	BAG
Staff Technician - OT (Non-PW)	\$ 175.00	Steel Liners (MCAL)	\$ 10.00	EACH
PREVAILING WAGE CLASSIFICATIONS **	RATE	Nuclear Density Test **	\$ 10.00	EACH
Group 1 - Masonry Technician	\$ 190.00	Concrete Equipment	\$ 65.00	PER POUR
Group 1 - Masonry Technician - OT	\$ 220.00	CLASSIFICATION TESTING		
Group 2 - Welding Technician	\$ 185.00	#200 Wash	\$ 120.00	ASTM D 1140
Group 2 - Welding Technician - OT	\$ 215.00	Grain Size Analysis to #200 (Sieve Analysis)	\$ 160.00	ASTM D6913
Group 2/3 - Laborer Technician	\$ 137.00	Mass Grain Size (Scour)	\$ 2,200.00	ASTM D6913
Group 2/3 - Laborer Technician - OT	\$ 160.00	Grain Size with Hydrometer	\$ 245.00	ASTM D6913, D7926
Group 3 - Soils/Asphalt Technician	\$ 175.00	Grain Size Analysis	\$ 210.00	CTM 202
Group 3 - Soils/Asphalt Technician - OT	\$ 200.00	Hydrometer Analysis	\$ 210.00	ASTM D7926
Group 4 - Concrete Technician	\$ 165.00	Moisture & Density	\$ 80.00	ASTM D2216, D7263
Group 4 - Concrete Technician - OT	\$ 185.00	Moisture Content	\$ 55.00	ASTM D2216, CTM 226
WORKING HOURS AND PREMIUM TIME	RATE	Non-Plastic Index Result	\$ 125.00	ASTM D4318
A Regular Workday is the first 8 hours between 8:00am to 8:00pm, Monday through Friday.		Plasticity Index	\$ 280.00	ASTM D4318
Overtime: Weekdays & Saturdays (first 8 hours)	1.5 x Hourly Rate	Landscape Suitability	\$ 125.00	
Overtime: Saturdays (over 8 hours) and Sundays (first 8 hours)	2 x Hourly Rate	STRENGTH TESTING		
Overtime: Sundays (over 8 hours) and Holidays	3 x Hourly Rate	California Impact	\$ 350.00	CTM 216
Night Shift: Work performed between 2:00 am and 4:00 am	15% / Hour Add'l to Hourly Rate	Compaction Curve (4" Mold)	\$ 455.00	ASTM D696/D1557
REIMBURSABLES	RATE	Compaction Curve (6" Mold)	\$ 510.00	ASTM D696/D1557
Mileage	\$ 0.74 / Mile	Compaction Curve Checkpoint (4" Mold)	\$ 125.00	ASTM D696/D1557
Vehicle Charge	\$ 40.00 / Day	Compaction Curve Checkpoint (6" Mold)	\$ 125.00	ASTM D696/D1557
Outside Costs	15% Markup	Compression (Rock)	\$ 275.00	ASTM 7012
Permit Fees (City/County)	15% Markup	Compressive Strength of Cylinders (6x12)	\$ 40.00	ASTM C39
Per Diem (Lodging & Meals)	\$ 350 / Day	Compressive Strength of Cylinders (4x8)	\$ 37.00	ASTM C39
Rush Testing	50% Markup	Direct Shear (CD 3pt) Peak Only	\$ 500.00	ASTM D3060
** Indicates Prevailing Wage Rates/Work		Point Load (Rock)	\$ 65.00	ASTM D5731
		R-Value	\$ 450.00	ASTM D2844, CAL 301
		Triaxial Shear-UU	\$ 175.00	ASTM D2850
		Triaxial Staged-UU	\$ 290.00	ASTM D2850
		Unconfined Compression (Rock)	\$ 230.00	ASTM D7012
		Unconfined Compression (Soil)	\$ 180.00	ASTM D2166
		CONSOLIDATION & EXPANSION		
		1-D Consolidation	\$ 400.00	ASTM D2435
		1-D Consolidation (Time Rate) / Per Point	\$ 100.00	ASTM D2435
		Expansion Index	\$ 275.00	ASTM D4629
		CORROSIIVITY TESTING		
		pH, Resistivity, Sulfate, Chloride Content	\$ 240.00	CTM 417,422,843
		pH, Resistivity, Sulfate, Chloride, Redox Potential	\$ 350.00	CTM 417,422,843 and ASTM G200M
		PAVEMENT TESTING		
		Asphalt Ignition Calibration	\$ 460.00	CTM 382
		Percent Asphalt Ignition Oven	\$ 225.00	CTM 382
		Sand Equivalent	\$ 135.00	CTM 217
		Stabilometer Value	\$ 225.00	CTM 366
		Theoretical Max Specific Gravity/Density	\$ 225.00	CTM 309
		Mix Design	\$ 2,000.00	ASTM 1557 and ASTM D1633
		SEISMIC ANALYSIS		
		EZ Frisk Software Use	\$ 2,250.00	PER LOCATION

DE NOVO RATE SHEET

Principal	\$185-235
Principal Planner	\$160-210
Senior Planner	\$125-175
Associate Planner	\$115-145
Assistant Planner	\$95-125
GIS Analyst	\$105-145
Legal Assistance/Expert Witness	\$350-450



2023-2024
(July 2023 through June 2024)
Hourly Billing Rates

Classification	Hourly Rate
Principal	\$250.00 - \$380.00
Senior Associate	\$210.00 - \$310.00
Associate	\$185.00 - \$275.00
Senior Engineer/Planner	\$160.00 - \$235.00
Engineer/Planner	\$130.00 - \$200.00
Senior Engineering Technician	\$150.00 - \$225.00
Senior Project Accountant	\$170.00 - \$210.00
Senior Project Coordinator	\$130.00 - \$215.00
Project Coordinator	\$115.00 - \$175.00
Technician	\$120.00 - \$185.00
Intern	\$100.00 - \$135.00

- *Other Direct Costs / Reimbursable expenses are invoiced at cost plus 10% for handling.*
- *Personal auto mileage is reimbursed at the then current IRS approved rate (67 cents per mile as of Jan 2024).*
- *Voice & Data Communications (Telephone, fax, computer, e-mail, etc.) are invoiced at cost as a percentage of project labor.*

Fehr & Peers reserves the right to change these rates at any time with or without advance notice.

T2 Utility Engineers Rate Schedule					
Subsurface Utility Engineering Services					
Services	Bill Rate	Overtime	Prevailing Wage	Prevailing Wage OT	Unit
Pothole - Unit Price	\$795.00	\$905.00	\$925.00	\$1,150.00	per hole
Pothole Exceeding 7 feet in Depth	\$105.00	\$125.00	\$130.00	\$165.00	per foot
Vacuum Excavation Truck, Crew and Equipment	\$345.00	\$410.00	\$465.00	\$525.00	per hour
Utility Designating & Investigation Underground	\$1.05	\$1.25	\$1.45	\$1.65	per foot
Utility Designating 2 Man Crew and Equipment	\$275.00	\$350.00	\$375.00	\$445.00	per hour
Utility Designating 1 Man Crew and Equipment	\$195.00	\$220.00	\$245.00	\$270.00	per hour
Concrete / Asphalt Coring, Slurry Backfilling	\$165.00	\$205.00	\$215.00	\$240.00	per hour
USA / Designating Paint Removal - Powerwashing	\$1,800.00	\$2,100.00	\$2,200.00	\$2,600.00	per day
Survey - 2 Man Crew and Equipment	\$275.00	\$305.00	\$450.00	\$495.00	per hour
Survey - 1 Man Crew and Equipment	\$175.00	\$200.00	\$260.00	\$265.00	per hour
Project Director	\$245.00	NA	NA	NA	per hour
Senior Project Manager	\$215.00	NA	NA	NA	per hour
Project Engineer	\$190.00	NA	NA	NA	per hour
Project Surveyor	\$195.00	NA	NA	NA	per hour
Project Manager	\$160.00	NA	NA	NA	per hour
SUE Manager	\$150.00	NA	NA	NA	per hour
Assistant Project Manager	\$130.00	NA	NA	NA	per hour
CADD Supervisor	\$125.00	NA	NA	NA	per hour
SUE Supervisor	\$105.00	\$157.50	\$130.00	\$175.00	per hour
SUE Technician III	\$90.00	\$135.00	\$130.00	\$175.00	per hour
SUE Technician II	\$80.00	\$120.00	\$130.00	\$175.00	per hour
SUE Technician I	\$70.00	\$105.00	\$130.00	\$175.00	per hour
CADD Technician	\$90.00	\$127.50	NA	NA	per hour
Administrative Support	\$90.00	\$112.50	NA	NA	per hour
Mobilization: Vac-Truck & Crew	\$4.32	\$5.68	\$5.77	\$7.50	per mile
Mobilization: Designating or Survey Truck & Crew	\$3.02	\$4.08	\$4.26	\$5.74	per mile
Expenses					
Per Diem	GSA rates				
Encroachment and Traffic Permits	cost plus 10%				
Traffic Control Plans - Engineer Stamped	\$800 per sheet				
Subcontractors - Asphalt, Traffic Control, Ect.	cost plus 10%				
Miscellaneous Expenses	cost plus 10%				

EXHIBIT C
Task Order Form

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

TASK ORDER FORM

Project: _____

Consultant: _____

Project Task Order Number: [X of X] _____

Description of Task and Services: _____

Maximum Compensation for Task: \$ _____ .00

Task Completion Time: The Consultant must complete the services and deliverable for this task in On or before: [DATE]

Year-to-Date Total Authorized Task Order Compensation: \$ _____ .00

Remaining Total Not to Exceed Amount upon completion of this Task: \$ _____ .00

APPROVED BY CITY REPRESENTATIVE

[Insert Name and Position]

Date

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

1) APPROVING A MASTER PROFESSIONAL SERVICE AGREEMENT FOR ROADWAY DESIGN SERVICES WITH MARK THOMAS & COMPANY, INC. FOR AN INITIAL TERM OF THREE YEARS AND FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$600,000 PER FISCAL YEAR, AND

2) AUTHORIZING TWO ADMINISTRATIVE OPTIONS TO EXTEND FOR ONE-YEAR TERM EACH.

WHEREAS, the City has a variety of Capital Improvement Projects (CIP) projects, Land Development projects, and Transportation and Traffic projects requiring specialized professional services; and

WHEREAS, the City requires substantial roadway improvements, including the design of existing and new roadways, road widening, roadway repair safety enhancements, intersection improvements, Americans with Disabilities Act compliances, sidewalk curb and gutter improvements, bicycle facility improvements, pavement rehabilitation; and

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

WHEREAS, following Tracy Municipal Code, Section 2.20.140, a Request for Proposals for On-Call Roadway, and Utility Design services was posted on the City's website on March 1, 2024; and

WHEREAS, the requested services include but are not limited to, the preparation of Plans, Specifications, and Estimates, engineering operational support, and environmental document preparation; and

WHEREAS, on April 4, 2024, the City received nine (9) proposals to provide the required services, and after extensive review, the City selected all nine (9) qualified consultants to provide these services; and

WHEREAS, on June 4, 2024, staff recommended that the City Council adopt a resolution to approve this on-call professional service list for five (5) years, which the City Council approved by adopting Resolution No. 2024-084; and

WHEREAS, the on-call list of selected consultants creates efficiency and does not bind the City or its budgets to a particular scope of work until it is required as City needs arise; and

WHEREAS, staff recommends that the City Council award a Master Professional Service Agreement (MPSA) to Mark Thomas & Company, Inc. (Consultant), which is on the approved on-call list, to assist with various engineering projects; and

WHEREAS, staff has successfully worked with the Consultant since 2017 on several CIPs and seeks to continue to utilize their services to further implement roadway improvements for the community; and

WHEREAS, the term of this MPSA will be for three (3) fiscal years with administrative options to extend for two (2) consecutive one (1) year terms, based on the performance, if needed, with an annual not-to-exceed budget of \$600,000; and

WHEREAS, the cost of the work performed by the consultant will be cost recoverable in part, through the developer's fee, Capital Improvement Project budgets, or Federal and State grant funds; and funding for MPSA will be through the department's annually adopted budget and the contract includes the ability to terminate if there is insufficient budget availability; and

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

WHEREAS, the MPSA is for services equivalent to "planning and feasibility services" and, therefore, is not considered a "project" as defined by Section 21065 of the Public Resources Code; any projects for which such services are performed will be reviewed as required under the California Environmental Quality Act before future discretionary actions are taken; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy, hereby, approves a Master Professional Service Agreement, in the form attached as Exhibit 1, for Roadway Design Services with Mark Thomas & Company, Inc. for an initial term of three (3) years and for a total-not to-exceed amount of \$600,000 per fiscal year; and be it

FURTHER RESOLVED: That the City Council authorizes the City Manager, to administratively extend the term of the MPSA, for up to two (2), one (1) year terms based on performance if needed; and be it

FURTHER RESOLVED: That the City Council finds that the MPSA is for services equivalent to "planning and feasibility services" and, therefore, is not considered a "project" as defined by Section 21065 of the Public Resources Code. Any projects for which such services are performed will be reviewed as required under the California Environmental Quality Act before future discretionary actions are taken.

The foregoing Resolution 2024-_____ was adopted by the Tracy City Council on the 17th day of September 2024, 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

EXHIBITS

Exhibit 1 – Master Professional Service Agreement with Mark Thomas & Company, Inc.

**CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH**

Mark Thomas & Company, Inc. for future Roadway Design Services including Design of Existing and New Roadways, Roadway Repair Safety Enhancements, Intersection Improvements, ADA Compliance, Sidewalk Curb and Gutter Improvements, and Bicycle Facility Improvements.

This Master Professional Services Agreement (“Agreement”) is entered into between the City of Tracy, a municipal corporation (“City”), and Mark Thomas & Company, Inc., a California Corporation (“Consultant”). City and Consultant are referred to individually as “Party” and collectively as “Parties.”

Recitals

A. City desires to retain Consultant to provide future Roadway Design Services including the design of Existing and New Roadways, Roadway Repair Safety Enhancements, Intersection Improvements, ADA Compliance, Sidewalk Curb and Gutter Improvements, Bicycle Facility Improvements as further described herein and in Exhibit A.

B. On March 1, 2024, the City issued a Request for Proposals (RFP) for on-call Roadway and Utility Design Services. On April 4, 2024, nine (9) Consultants including Mark Thomas & Company, Inc. submitted their proposals for the services to the City. On June 4, 2024, the City Council adopted Resolution No. 2024-084 approving all nine (9) consultants for an on-call professional service list valid for five (5) years. This on-call list of selected Consultants created an efficient process for future project proposal requests and does not bind the City or its budgets to a particular scope of work until it is required as City needs arise. Having previously undertaken the public contracting procedures for each Consultant on the list, as the project needs arise, the City may more readily move into contracting with one of the Consultants on the list and then return to the City Council for approval of a project-specific professional services agreement, The need to utilize a consultant from the on-call selected list for roadway design services has prompted staff to recommend to award an On-Call Master Professional Service Agreement (MPSA) to Mark Thomas & Company, Inc. (Consultant) to assist with engineering projects. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) and 2.20.130, the City has determined that the Consultant demonstrated that it was the best qualified and most responsible proposer, and best fits the City’s needs for competence and professional qualifications necessary for the satisfactory performance of the Services.

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

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

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

1. Scope of Services. Consultant shall perform professional services, tasks, and scope of work further described in Exhibit A hereto (“Services”) for the City’s benefit on an as-needed basis pursuant to individual approved Task Orders for services within the in accordance with the terms and conditions of this Agreement. The Services shall be performed by, or under the direct supervision of, Consultant’s Authorized Representative: Matt Brogan, PE. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit A, nor shall

Consultant use or replace any subcontractor or subconsultant, without City’s prior written consent. A failure to obtain the City’s prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

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

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

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

2.1 Term. The term of this Agreement shall commence on June 30,2024 and expire and terminate automatically on June 04,2027 or earlier by termination pursuant to Section 6 of this Agreement (“Term”). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of two (2) year(s) and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

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

3.1 Annual Total Not to Exceed Amount. Consultant’s total compensation for all Task Orders and Services under this Agreement shall not exceed \$600,000.00 (Six Hundred Thousand Dollars) per City fiscal year (“Total Not-to-Exceed Amount”). Consultant’s billing rates shall cover all costs and expenses for Consultant’s performance of this Agreement. No work shall be performed by Consultant in excess of the Total Not-to-Exceed Amount. Consultant acknowledges City has no obligation to compensate or reimburse Consultant for any fees or costs incurred in excess of the Total Not-to-Exceed Amount. Unless specifically stated otherwise or agreed to in writing and approved by City Council, the fees proposed by Consultant, as set forth in Exhibit B hereto, shall remain unchanged for the entire term of this Agreement and any extensions of this Agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Termination.

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

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

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

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

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

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

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

11. Notices. All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party to the addresses listed below. Communications shall be deemed to have been given and received on the first

to occur of: (1) actual receipt at the address designated below, or (2) three working days after the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

To City:

Koosun Kim
City Engineer
333 Civic Center Plaza
Tracy, CA 95376

To Consultant:

Matt Brogan, PE,
Principle and President
701 University Avenue, Suite 200
Sacramento, CA 95825

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

12. Miscellaneous.

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

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

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

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

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

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

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

employees and agents, harmless from any and all claims, costs, penalties, or interests arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

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

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

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

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

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

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

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

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

13. 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]

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

City of Tracy

By: Nancy Young

Title: Mayor

Date: _____

Attest:

Adrienne Richardson, City Clerk

Approved as to form:

Bijal M. Patel, City Attorney

Consultant

Mark Thomas & Company, Inc., California Corporation

By: Matt Brogan, PE

Title: Principal and Vice President


Signature: 

Date: 8/19/24 _____

Federal Employer Tax ID No. 94-1451490

By: Kimberly Post

Title: Chief Financial Officer

Signature: 
Date: 8/19/24 _____

Exhibits:

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

EXHIBIT A
Scope of Work

Name of Proposer	Mark Thomas & Company, Inc.
On-call Services Requested by City	On-Call Services Proposer Desires to Perform (Check all that apply)
<p>Roadway Design Services including but not limited to the design of the following:</p> <ol style="list-style-type: none"> 1. Design of existing and new roadways 2. Roadway widening 3. Roadway repair safety enhancements. 4. Intersection improvements. 5. ADA compliance. 6. Sidewalk, Curb and gutter improvements 7. Bicycle facility improvements. 	<p style="text-align: center;"> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> </p>
<p>Utility Design Services including but not limited to the design of the following:</p> <ol style="list-style-type: none"> 1. Potable and Non-Potable Water Facilities 2. Sewer System Facilities including Lift Stations 3. Storm Drain System Facilities including Pump Stations 4. Joint Trench Facilities including PG&E Rule 20A components 5. Street Lighting 	

Key Staff:

MATT BROGAN, PE | Principal in Charge & Project Manager

DAVID WILLIAMS, PE | Project Engineer

JON HERNANDEZ, PE | Project Engineer

JAMES PANGBURN, PE | Local Development Support

DAN BLOMQUIST, PE | Municipal Support

RAUL CERVANTES | Municipal Support

JASON HICKEY, SE | Structures

EXHIBIT B Compensation

Cost Proposal 2

Specific Rate of Compensation (On-Call or As-Needed Contracts)

Note: Mark-ups are Not Allowed

Consultant: Mark Thomas & Company, Inc.

Prime Consultant
 Subconsultant
 2nd Tier Subconsultant

Project No. _____ Contract No. _____ Participation Amount \$ _____ Date: 3/20/2024

For Combined Rate	Fringe Benefit 95.61% + General & Administrative 55.05%	=	Combined	150.66%
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For Home Office Rate	Fringe Benefit ___% + General & Administrative ___%	=	Home Office	___%
For Field Office Rate	Fringe Benefit ___% + General & Administrative ___%	=	Field Office	___%

Fee	=	10%
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BILLING INFORMATION

CALCULATION INFORMATION

Name/Classification	Loaded Hourly Billing Rates		Effective Date of Hourly Rate		% Escalation Increase	Actual Hourly Rate and/or Average Hourly Rate	Hourly Range for Class
	Straight	Overtime	From	To			
Principal	\$ 426.00	N/A	5/1/2024	4/31/2025		\$ 154.50	\$ 138.00 - \$ 165.00
	\$ 447.30	N/A	5/1/2025	4/31/2026	5.00%	\$ 162.23	\$ 144.90 - \$ 173.25
	\$ 469.68	N/A	5/1/2026	4/31/2027	5.00%	\$ 170.34	\$ 152.15 - \$ 181.91
	\$ 493.14	N/A	5/1/2027	4/31/2028	5.00%	\$ 178.85	\$ 159.75 - \$ 191.01
Sr. Engineering Manager	\$ 380.01	N/A	5/1/2024	4/31/2025		\$ 137.82	\$ 112.00 - \$ 148.00
	\$ 399.01	N/A	5/1/2025	4/31/2026	5.00%	\$ 144.71	\$ 117.60 - \$ 155.40
	\$ 418.96	N/A	5/1/2026	4/31/2027	5.00%	\$ 151.95	\$ 123.48 - \$ 163.17
	\$ 439.90	N/A	5/1/2027	4/31/2028	5.00%	\$ 159.54	\$ 129.85 - \$ 171.33
Engineering Manager	\$ 318.99	N/A	5/1/2024	4/31/2025		\$ 115.69	\$ 105.00 - \$ 126.00
	\$ 334.94	N/A	5/1/2025	4/31/2026	5.00%	\$ 121.47	\$ 110.25 - \$ 132.30
	\$ 351.68	N/A	5/1/2026	4/31/2027	5.00%	\$ 127.55	\$ 115.76 - \$ 138.92
	\$ 369.27	N/A	5/1/2027	4/31/2028	5.00%	\$ 133.93	\$ 121.55 - \$ 145.88
Design Manager	\$ 318.99	N/A	5/1/2024	4/31/2025		\$ 115.69	\$ 101.00 - \$ 126.00
	\$ 334.94	N/A	5/1/2025	4/31/2026	5.00%	\$ 121.47	\$ 106.05 - \$ 132.30
	\$ 351.68	N/A	5/1/2026	4/31/2027	5.00%	\$ 127.55	\$ 111.35 - \$ 138.92
	\$ 369.27	N/A	5/1/2027	4/31/2028	5.00%	\$ 133.93	\$ 116.92 - \$ 145.88

Sr. Project Manager	\$ 265.00	N/A	5/1/2024	4/31/2025		\$ 98.11	\$ 75.00	-	\$ 107.00
	\$ 278.25	N/A	5/1/2025	4/31/2028	5.00%	\$ 100.92	\$ 78.75	-	\$ 112.35
	\$ 292.18	N/A	5/1/2026	4/31/2027	5.00%	\$ 105.96	\$ 82.69	-	\$ 117.97
	\$ 306.77	N/A	5/1/2027	4/31/2028	5.00%	\$ 111.28	\$ 86.82	-	\$ 123.87
Sr. Technical Lead	\$ 265.00	N/A	5/1/2024	4/31/2025		\$ 98.11	\$ 75.00	-	\$ 107.00
	\$ 278.25	N/A	5/1/2025	4/31/2028	5.00%	\$ 100.92	\$ 78.75	-	\$ 112.35
	\$ 292.18	N/A	5/1/2026	4/31/2027	5.00%	\$ 105.96	\$ 82.69	-	\$ 117.97
	\$ 306.77	N/A	5/1/2027	4/31/2028	5.00%	\$ 111.28	\$ 86.82	-	\$ 123.87
Project Manager	\$ 213.99	N/A	5/1/2024	4/31/2025		\$ 77.61	\$ 62.00	-	\$ 88.00
	\$ 224.69	N/A	5/1/2025	4/31/2028	5.00%	\$ 81.49	\$ 65.10	-	\$ 92.40
	\$ 235.93	N/A	5/1/2026	4/31/2027	5.00%	\$ 85.57	\$ 68.38	-	\$ 97.02
	\$ 247.72	N/A	5/1/2027	4/31/2028	5.00%	\$ 89.84	\$ 71.77	-	\$ 101.87
Technical Lead	\$ 213.99	N/A	5/1/2024	4/31/2025		\$ 77.61	\$ 62.00	-	\$ 88.00
	\$ 224.69	N/A	5/1/2025	4/31/2028	5.00%	\$ 81.49	\$ 65.10	-	\$ 92.40
	\$ 235.93	N/A	5/1/2026	4/31/2027	5.00%	\$ 85.57	\$ 68.38	-	\$ 97.02
	\$ 247.72	N/A	5/1/2027	4/31/2028	5.00%	\$ 89.84	\$ 71.77	-	\$ 101.87
Sr. Project Engineer	\$ 186.00	N/A	5/1/2024	4/31/2025		\$ 87.48	\$ 56.00	-	\$ 78.00
	\$ 195.30	N/A	5/1/2025	4/31/2028	5.00%	\$ 70.83	\$ 58.80	-	\$ 81.90
	\$ 205.07	N/A	5/1/2026	4/31/2027	5.00%	\$ 74.37	\$ 61.74	-	\$ 86.00
	\$ 215.32	N/A	5/1/2027	4/31/2028	5.00%	\$ 78.09	\$ 64.83	-	\$ 90.29
Sr. Technical Engineer	\$ 186.00	N/A	5/1/2024	4/31/2025		\$ 87.48	\$ 56.00	-	\$ 78.00
	\$ 195.30	N/A	5/1/2025	4/31/2028	5.00%	\$ 70.83	\$ 58.80	-	\$ 81.90
	\$ 205.07	N/A	5/1/2026	4/31/2027	5.00%	\$ 74.37	\$ 61.74	-	\$ 86.00
	\$ 215.32	N/A	5/1/2027	4/31/2028	5.00%	\$ 78.09	\$ 64.83	-	\$ 90.29
Project Engineer	\$ 164.00	N/A	5/1/2024	4/31/2025		\$ 58.48	\$ 50.00	-	\$ 70.00
	\$ 172.20	N/A	5/1/2025	4/31/2028	5.00%	\$ 62.45	\$ 52.50	-	\$ 73.50
	\$ 180.81	N/A	5/1/2026	4/31/2027	5.00%	\$ 65.58	\$ 55.13	-	\$ 77.18
	\$ 189.85	N/A	5/1/2027	4/31/2028	5.00%	\$ 68.86	\$ 57.88	-	\$ 81.03
Civil Engineering Designer	\$ 157.00	N/A	5/1/2024	4/31/2025		\$ 58.94	\$ 40.00	-	\$ 67.00
	\$ 164.85	N/A	5/1/2025	4/31/2028	5.00%	\$ 59.79	\$ 42.00	-	\$ 70.35
	\$ 173.09	N/A	5/1/2026	4/31/2027	5.00%	\$ 62.78	\$ 44.10	-	\$ 73.87
	\$ 181.75	N/A	5/1/2027	4/31/2028	5.00%	\$ 65.92	\$ 46.31	-	\$ 77.58
Design Engineer II	\$ 142.00	N/A	5/1/2024	4/31/2025		\$ 51.50	\$ 38.00	-	\$ 62.00
	\$ 149.10	N/A	5/1/2025	4/31/2028	5.00%	\$ 54.08	\$ 39.90	-	\$ 65.10
	\$ 156.55	N/A	5/1/2026	4/31/2027	5.00%	\$ 56.78	\$ 41.90	-	\$ 68.38
	\$ 164.38	N/A	5/1/2027	4/31/2028	5.00%	\$ 59.62	\$ 43.99	-	\$ 71.77
Design Engineer I	\$ 115.01	N/A	5/1/2024	4/31/2025		\$ 41.71	\$ 30.00	-	\$ 52.00
	\$ 120.76	N/A	5/1/2025	4/31/2028	5.00%	\$ 43.80	\$ 31.50	-	\$ 54.60
	\$ 126.79	N/A	5/1/2026	4/31/2027	5.00%	\$ 45.99	\$ 33.08	-	\$ 57.33
	\$ 133.13	N/A	5/1/2027	4/31/2028	5.00%	\$ 48.28	\$ 34.73	-	\$ 60.20

Sr. Planner	\$ 142.00	N/A	5/1/2024	4/31/2025		\$ 51.50	\$ 38.00	- \$ 62.00
	\$ 149.10	N/A	5/1/2025	4/31/2026	5.00%	\$ 54.08	\$ 39.90	- \$ 65.10
	\$ 156.55	N/A	5/1/2026	4/31/2027	5.00%	\$ 56.78	\$ 41.90	- \$ 68.36
	\$ 164.38	N/A	5/1/2027	4/31/2028	5.00%	\$ 59.62	\$ 43.99	- \$ 71.77
Planner II	\$ 118.01	N/A	5/1/2024	4/31/2025		\$ 42.80	\$ 31.00	- \$ 53.00
	\$ 123.91	N/A	5/1/2025	4/31/2026	5.00%	\$ 44.94	\$ 32.55	- \$ 55.65
	\$ 130.11	N/A	5/1/2026	4/31/2027	5.00%	\$ 47.19	\$ 34.18	- \$ 58.43
	\$ 136.61	N/A	5/1/2027	4/31/2028	5.00%	\$ 49.55	\$ 35.89	- \$ 61.35
Planner I	\$ 93.98	N/A	5/1/2024	4/31/2025		\$ 34.08	\$ 28.00	- \$ 45.00
	\$ 98.69	N/A	5/1/2025	4/31/2026	5.00%	\$ 35.78	\$ 29.40	- \$ 47.25
	\$ 103.63	N/A	5/1/2026	4/31/2027	5.00%	\$ 37.58	\$ 30.87	- \$ 49.61
	\$ 108.81	N/A	5/1/2027	4/31/2028	5.00%	\$ 39.46	\$ 32.41	- \$ 52.08
Sr. Technician	\$ 145.00	N/A	5/1/2024	4/31/2025		\$ 52.58	\$ 40.00	- \$ 63.00
	\$ 152.25	N/A	5/1/2025	4/31/2026	5.00%	\$ 55.22	\$ 42.00	- \$ 66.15
	\$ 159.87	N/A	5/1/2026	4/31/2027	5.00%	\$ 57.98	\$ 44.10	- \$ 69.48
	\$ 167.86	N/A	5/1/2027	4/31/2028	5.00%	\$ 60.88	\$ 46.31	- \$ 72.93
Technician	\$ 97.00	N/A	5/1/2024	4/31/2025		\$ 35.18	\$ 23.00	- \$ 46.00
	\$ 101.85	N/A	5/1/2025	4/31/2026	5.00%	\$ 36.94	\$ 24.15	- \$ 48.30
	\$ 106.94	N/A	5/1/2026	4/31/2027	5.00%	\$ 38.78	\$ 25.36	- \$ 50.72
	\$ 112.29	N/A	5/1/2027	4/31/2028	5.00%	\$ 40.73	\$ 26.63	- \$ 53.25
Intern	\$ 66.01	N/A	5/1/2024	4/31/2025		\$ 23.94	\$ 17.00	- \$ 34.00
	\$ 69.31	N/A	5/1/2025	4/31/2026	5.00%	\$ 25.14	\$ 17.85	- \$ 35.70
	\$ 72.77	N/A	5/1/2026	4/31/2027	5.00%	\$ 26.39	\$ 18.74	- \$ 37.49
	\$ 76.41	N/A	5/1/2027	4/31/2028	5.00%	\$ 27.71	\$ 19.68	- \$ 39.36
Survey Division Manager	\$ 317.99	N/A	5/1/2024	4/31/2025		\$ 115.33	\$ 85.00	- \$ 126.00
	\$ 333.89	N/A	5/1/2025	4/31/2026	5.00%	\$ 121.10	\$ 89.25	- \$ 132.30
	\$ 350.59	N/A	5/1/2026	4/31/2027	5.00%	\$ 127.15	\$ 93.71	- \$ 138.92
	\$ 368.12	N/A	5/1/2027	4/31/2028	5.00%	\$ 133.51	\$ 98.40	- \$ 145.86
Survey Manager II	\$ 242.00	N/A	5/1/2024	4/31/2025		\$ 87.77	\$ 74.00	- \$ 96.00
	\$ 254.10	N/A	5/1/2025	4/31/2026	5.00%	\$ 92.16	\$ 77.70	- \$ 100.80
	\$ 266.81	N/A	5/1/2026	4/31/2027	5.00%	\$ 96.77	\$ 81.59	- \$ 105.84
	\$ 280.15	N/A	5/1/2027	4/31/2028	5.00%	\$ 101.80	\$ 85.68	- \$ 111.13
Survey Manager I	\$ 217.00	N/A	5/1/2024	4/31/2025		\$ 78.70	\$ 68.00	- \$ 89.00
	\$ 227.85	N/A	5/1/2025	4/31/2026	5.00%	\$ 82.64	\$ 72.45	- \$ 93.45
	\$ 239.24	N/A	5/1/2026	4/31/2027	5.00%	\$ 86.77	\$ 76.07	- \$ 98.12
	\$ 251.20	N/A	5/1/2027	4/31/2028	5.00%	\$ 91.11	\$ 79.88	- \$ 103.03
Project Surveyor III	\$ 221.99	N/A	5/1/2024	4/31/2025		\$ 80.51	\$ 65.00	- \$ 91.00
	\$ 233.09	N/A	5/1/2025	4/31/2026	5.00%	\$ 84.54	\$ 68.25	- \$ 95.55
	\$ 244.74	N/A	5/1/2026	4/31/2027	5.00%	\$ 88.76	\$ 71.66	- \$ 100.33
	\$ 256.98	N/A	5/1/2027	4/31/2028	5.00%	\$ 93.20	\$ 75.25	- \$ 105.34

Project Surveyor II	\$ 191.99	N/A	5/1/2024	4/31/2025		\$ 69.63	\$ 60.00	-	\$ 80.00
	\$ 201.59	N/A	5/1/2025	4/31/2026	5.00%	\$ 73.11	\$ 63.00	-	\$ 84.00
	\$ 211.67	N/A	5/1/2026	4/31/2027	5.00%	\$ 76.77	\$ 66.15	-	\$ 88.20
	\$ 222.25	N/A	5/1/2027	4/31/2028	5.00%	\$ 80.61	\$ 68.46	-	\$ 92.61
Project Surveyor I	\$ 176.99	N/A	5/1/2024	4/31/2025		\$ 64.19	\$ 52.00	-	\$ 75.00
	\$ 185.84	N/A	5/1/2025	4/31/2026	5.00%	\$ 67.40	\$ 54.60	-	\$ 78.75
	\$ 195.13	N/A	5/1/2026	4/31/2027	5.00%	\$ 70.77	\$ 57.33	-	\$ 82.69
	\$ 204.89	N/A	5/1/2027	4/31/2028	5.00%	\$ 74.31	\$ 60.20	-	\$ 86.82
Asst Surveyor III	\$ 150.99	N/A	5/1/2024	4/31/2025		\$ 54.76	\$ 45.00	-	\$ 65.00
	\$ 158.54	N/A	5/1/2025	4/31/2026	5.00%	\$ 57.50	\$ 47.25	-	\$ 68.25
	\$ 166.46	N/A	5/1/2026	4/31/2027	5.00%	\$ 60.37	\$ 49.61	-	\$ 71.66
	\$ 174.79	N/A	5/1/2027	4/31/2028	5.00%	\$ 63.39	\$ 52.09	-	\$ 75.25
Asst Surveyor II	\$ 135.99	N/A	5/1/2024	4/31/2025		\$ 49.32	\$ 41.00	-	\$ 60.00
	\$ 142.79	N/A	5/1/2025	4/31/2026	5.00%	\$ 51.79	\$ 43.05	-	\$ 63.00
	\$ 149.83	N/A	5/1/2026	4/31/2027	5.00%	\$ 54.38	\$ 45.20	-	\$ 66.15
	\$ 157.42	N/A	5/1/2027	4/31/2028	5.00%	\$ 57.09	\$ 47.46	-	\$ 69.46
Asst Surveyor I	\$ 120.99	N/A	5/1/2024	4/31/2025		\$ 43.88	\$ 35.00	-	\$ 54.00
	\$ 127.04	N/A	5/1/2025	4/31/2026	5.00%	\$ 46.07	\$ 38.75	-	\$ 58.70
	\$ 133.39	N/A	5/1/2026	4/31/2027	5.00%	\$ 48.38	\$ 38.59	-	\$ 59.54
	\$ 140.06	N/A	5/1/2027	4/31/2028	5.00%	\$ 50.80	\$ 40.52	-	\$ 62.51
Survey Specialist III	\$ 211.01	N/A	5/1/2024	4/31/2025		\$ 76.53	\$ 58.00	-	\$ 87.00
	\$ 221.56	N/A	5/1/2025	4/31/2026	5.00%	\$ 80.36	\$ 60.90	-	\$ 91.35
	\$ 232.64	N/A	5/1/2026	4/31/2027	5.00%	\$ 84.37	\$ 63.95	-	\$ 95.92
	\$ 244.27	N/A	5/1/2027	4/31/2028	5.00%	\$ 88.59	\$ 67.14	-	\$ 100.71
Survey Specialist II	\$ 161.99	N/A	5/1/2024	4/31/2025		\$ 58.75	\$ 45.00	-	\$ 69.00
	\$ 170.99	N/A	5/1/2025	4/31/2026	5.00%	\$ 61.69	\$ 47.25	-	\$ 72.45
	\$ 178.59	N/A	5/1/2026	4/31/2027	5.00%	\$ 64.77	\$ 49.61	-	\$ 76.07
	\$ 187.52	N/A	5/1/2027	4/31/2028	5.00%	\$ 68.01	\$ 52.09	-	\$ 79.88
Survey Specialist I	\$ 128.01	N/A	5/1/2024	4/31/2025		\$ 45.70	\$ 35.00	-	\$ 56.00
	\$ 132.31	N/A	5/1/2025	4/31/2026	5.00%	\$ 47.99	\$ 36.75	-	\$ 58.80
	\$ 138.92	N/A	5/1/2026	4/31/2027	5.00%	\$ 50.38	\$ 38.59	-	\$ 61.74
	\$ 145.87	N/A	5/1/2027	4/31/2028	5.00%	\$ 52.90	\$ 40.52	-	\$ 64.83
Lead Survey Technician	\$ 157.00	N/A	5/1/2024	4/31/2025		\$ 56.94	\$ 46.00	-	\$ 67.00
	\$ 164.85	N/A	5/1/2025	4/31/2026	5.00%	\$ 59.79	\$ 48.30	-	\$ 70.35
	\$ 173.09	N/A	5/1/2026	4/31/2027	5.00%	\$ 62.78	\$ 50.72	-	\$ 73.87
	\$ 181.75	N/A	5/1/2027	4/31/2028	5.00%	\$ 65.92	\$ 53.25	-	\$ 77.56
Survey Technician III	\$ 135.99	N/A	5/1/2024	4/31/2025		\$ 49.32	\$ 37.00	-	\$ 60.00
	\$ 142.79	N/A	5/1/2025	4/31/2026	5.00%	\$ 51.79	\$ 38.85	-	\$ 63.00
	\$ 149.83	N/A	5/1/2026	4/31/2027	5.00%	\$ 54.38	\$ 40.79	-	\$ 66.15
	\$ 157.42	N/A	5/1/2027	4/31/2028	5.00%	\$ 57.09	\$ 42.83	-	\$ 69.46

Survey Technician II	\$ 126.01	N/A	5/1/2024	4/31/2025		\$ 45.70	\$ 34.00	-	\$ 56.00
	\$ 132.31	N/A	5/1/2025	4/31/2026	5.00%	\$ 47.99	\$ 35.70	-	\$ 58.80
	\$ 138.92	N/A	5/1/2026	4/31/2027	5.00%	\$ 50.38	\$ 37.49	-	\$ 61.74
	\$ 145.87	N/A	5/1/2027	4/31/2028	5.00%	\$ 52.90	\$ 39.36	-	\$ 64.83
Survey Technician I	\$ 111.01	N/A	5/1/2024	4/31/2025		\$ 40.26	\$ 19.00	-	\$ 51.00
	\$ 116.56	N/A	5/1/2025	4/31/2026	5.00%	\$ 42.27	\$ 19.95	-	\$ 53.55
	\$ 122.39	N/A	5/1/2026	4/31/2027	5.00%	\$ 44.39	\$ 20.95	-	\$ 56.23
	\$ 128.50	N/A	5/1/2027	4/31/2028	5.00%	\$ 46.61	\$ 21.99	-	\$ 59.04
Chief of Party (OE3)* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 171.01	\$ 256.51	5/1/2024	4/31/2025		\$ 62.02	\$ 55.00	-	\$ 73.00
	\$ 179.56	\$ 269.33	5/1/2025	4/31/2026	5.00%	\$ 65.12	\$ 57.75	-	\$ 76.65
	\$ 188.53	\$ 282.80	5/1/2026	4/31/2027	5.00%	\$ 68.38	\$ 60.64	-	\$ 80.48
	\$ 197.98	\$ 296.94	5/1/2027	4/31/2028	5.00%	\$ 71.80	\$ 63.67	-	\$ 84.51
Instrumentperson (OE3)* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 156.01	\$ 234.01	5/1/2024	4/31/2025		\$ 56.58	\$ 51.00	-	\$ 67.00
	\$ 163.81	\$ 245.71	5/1/2025	4/31/2026	5.00%	\$ 59.41	\$ 53.55	-	\$ 70.35
	\$ 172.00	\$ 257.99	5/1/2026	4/31/2027	5.00%	\$ 62.38	\$ 56.23	-	\$ 73.87
	\$ 180.60	\$ 270.89	5/1/2027	4/31/2028	5.00%	\$ 65.50	\$ 59.04	-	\$ 77.56
Chainperson (OE3)* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 150.99	\$ 226.48	5/1/2024	4/31/2025		\$ 54.76	\$ 48.00	-	\$ 65.00
	\$ 158.54	\$ 237.81	5/1/2025	4/31/2026	5.00%	\$ 57.50	\$ 50.40	-	\$ 68.25
	\$ 166.46	\$ 249.70	5/1/2026	4/31/2027	5.00%	\$ 60.37	\$ 52.92	-	\$ 71.66
	\$ 174.79	\$ 262.18	5/1/2027	4/31/2028	5.00%	\$ 63.39	\$ 55.57	-	\$ 75.25
Apprentice (OE3)* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 108.99	\$ 163.49	5/1/2024	4/31/2025		\$ 39.53	\$ 28.00	-	\$ 50.00
	\$ 114.44	\$ 171.67	5/1/2025	4/31/2026	5.00%	\$ 41.51	\$ 29.40	-	\$ 52.50
	\$ 120.17	\$ 180.25	5/1/2026	4/31/2027	5.00%	\$ 43.58	\$ 30.87	-	\$ 55.13
	\$ 126.17	\$ 189.26	5/1/2027	4/31/2028	5.00%	\$ 45.76	\$ 32.41	-	\$ 57.88
2-Person Crew (OE3)* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 328.00	\$ 492.01	5/1/2024	4/31/2025		\$ 118.96	\$ 103.00	-	\$ 129.00
	\$ 344.40	\$ 516.61	5/1/2025	4/31/2026	5.00%	\$ 124.91	\$ 108.15	-	\$ 135.45
	\$ 361.62	\$ 542.44	5/1/2026	4/31/2027	5.00%	\$ 131.15	\$ 113.56	-	\$ 142.22
	\$ 379.71	\$ 569.56	5/1/2027	4/31/2028	5.00%	\$ 137.71	\$ 119.24	-	\$ 149.33
3-Person Crew (OE3)* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 437.99	\$ 656.99	5/1/2024	4/31/2025		\$ 158.85	\$ 133.00	-	\$ 169.00
	\$ 458.89	\$ 689.84	5/1/2025	4/31/2026	5.00%	\$ 166.79	\$ 139.65	-	\$ 177.45
	\$ 482.88	\$ 724.33	5/1/2026	4/31/2027	5.00%	\$ 175.13	\$ 146.63	-	\$ 186.32
	\$ 507.03	\$ 760.54	5/1/2027	4/31/2028	5.00%	\$ 183.89	\$ 153.96	-	\$ 195.64
Utility Locator (PW North)* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 135.99	\$ 203.98	5/1/2024	4/31/2025		\$ 49.32	\$ 44.00	-	\$ 60.00
	\$ 142.79	\$ 214.18	5/1/2025	4/31/2026	5.00%	\$ 51.79	\$ 46.20	-	\$ 63.00
	\$ 149.93	\$ 224.89	5/1/2026	4/31/2027	5.00%	\$ 54.38	\$ 48.51	-	\$ 66.15
	\$ 157.42	\$ 236.13	5/1/2027	4/31/2028	5.00%	\$ 57.09	\$ 50.94	-	\$ 69.46
2-Person Utility Locate (PW North)* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 268.01	\$ 402.01	5/1/2024	4/31/2025		\$ 97.20	\$ 90.00	-	\$ 108.00
	\$ 281.41	\$ 422.11	5/1/2025	4/31/2026	5.00%	\$ 102.06	\$ 94.50	-	\$ 113.40
	\$ 295.48	\$ 443.21	5/1/2026	4/31/2027	5.00%	\$ 107.16	\$ 99.23	-	\$ 119.07
	\$ 310.25	\$ 465.38	5/1/2027	4/31/2028	5.00%	\$ 112.52	\$ 104.19	-	\$ 125.02

Chief of Party (OE12)*	\$ 202.00	\$ 303.00	5/1/2024	4/31/2025		\$ 73.28	\$ 64.00	-	\$ 84.00
<i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 212.10	\$ 318.15	5/1/2025	4/31/2026	5.00%	\$ 76.92	\$ 67.20	-	\$ 88.20
	\$ 222.70	\$ 334.05	5/1/2026	4/31/2027	5.00%	\$ 80.77	\$ 70.56	-	\$ 92.61
	\$ 233.84	\$ 350.75	5/1/2027	4/31/2028	5.00%	\$ 84.81	\$ 74.09	-	\$ 97.24
Instrumentperson (OE12)*	\$ 182.01	\$ 273.01	5/1/2024	4/31/2025		\$ 66.01	\$ 58.00	-	\$ 77.00
<i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 191.11	\$ 286.66	5/1/2025	4/31/2026	5.00%	\$ 69.31	\$ 60.90	-	\$ 80.85
	\$ 200.66	\$ 300.99	5/1/2026	4/31/2027	5.00%	\$ 72.78	\$ 63.95	-	\$ 84.89
	\$ 210.70	\$ 316.04	5/1/2027	4/31/2028	5.00%	\$ 76.41	\$ 67.14	-	\$ 89.14
Chainperson (OE12)*	\$ 176.99	\$ 265.48	5/1/2024	4/31/2025		\$ 64.19	\$ 58.00	-	\$ 75.00
<i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 185.84	\$ 278.76	5/1/2025	4/31/2026	5.00%	\$ 67.40	\$ 60.90	-	\$ 78.75
	\$ 195.13	\$ 292.69	5/1/2026	4/31/2027	5.00%	\$ 70.77	\$ 63.95	-	\$ 82.69
	\$ 204.89	\$ 307.33	5/1/2027	4/31/2028	5.00%	\$ 74.31	\$ 67.14	-	\$ 88.82
Apprentice (OE12)*	\$ 108.99	\$ 163.49	5/1/2024	4/31/2025		\$ 39.53	\$ 24.00	-	\$ 50.00
<i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 114.44	\$ 171.67	5/1/2025	4/31/2026	5.00%	\$ 41.51	\$ 25.20	-	\$ 52.50
	\$ 120.17	\$ 180.25	5/1/2026	4/31/2027	5.00%	\$ 43.58	\$ 26.46	-	\$ 55.13
	\$ 126.17	\$ 189.26	5/1/2027	4/31/2028	5.00%	\$ 45.76	\$ 27.78	-	\$ 57.88
2-Person Crew (OE12)*	\$ 379.01	\$ 588.52	5/1/2024	4/31/2025		\$ 137.46	\$ 122.00	-	\$ 148.00
<i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 397.98	\$ 596.95	5/1/2025	4/31/2026	5.00%	\$ 144.33	\$ 128.10	-	\$ 155.40
	\$ 417.86	\$ 628.79	5/1/2026	4/31/2027	5.00%	\$ 151.55	\$ 134.51	-	\$ 163.17
	\$ 439.75	\$ 658.13	5/1/2027	4/31/2028	5.00%	\$ 159.13	\$ 141.23	-	\$ 171.33
3-Person Crew (OE12)*	\$ 484.01	\$ 726.01	5/1/2024	4/31/2025		\$ 175.54	\$ 148.00	-	\$ 186.00
<i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 509.21	\$ 762.31	5/1/2025	4/31/2026	5.00%	\$ 184.32	\$ 153.30	-	\$ 195.30
	\$ 533.62	\$ 800.43	5/1/2026	4/31/2027	5.00%	\$ 193.53	\$ 160.97	-	\$ 205.07
	\$ 560.30	\$ 840.45	5/1/2027	4/31/2028	5.00%	\$ 203.21	\$ 169.01	-	\$ 215.32
Utility Locator (PW South)*	\$ 187.00	\$ 280.50	5/1/2024	4/31/2025		\$ 67.82	\$ 62.00	-	\$ 78.00
<i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 198.35	\$ 294.52	5/1/2025	4/31/2026	5.00%	\$ 71.21	\$ 65.10	-	\$ 81.90
	\$ 206.16	\$ 309.25	5/1/2026	4/31/2027	5.00%	\$ 74.77	\$ 68.36	-	\$ 86.00
	\$ 216.47	\$ 324.71	5/1/2027	4/31/2028	5.00%	\$ 78.51	\$ 71.77	-	\$ 90.29
2-Person Utility Locate (PW South)*	\$ 379.01	\$ 588.52	5/1/2024	4/31/2025		\$ 137.46	\$ 125.00	-	\$ 148.00
<i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 397.98	\$ 596.95	5/1/2025	4/31/2026	5.00%	\$ 144.33	\$ 131.25	-	\$ 155.40
	\$ 417.86	\$ 628.79	5/1/2026	4/31/2027	5.00%	\$ 151.55	\$ 137.81	-	\$ 163.17
	\$ 439.75	\$ 658.13	5/1/2027	4/31/2028	5.00%	\$ 159.13	\$ 144.70	-	\$ 171.33
LAUD Division Manager	\$ 259.99	N/A	5/1/2024	4/31/2025		\$ 93.93	\$ 85.00	-	\$ 104.00
	\$ 271.84	N/A	5/1/2025	4/31/2026	5.00%	\$ 98.63	\$ 89.25	-	\$ 109.20
	\$ 285.54	N/A	5/1/2026	4/31/2027	5.00%	\$ 103.56	\$ 93.71	-	\$ 114.66
	\$ 299.81	N/A	5/1/2027	4/31/2028	5.00%	\$ 108.74	\$ 98.40	-	\$ 120.39
Sr. LAUD Project Manager	\$ 243.00	N/A	5/1/2024	4/31/2025		\$ 88.13	\$ 77.00	-	\$ 99.00
	\$ 255.15	N/A	5/1/2025	4/31/2026	5.00%	\$ 92.54	\$ 80.85	-	\$ 103.95
	\$ 267.90	N/A	5/1/2026	4/31/2027	5.00%	\$ 97.16	\$ 84.89	-	\$ 109.15
	\$ 281.30	N/A	5/1/2027	4/31/2028	5.00%	\$ 102.02	\$ 89.14	-	\$ 114.60

LAUD Project Manager	\$ 211.01	N/A	5/1/2024	4/31/2025		\$ 76.53	\$ 65.00 - \$ 87.00
	\$ 221.58	N/A	5/1/2025	4/31/2026	5.00%	\$ 80.36	\$ 68.25 - \$ 91.36
	\$ 232.64	N/A	5/1/2026	4/31/2027	5.00%	\$ 84.37	\$ 71.66 - \$ 95.92
	\$ 244.27	N/A	5/1/2027	4/31/2028	5.00%	\$ 88.59	\$ 75.25 - \$ 100.71
Sr. Landscape Architect	\$ 163.01	N/A	5/1/2024	4/31/2025		\$ 59.12	\$ 41.00 - \$ 70.00
	\$ 171.16	N/A	5/1/2025	4/31/2026	5.00%	\$ 62.08	\$ 43.05 - \$ 73.50
	\$ 179.72	N/A	5/1/2026	4/31/2027	5.00%	\$ 65.18	\$ 45.20 - \$ 77.18
	\$ 188.70	N/A	5/1/2027	4/31/2028	5.00%	\$ 68.44	\$ 47.46 - \$ 81.03
Landscape Architect	\$ 148.01	N/A	5/1/2024	4/31/2025		\$ 53.68	\$ 38.00 - \$ 64.00
	\$ 155.41	N/A	5/1/2025	4/31/2026	5.00%	\$ 56.36	\$ 39.90 - \$ 67.20
	\$ 163.18	N/A	5/1/2026	4/31/2027	5.00%	\$ 59.18	\$ 41.90 - \$ 70.56
	\$ 171.34	N/A	5/1/2027	4/31/2028	5.00%	\$ 62.14	\$ 43.99 - \$ 74.09
Landscape Designer II	\$ 118.99	N/A	5/1/2024	4/31/2025		\$ 42.43	\$ 33.00 - \$ 53.00
	\$ 122.84	N/A	5/1/2025	4/31/2026	5.00%	\$ 44.55	\$ 34.65 - \$ 55.65
	\$ 128.98	N/A	5/1/2026	4/31/2027	5.00%	\$ 46.78	\$ 36.38 - \$ 58.43
	\$ 135.43	N/A	5/1/2027	4/31/2028	5.00%	\$ 49.12	\$ 38.20 - \$ 61.35
Landscape Designer I	\$ 93.99	N/A	5/1/2024	4/31/2025		\$ 34.09	\$ 27.00 - \$ 45.00
	\$ 98.69	N/A	5/1/2025	4/31/2026	5.00%	\$ 35.79	\$ 28.35 - \$ 47.25
	\$ 103.63	N/A	5/1/2026	4/31/2027	5.00%	\$ 37.58	\$ 29.77 - \$ 49.61
	\$ 108.81	N/A	5/1/2027	4/31/2028	5.00%	\$ 39.46	\$ 31.26 - \$ 52.09
Landscape Intern	\$ 66.01	N/A	5/1/2024	4/31/2025		\$ 23.94	\$ 17.00 - \$ 34.00
	\$ 69.31	N/A	5/1/2025	4/31/2026	5.00%	\$ 25.14	\$ 17.85 - \$ 35.70
	\$ 72.77	N/A	5/1/2026	4/31/2027	5.00%	\$ 26.39	\$ 18.74 - \$ 37.49
	\$ 76.41	N/A	5/1/2027	4/31/2028	5.00%	\$ 27.71	\$ 19.68 - \$ 39.36
District Manager-Engineer	\$ 338.99	N/A	5/1/2024	4/31/2025		\$ 122.22	\$ 110.00 - \$ 133.00
	\$ 353.84	N/A	5/1/2025	4/31/2026	5.00%	\$ 128.33	\$ 115.50 - \$ 139.65
	\$ 371.53	N/A	5/1/2026	4/31/2027	5.00%	\$ 134.75	\$ 121.28 - \$ 146.63
	\$ 390.11	N/A	5/1/2027	4/31/2028	5.00%	\$ 141.48	\$ 127.34 - \$ 153.96
Deputy District Manager	\$ 303.00	N/A	5/1/2024	4/31/2025		\$ 109.89	\$ 97.00 - \$ 120.00
	\$ 318.15	N/A	5/1/2025	4/31/2026	5.00%	\$ 115.38	\$ 101.85 - \$ 126.00
	\$ 334.05	N/A	5/1/2026	4/31/2027	5.00%	\$ 121.15	\$ 108.94 - \$ 132.30
	\$ 350.75	N/A	5/1/2027	4/31/2028	5.00%	\$ 127.21	\$ 112.29 - \$ 138.92
Operations Manager	\$ 262.99	N/A	5/1/2024	4/31/2025		\$ 95.38	\$ 78.00 - \$ 106.00
	\$ 276.14	N/A	5/1/2025	4/31/2026	5.00%	\$ 100.15	\$ 81.90 - \$ 111.30
	\$ 289.94	N/A	5/1/2026	4/31/2027	5.00%	\$ 105.16	\$ 86.00 - \$ 116.87
	\$ 304.44	N/A	5/1/2027	4/31/2028	5.00%	\$ 110.41	\$ 90.29 - \$ 122.71
Sr. Sanitary Project Engineer	\$ 234.01	N/A	5/1/2024	4/31/2025		\$ 84.87	\$ 68.00 - \$ 95.00
	\$ 245.71	N/A	5/1/2025	4/31/2026	5.00%	\$ 89.11	\$ 71.40 - \$ 99.75
	\$ 257.99	N/A	5/1/2026	4/31/2027	5.00%	\$ 93.57	\$ 74.97 - \$ 104.74
	\$ 270.89	N/A	5/1/2027	4/31/2028	5.00%	\$ 98.25	\$ 78.72 - \$ 109.97

Sanitary Project Engineer	\$ 205.99	N/A	5/1/2024	4/31/2025		\$ 74.71	\$ 57.00 - \$ 85.00
	\$ 218.29	N/A	5/1/2025	4/31/2026	5.00%	\$ 78.45	\$ 59.85 - \$ 89.25
	\$ 227.11	N/A	5/1/2026	4/31/2027	5.00%	\$ 82.37	\$ 62.84 - \$ 93.71
	\$ 238.48	N/A	5/1/2027	4/31/2028	5.00%	\$ 86.49	\$ 65.98 - \$ 98.40
Associate Sanitary Engineer	\$ 176.99	N/A	5/1/2024	4/31/2025		\$ 64.19	\$ 54.00 - \$ 75.00
	\$ 185.84	N/A	5/1/2025	4/31/2026	5.00%	\$ 67.40	\$ 56.70 - \$ 78.75
	\$ 195.13	N/A	5/1/2026	4/31/2027	5.00%	\$ 70.77	\$ 59.54 - \$ 82.69
	\$ 204.89	N/A	5/1/2027	4/31/2028	5.00%	\$ 74.31	\$ 62.51 - \$ 86.82
Assistant Sanitary Engineer	\$ 155.01	N/A	5/1/2024	4/31/2025		\$ 56.22	\$ 48.00 - \$ 67.00
	\$ 162.76	N/A	5/1/2025	4/31/2026	5.00%	\$ 59.03	\$ 50.40 - \$ 70.35
	\$ 170.90	N/A	5/1/2026	4/31/2027	5.00%	\$ 61.98	\$ 52.92 - \$ 73.87
	\$ 179.45	N/A	5/1/2027	4/31/2028	5.00%	\$ 65.08	\$ 55.57 - \$ 77.58
Sr. Inspector* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 135.99	N/A	5/1/2024	4/31/2025		\$ 49.32	\$ 42.00 - \$ 60.00
	\$ 142.79	N/A	5/1/2025	4/31/2026	5.00%	\$ 51.79	\$ 44.10 - \$ 63.00
	\$ 149.93	N/A	5/1/2026	4/31/2027	5.00%	\$ 54.38	\$ 46.31 - \$ 66.15
	\$ 157.42	N/A	5/1/2027	4/31/2028	5.00%	\$ 57.09	\$ 48.82 - \$ 69.48
Inspector* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 114.01	N/A	5/1/2024	4/31/2025		\$ 41.35	\$ 34.00 - \$ 52.00
	\$ 119.71	N/A	5/1/2025	4/31/2026	5.00%	\$ 43.42	\$ 35.70 - \$ 54.60
	\$ 125.70	N/A	5/1/2026	4/31/2027	5.00%	\$ 45.59	\$ 37.49 - \$ 57.33
	\$ 131.98	N/A	5/1/2027	4/31/2028	5.00%	\$ 47.87	\$ 39.36 - \$ 60.20
Inspector - Apprentice* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 81.01	N/A	5/1/2024	4/31/2025		\$ 28.28	\$ 21.00 - \$ 40.00
	\$ 85.06	N/A	5/1/2025	4/31/2026	5.00%	\$ 29.89	\$ 22.05 - \$ 42.00
	\$ 89.31	N/A	5/1/2026	4/31/2027	5.00%	\$ 31.18	\$ 23.15 - \$ 44.10
	\$ 93.78	N/A	5/1/2027	4/31/2028	5.00%	\$ 32.74	\$ 24.31 - \$ 46.31
Area Manager - CM	\$ 370.00	N/A	5/1/2024	4/31/2025		\$ 134.19	\$ 105.00 - \$ 145.00
	\$ 388.50	N/A	5/1/2025	4/31/2026	5.00%	\$ 140.90	\$ 110.25 - \$ 152.25
	\$ 407.92	N/A	5/1/2026	4/31/2027	5.00%	\$ 147.94	\$ 115.76 - \$ 159.88
	\$ 428.32	N/A	5/1/2027	4/31/2028	5.00%	\$ 155.34	\$ 121.55 - \$ 167.88
Division Manager - CM	\$ 340.00	N/A	5/1/2024	4/31/2025		\$ 123.31	\$ 105.00 - \$ 134.00
	\$ 357.00	N/A	5/1/2025	4/31/2026	5.00%	\$ 129.48	\$ 110.25 - \$ 140.70
	\$ 374.85	N/A	5/1/2026	4/31/2027	5.00%	\$ 135.95	\$ 115.76 - \$ 147.74
	\$ 393.59	N/A	5/1/2027	4/31/2028	5.00%	\$ 142.75	\$ 121.55 - \$ 155.12
Sr. Resident Engineer	\$ 295.99	N/A	5/1/2024	4/31/2025		\$ 107.35	\$ 90.00 - \$ 118.00
	\$ 310.79	N/A	5/1/2025	4/31/2026	5.00%	\$ 112.72	\$ 94.50 - \$ 123.90
	\$ 326.33	N/A	5/1/2026	4/31/2027	5.00%	\$ 118.35	\$ 99.23 - \$ 130.10
	\$ 342.65	N/A	5/1/2027	4/31/2028	5.00%	\$ 124.27	\$ 104.19 - \$ 136.60
Sr. Project Manager - CM	\$ 280.99	N/A	5/1/2024	4/31/2025		\$ 101.91	\$ 80.00 - \$ 112.00
	\$ 295.04	N/A	5/1/2025	4/31/2026	5.00%	\$ 107.01	\$ 84.00 - \$ 117.60
	\$ 309.79	N/A	5/1/2026	4/31/2027	5.00%	\$ 112.38	\$ 89.20 - \$ 123.48
	\$ 325.28	N/A	5/1/2027	4/31/2028	5.00%	\$ 117.97	\$ 92.61 - \$ 129.65

Project Manager - CM	\$ 256.01	N/A	5/1/2024	4/31/2025		\$ 92.85	\$ 72.00	-	\$ 103.00
	\$ 268.81	N/A	5/1/2025	4/31/2026	5.00%	\$ 97.49	\$ 75.60	-	\$ 108.15
	\$ 282.25	N/A	5/1/2026	4/31/2027	5.00%	\$ 102.37	\$ 79.38	-	\$ 113.58
	\$ 296.37	N/A	5/1/2027	4/31/2028	5.00%	\$ 107.49	\$ 83.35	-	\$ 119.24
Resident Engineer	\$ 254.00	N/A	5/1/2024	4/31/2025		\$ 92.12	\$ 72.00	-	\$ 103.00
	\$ 266.70	N/A	5/1/2025	4/31/2026	5.00%	\$ 96.73	\$ 75.60	-	\$ 108.15
	\$ 280.03	N/A	5/1/2026	4/31/2027	5.00%	\$ 101.58	\$ 79.38	-	\$ 113.58
	\$ 294.04	N/A	5/1/2027	4/31/2028	5.00%	\$ 106.64	\$ 83.35	-	\$ 119.24
Project Controls/Scheduler	\$ 213.00	N/A	5/1/2024	4/31/2025		\$ 77.25	\$ 53.00	-	\$ 88.00
	\$ 223.65	N/A	5/1/2025	4/31/2026	5.00%	\$ 81.11	\$ 55.65	-	\$ 92.40
	\$ 234.83	N/A	5/1/2026	4/31/2027	5.00%	\$ 85.17	\$ 58.43	-	\$ 97.02
	\$ 246.57	N/A	5/1/2027	4/31/2028	5.00%	\$ 89.43	\$ 61.35	-	\$ 101.87
Inspector - CM* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 213.99	N/A	5/1/2024	4/31/2025		\$ 77.61	\$ 43.00	-	\$ 88.00
	\$ 224.69	N/A	5/1/2025	4/31/2026	5.00%	\$ 81.49	\$ 45.15	-	\$ 92.40
	\$ 235.93	N/A	5/1/2026	4/31/2027	5.00%	\$ 85.57	\$ 47.41	-	\$ 97.02
	\$ 247.72	N/A	5/1/2027	4/31/2028	5.00%	\$ 89.84	\$ 49.78	-	\$ 101.87
Asst. Resident Engineer* <i>(Prevailing wage is based on our union contract which sets the wage. For proposal purposes, we have estimated escalation date and rate)</i>	\$ 217.00	N/A	5/1/2024	4/31/2025		\$ 78.70	\$ 55.00	-	\$ 89.00
	\$ 227.85	N/A	5/1/2025	4/31/2026	5.00%	\$ 82.64	\$ 57.75	-	\$ 93.45
	\$ 239.24	N/A	5/1/2026	4/31/2027	5.00%	\$ 86.77	\$ 60.64	-	\$ 98.12
	\$ 251.20	N/A	5/1/2027	4/31/2028	5.00%	\$ 91.11	\$ 63.67	-	\$ 103.03
Office Engineer	\$ 153.99	N/A	5/1/2024	4/31/2025		\$ 55.85	\$ 38.00	-	\$ 66.00
	\$ 161.69	N/A	5/1/2025	4/31/2026	5.00%	\$ 58.64	\$ 39.90	-	\$ 69.30
	\$ 169.78	N/A	5/1/2026	4/31/2027	5.00%	\$ 61.57	\$ 41.90	-	\$ 72.77
	\$ 178.27	N/A	5/1/2027	4/31/2028	5.00%	\$ 64.65	\$ 43.99	-	\$ 76.40
Office Technician	\$ 81.01	N/A	5/1/2024	4/31/2025		\$ 29.38	\$ 22.00	-	\$ 40.00
	\$ 85.06	N/A	5/1/2025	4/31/2026	5.00%	\$ 30.85	\$ 23.10	-	\$ 42.00
	\$ 89.31	N/A	5/1/2026	4/31/2027	5.00%	\$ 32.39	\$ 24.28	-	\$ 44.10
	\$ 93.78	N/A	5/1/2027	4/31/2028	5.00%	\$ 34.01	\$ 25.47	-	\$ 46.31
Expert Witness	\$ 493.99	N/A	5/1/2024	4/31/2025		\$ 179.16	\$ 170.00	-	\$ 185.00
	\$ 518.69	N/A	5/1/2025	4/31/2026	5.00%	\$ 188.12	\$ 178.50	-	\$ 194.25
	\$ 544.62	N/A	5/1/2026	4/31/2027	5.00%	\$ 197.52	\$ 187.43	-	\$ 203.98
	\$ 571.86	N/A	5/1/2027	4/31/2028	5.00%	\$ 207.40	\$ 196.80	-	\$ 214.16
Strategic Consulting	\$ 493.99	N/A	5/1/2024	4/31/2025		\$ 179.16	\$ 170.00	-	\$ 185.00
	\$ 518.69	N/A	5/1/2025	4/31/2026	5.00%	\$ 188.12	\$ 178.50	-	\$ 194.25
	\$ 544.62	N/A	5/1/2026	4/31/2027	5.00%	\$ 197.52	\$ 187.43	-	\$ 203.98
	\$ 571.86	N/A	5/1/2027	4/31/2028	5.00%	\$ 207.40	\$ 196.80	-	\$ 214.16
Funding Manager	\$ 284.99	N/A	5/1/2024	4/31/2025		\$ 103.36	\$ 88.00	-	\$ 114.00
	\$ 299.24	N/A	5/1/2025	4/31/2026	5.00%	\$ 108.53	\$ 92.40	-	\$ 119.70
	\$ 314.20	N/A	5/1/2026	4/31/2027	5.00%	\$ 113.95	\$ 97.02	-	\$ 125.69
	\$ 329.91	N/A	5/1/2027	4/31/2028	5.00%	\$ 119.65	\$ 101.87	-	\$ 131.97

Sr. Funding Specialist	\$ 185.01	N/A	5/1/2024	4/31/2025		\$ 87.10	\$ 52.00 - \$ 78.00
	\$ 194.26	N/A	5/1/2025	4/31/2026	5.00%	\$ 70.46	\$ 54.60 - \$ 81.90
	\$ 203.98	N/A	5/1/2026	4/31/2027	5.00%	\$ 73.98	\$ 57.33 - \$ 86.00
	\$ 214.17	N/A	5/1/2027	4/31/2028	5.00%	\$ 77.68	\$ 60.20 - \$ 90.29
Funding Specialist	\$ 157.00	N/A	5/1/2024	4/31/2025		\$ 56.94	\$ 38.00 - \$ 87.00
	\$ 164.85	N/A	5/1/2025	4/31/2026	5.00%	\$ 59.79	\$ 39.90 - \$ 70.35
	\$ 173.09	N/A	5/1/2026	4/31/2027	5.00%	\$ 62.78	\$ 41.90 - \$ 73.87
	\$ 181.75	N/A	5/1/2027	4/31/2028	5.00%	\$ 65.92	\$ 43.99 - \$ 77.56
Project Accountant Manager	\$ 185.01	N/A	5/1/2024	4/31/2025		\$ 87.10	\$ 55.00 - \$ 78.00
	\$ 194.26	N/A	5/1/2025	4/31/2026	5.00%	\$ 70.46	\$ 57.75 - \$ 81.90
	\$ 203.98	N/A	5/1/2026	4/31/2027	5.00%	\$ 73.98	\$ 60.64 - \$ 86.00
	\$ 214.17	N/A	5/1/2027	4/31/2028	5.00%	\$ 77.68	\$ 63.67 - \$ 90.29
Sr. Project Accountant	\$ 146.00	N/A	5/1/2024	4/31/2025		\$ 52.95	\$ 41.00 - \$ 63.00
	\$ 153.30	N/A	5/1/2025	4/31/2026	5.00%	\$ 55.60	\$ 43.05 - \$ 66.15
	\$ 160.96	N/A	5/1/2026	4/31/2027	5.00%	\$ 58.38	\$ 45.20 - \$ 69.46
	\$ 169.01	N/A	5/1/2027	4/31/2028	5.00%	\$ 61.30	\$ 47.46 - \$ 72.93
Project Accountant	\$ 129.01	N/A	5/1/2024	4/31/2025		\$ 46.79	\$ 36.00 - \$ 57.00
	\$ 135.46	N/A	5/1/2025	4/31/2026	5.00%	\$ 49.13	\$ 37.80 - \$ 59.85
	\$ 142.24	N/A	5/1/2026	4/31/2027	5.00%	\$ 51.59	\$ 39.69 - \$ 62.84
	\$ 149.35	N/A	5/1/2027	4/31/2028	5.00%	\$ 54.17	\$ 41.67 - \$ 65.98
Sr. Project Coordinator	\$ 145.00	N/A	5/1/2024	4/31/2025		\$ 52.59	\$ 43.00 - \$ 63.00
	\$ 152.25	N/A	5/1/2025	4/31/2026	5.00%	\$ 55.22	\$ 45.15 - \$ 66.15
	\$ 159.87	N/A	5/1/2026	4/31/2027	5.00%	\$ 57.98	\$ 47.41 - \$ 69.46
	\$ 167.86	N/A	5/1/2027	4/31/2028	5.00%	\$ 60.88	\$ 49.78 - \$ 72.93
Project Coordinator	\$ 115.01	N/A	5/1/2024	4/31/2025		\$ 41.71	\$ 33.00 - \$ 52.00
	\$ 120.76	N/A	5/1/2025	4/31/2026	5.00%	\$ 43.80	\$ 34.65 - \$ 54.60
	\$ 126.79	N/A	5/1/2026	4/31/2027	5.00%	\$ 45.99	\$ 36.38 - \$ 57.33
	\$ 133.13	N/A	5/1/2027	4/31/2028	5.00%	\$ 48.28	\$ 38.20 - \$ 60.20
Sr. Project Assistant	\$ 114.01	N/A	5/1/2024	4/31/2025		\$ 41.35	\$ 34.00 - \$ 52.00
	\$ 119.71	N/A	5/1/2025	4/31/2026	5.00%	\$ 43.42	\$ 35.70 - \$ 54.60
	\$ 125.70	N/A	5/1/2026	4/31/2027	5.00%	\$ 45.59	\$ 37.49 - \$ 57.33
	\$ 131.98	N/A	5/1/2027	4/31/2028	5.00%	\$ 47.87	\$ 39.38 - \$ 60.20
Project Assistant	\$ 88.01	N/A	5/1/2024	4/31/2025		\$ 31.92	\$ 24.00 - \$ 42.00
	\$ 92.41	N/A	5/1/2025	4/31/2026	5.00%	\$ 33.52	\$ 25.20 - \$ 44.10
	\$ 97.03	N/A	5/1/2026	4/31/2027	5.00%	\$ 35.19	\$ 26.46 - \$ 46.31
	\$ 101.88	N/A	5/1/2027	4/31/2028	5.00%	\$ 36.95	\$ 27.78 - \$ 48.62
Sr. Technical Writer	\$ 135.00	N/A	5/1/2024	4/31/2025		\$ 48.96	\$ 35.00 - \$ 59.00
	\$ 141.75	N/A	5/1/2025	4/31/2026	5.00%	\$ 51.41	\$ 36.75 - \$ 61.95
	\$ 148.83	N/A	5/1/2026	4/31/2027	5.00%	\$ 53.98	\$ 38.59 - \$ 65.05
	\$ 156.27	N/A	5/1/2027	4/31/2028	5.00%	\$ 56.68	\$ 40.52 - \$ 68.30

Technical Writer	\$ 88.01	N/A	5/1/2024	4/31/2025		\$ 31.92	\$ 21.00	-	\$ 42.00
	\$ 92.41	N/A	5/1/2025	4/31/2026	5.00%	\$ 33.52	\$ 22.05	-	\$ 44.10
	\$ 97.03	N/A	5/1/2026	4/31/2027	5.00%	\$ 35.19	\$ 23.15	-	\$ 46.31
	\$ 101.88	N/A	5/1/2027	4/31/2028	5.00%	\$ 36.95	\$ 24.31	-	\$ 48.62
Sr. Graphic Manager	\$ 172.99	N/A	5/1/2024	4/31/2025		\$ 62.74	\$ 50.00	-	\$ 73.00
	\$ 181.64	N/A	5/1/2025	4/31/2026	5.00%	\$ 65.88	\$ 52.50	-	\$ 76.65
	\$ 190.72	N/A	5/1/2026	4/31/2027	5.00%	\$ 69.17	\$ 55.13	-	\$ 80.48
	\$ 200.26	N/A	5/1/2027	4/31/2028	5.00%	\$ 72.63	\$ 57.88	-	\$ 84.51
Sr. Graphic Designer	\$ 148.01	N/A	5/1/2024	4/31/2025		\$ 53.68	\$ 40.00	-	\$ 64.00
	\$ 155.41	N/A	5/1/2025	4/31/2026	5.00%	\$ 56.36	\$ 42.00	-	\$ 67.20
	\$ 163.18	N/A	5/1/2026	4/31/2027	5.00%	\$ 59.18	\$ 44.10	-	\$ 70.56
	\$ 171.34	N/A	5/1/2027	4/31/2028	5.00%	\$ 62.14	\$ 46.31	-	\$ 74.09
Graphic Designer	\$ 126.01	N/A	5/1/2024	4/31/2025		\$ 45.70	\$ 35.00	-	\$ 56.00
	\$ 132.31	N/A	5/1/2025	4/31/2026	5.00%	\$ 47.99	\$ 36.75	-	\$ 58.80
	\$ 138.92	N/A	5/1/2026	4/31/2027	5.00%	\$ 50.38	\$ 38.59	-	\$ 61.74
	\$ 145.87	N/A	5/1/2027	4/31/2028	5.00%	\$ 52.90	\$ 40.52	-	\$ 64.83

- Names and classifications of consultant (key staff) team members must be listed. Provide separate sheets for prime and all subconsultant firms.
- Billing rate = actual hourly rate * (1+ ICR) * (1+ Fee). Agreed upon billing rates are not adjustable for the term of contract.
- For named employees enter the actual hourly rate. For classifications only, enter the average hourly rate for that classification.

Note:

- Denote all employees subject to prevailing wage with an asterisks (*)
- For "Other Direct Cost" listing, see page 2 of this Exhibit

Consultant: Mark Thomas & Company, Inc.

Prime Consultant

Subconsultant

2nd Tier Subconsultant

Project No. _____

Contract No. _____

Date: _____

SCHEDULE OF OTHER DIRECT COST ITEMS (Add additional pages as necessary)				
Description of Item	Quantity	Unit	Unit Cost	Total
Mileage Costs			IRS Rate	\$ -
Reproductions (half sheet)			At Cost	\$ -
Reproductions (whole sheet)			At Cost	\$ -
Postage/Delivery/Overnight			At Cost	\$ -
Per Diem			At Cost	\$ -
Lodging			At Cost	\$ -
Traffic Control			At Cost	\$ -
Subconsultant 1:				\$ -
Subconsultant 2:				\$ -
Subconsultant 3:				\$ -
Subconsultant 4:				\$ -
Subconsultant 5:				\$ -

NOTES:

- List direct cost items with estimated costs. These costs should be competitive in their respective industries and supported with appropriate documentations.
- Proposed ODC items should be consistently billed regardless of client and contract type.
- Items when incurred for the same purpose, in like circumstance, should not be included in any indirect cost pool or in the overhead rate.
- Items such as special tooling, will be reimbursed at actual cost with supporting documentation (invoice)
- Items listed above that would be considered "tools of the trade" are not reimbursable as other direct cost.
- Travel related costs should be pre-approved by the contracting agency and shall not exceed current State Department of Personnel Administration rules.


Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

1. Generally Accepted Accounting Principles (GAAP)
2. Terms and conditions of the contract
3. Title 23 United States Code Section 112 - Letting of Contracts
4. 48 Code of Federal Regulations Part 31 - Contract Cost Principles and Procedures
5. 23 Code of Federal Regulations Part 172 - Procurement, Management and Administration of Engineering and Design Related Service
6. 48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement. Local governments are responsible for applying only cognizant agency or Caltrans accepted Indirect Cost Rate(s).

Prime Consultant or Subconsultant Certifying:

Name:	<u>Matt Brogan</u>	Title *:	<u>Principal + Vice President</u>
Signature:		Date of Certification:	<u>3/20/2024</u>
Email:	<u>mbrogan@markthomas.com</u>	Phone number:	<u>(916) 381-9100</u>
Address:	<u>701 University Avenue, Suite 200, Sacramento, CA 95825</u>		

* An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:



BENNETT ENGINEERING SERVICES + Y&C TRANSPORTATION CONSULTANTS
Professional Staff Rate Schedule | 2023/2024 Fiscal Year

Billing Classifications	Rate Class	Charge Rate
ENGINEER / SURVEYOR		
	10	\$296
	9	\$280
	8	\$264
	7	\$248
	6	\$232
	5	\$218
	4	\$204
	3	\$192
	2	\$180
	1	\$170

Billing Classifications	Rate Class	Charge Rate
DESIGNER/TECH		
	7	\$190
	6	\$174
	5	\$158
	4	\$142
	3	\$128
	2	\$114
	1	\$100
PROJECT ADMINISTRATOR		
	5	\$170
	4	\$148
	3	\$125
	2	\$100
	1	\$85

- ▶ Direct expenses (including, but not limited to, mileage, reproduction, postage, online assessor mapping fees, etc.) and subconsultant costs will be billed at cost plus fifteen percent (15%) for administration, coordination, and handling.
- ▶ Standard hourly rates do not apply to a demand to perform work during an overtime period. Work required to be performed during an overtime period (as mandated by California law) will be charged at a 50% premium. Work mandated by Prevailing Wage laws will be charged accordingly.
- ▶ Hourly rates include all compensation for wages, salary-related benefits, overhead, general office administration, and profit. Direct project administrative hours will be billed at the rate shown above.
- ▶ Classifications may be added or removed as-needed without notice.
- ▶ Changes in the requested scope of work or projected schedule may result in the revision of the proposed fees and amendment to the total contract amount.
- ▶ Rates are subject to change annually effective July 1, 2024



Sacramento
Eureka
Madison
Pleasanton
Santa Rosa
Seattle
Ukiah

Crawford & Associates, Inc. - 2024 Standard Fee Schedule

PROFESSIONAL TITLE	RATE	CONSTRUCTION/EQUIPMENT	RATE	DETAIL
Principal	\$ 250.00	Traffic Control (Major) OSE or PW **	\$ 2,500.00	DAY
Senior Project Manager	\$ 210.00	Traffic Control (Minor)	\$ 700.00	DAY
Project Manager	\$ 190.00	Selismic Refraction (12 Channel)	\$ 1,300.00	DAY
Senior Engineer / Geologist	\$ 170.00	Core Machine with Generator **	\$ 2,600.00	DAY
Project Engineer II / Geologist	\$ 160.00	Core Machine Bit	\$ 3.00	INCH
Project Engineer I / Geologist	\$ 140.00	Core Box	\$ 17.25	EACH
Project Engineer I / Geologist - OT	\$ 210.00	Hot Mix Asphalt Patching (1st Core) **	\$ 1,000.00	FIRST
Staff Engineer / Geologist	\$ 135.00	Hot Mix Asphalt Patching (2 or More) **	\$ 500.00	EACH AFTER
Staff Engineer / Geologist - OT	\$ 202.50	Wildcat DCP Equipment **	\$ 750.00	DAY
Project Coordinator	\$ 127.00	Wildcat DCP Tip	\$ 20.00	EACH
Administrative Assistant	\$ 110.00	Survey Equipment (Tripod, Level, Rod)	\$ 150.00	DAY
Welding / Steel Technician (Non-PW)	\$ 160.00	Survey Equipment (Liquid Level)	\$ 150.00	DAY
Senior Technician (Non-PW)	\$ 135.00	Percolation Equipment	\$ 200.00	DAY
Senior Technician - OT (Non-PW)	\$ 190.00	Hand Auger **	\$ 200.00	DAY
Staff Technician (Non-PW)	\$ 125.00	Backfill	\$ 8.00	BAG
Staff Technician - OT (Non-PW)	\$ 175.00	Steel Liners (MCAL)	\$ 10.00	EACH
PREVAILING WAGE CLASSIFICATIONS **	RATE	Nuclear Density Test **	\$ 10.00	EACH
Group 1 - Masonry Technician	\$ 190.00	Concrete Equipment	\$ 65.00	PER POUR
Group 1 - Masonry Technician - OT	\$ 220.00	CLASSIFICATION TESTING		
Group 2 - Welding Technician	\$ 185.00	#200 Wash	\$ 120.00	ASTM D 1140
Group 2 - Welding Technician - OT	\$ 215.00	Grain Size Analysis to #200 (Sieve Analysis)	\$ 160.00	ASTM D6913
Group 2/3 - Laborer Technician	\$ 137.00	Mass Grain Size (Scour)	\$ 2,200.00	ASTM D6913
Group 2/3 - Laborer Technician - OT	\$ 160.00	Grain Size with Hydrometer	\$ 245.00	ASTM D6913, D7926
Group 3 - Soils/Asphalt Technician	\$ 175.00	Grain Size Analysis	\$ 210.00	CTM 202
Group 3 - Soils/Asphalt Technician - OT	\$ 200.00	Hydrometer Analysis	\$ 210.00	ASTM D7926
Group 4 - Concrete Technician	\$ 165.00	Moisture & Density	\$ 80.00	ASTM D2216, D7263
Group 4 - Concrete Technician - OT	\$ 185.00	Moisture Content	\$ 55.00	ASTM D2216, CTM 226
WORKING HOURS AND PREMIUM TIME	RATE	Non-Plastic Index Result	\$ 125.00	ASTM D4318
A Regular Workday is the first 8 hours between 8:00am to 8:00pm, Monday through Friday.		Plasticity Index	\$ 280.00	ASTM D4318
Overtime: Weekdays & Saturdays (first 8 hours)	1.5 x Hourly Rate	Landscape Suitability	\$ 125.00	
Overtime: Saturdays (over 8 hours) and Sundays (first 8 hours)	2 x Hourly Rate	STRENGTH TESTING		
Overtime: Sundays (over 8 hours) and Holidays	3 x Hourly Rate	California Impact	\$ 350.00	CTM 216
Night Shift: Work performed between 2:00 am and 4:00 am	15% / Hour Add'l to Hourly Rate	Compaction Curve (4" Mold)	\$ 455.00	ASTM D696/D1557
REIMBURSABLES	RATE	Compaction Curve (6" Mold)	\$ 510.00	ASTM D696/D1557
Mileage	\$ 0.74 / Mile	Compaction Curve Checkpoint (4" Mold)	\$ 125.00	ASTM D696/D1557
Vehicle Charge	\$ 40.00 / Day	Compaction Curve Checkpoint (6" Mold)	\$ 125.00	ASTM D696/D1557
Outside Costs	15% Markup	Compression (Rock)	\$ 275.00	ASTM 7012
Permit Fees (City/County)	15% Markup	Compressive Strength of Cylinders (6x12)	\$ 40.00	ASTM C39
Per Diem (Lodging & Meals)	\$ 350 / Day	Compressive Strength of Cylinders (4x8)	\$ 37.00	ASTM C39
Rush Testing	50% Markup	Direct Shear (CD 3pt) Peak Only	\$ 500.00	ASTM D3080
** Indicates Prevailing Wage Rates/Work		Point Load (Rock)	\$ 65.00	ASTM D5731
		R-Value	\$ 450.00	ASTM D2844, CAL 301
		Triaxial Shear-UU	\$ 175.00	ASTM D2850
		Triaxial Staged-UU	\$ 290.00	ASTM D2850
		Unconfined Compression (Rock)	\$ 230.00	ASTM D7012
		Unconfined Compression (Soil)	\$ 180.00	ASTM D2166
		CONSOLIDATION & EXPANSION		
		1-D Consolidation	\$ 400.00	ASTM D2435
		1-D Consolidation (Time Rate) / Per Point	\$ 100.00	ASTM D2435
		Expansion Index	\$ 275.00	ASTM D4629
		CORROSIIVITY TESTING		
		pH, Resistivity, Sulfate, Chloride Content	\$ 240.00	CTM 417,422,843
		pH, Resistivity, Sulfate, Chloride, Redox Potential	\$ 350.00	CTM 417,422,843 and ASTM G200M
		PAVEMENT TESTING		
		Asphalt Ignition Calibration	\$ 460.00	CTM 382
		Percent Asphalt Ignition Oven	\$ 225.00	CTM 382
		Sand Equivalent	\$ 135.00	CTM 217
		Stabilometer Value	\$ 225.00	CTM 366
		Theoretical Max Specific Gravity/Density	\$ 225.00	CTM 309
		Mix Design	\$ 2,000.00	ASTM 1557 and ASTM D1633
		SEISMIC ANALYSIS		
		EZ Frisk Software Use	\$ 2,250.00	PER LOCATION

DE NOVO RATE SHEET

Principal	\$185-235
Principal Planner	\$160-210
Senior Planner	\$125-175
Associate Planner	\$115-145
Assistant Planner	\$95-125
GIS Analyst	\$105-145
Legal Assistance/Expert Witness	\$350-450



2023-2024
(July 2023 through June 2024)
Hourly Billing Rates

Classification	Hourly Rate
Principal	\$250.00 - \$380.00
Senior Associate	\$210.00 - \$310.00
Associate	\$185.00 - \$275.00
Senior Engineer/Planner	\$160.00 - \$235.00
Engineer/Planner	\$130.00 - \$200.00
Senior Engineering Technician	\$150.00 - \$225.00
Senior Project Accountant	\$170.00 - \$210.00
Senior Project Coordinator	\$130.00 - \$215.00
Project Coordinator	\$115.00 - \$175.00
Technician	\$120.00 - \$185.00
Intern	\$100.00 - \$135.00

- *Other Direct Costs / Reimbursable expenses are invoiced at cost plus 10% for handling.*
- *Personal auto mileage is reimbursed at the then current IRS approved rate (67 cents per mile as of Jan 2024).*
- *Voice & Data Communications (Telephone, fax, computer, e-mail, etc.) are invoiced at cost as a percentage of project labor.*

Fehr & Peers reserves the right to change these rates at any time with or without advance notice.

T2 Utility Engineers Rate Schedule					
Subsurface Utility Engineering Services					
Services	Bill Rate	Overtime	Prevailing Wage	Prevailing Wage OT	Unit
Pothole - Unit Price	\$795.00	\$905.00	\$925.00	\$1,150.00	per hole
Pothole Exceeding 7 feet in Depth	\$105.00	\$125.00	\$130.00	\$165.00	per foot
Vacuum Excavation Truck, Crew and Equipment	\$345.00	\$410.00	\$465.00	\$525.00	per hour
Utility Designating & Investigation Underground	\$1.05	\$1.25	\$1.45	\$1.65	per foot
Utility Designating 2 Man Crew and Equipment	\$275.00	\$350.00	\$375.00	\$445.00	per hour
Utility Designating 1 Man Crew and Equipment	\$195.00	\$220.00	\$245.00	\$270.00	per hour
Concrete / Asphalt Coring, Slurry Backfilling	\$165.00	\$205.00	\$215.00	\$240.00	per hour
USA / Designating Paint Removal - Powerwashing	\$1,800.00	\$2,100.00	\$2,200.00	\$2,600.00	per day
Survey - 2 Man Crew and Equipment	\$275.00	\$305.00	\$450.00	\$495.00	per hour
Survey - 1 Man Crew and Equipment	\$175.00	\$200.00	\$260.00	\$285.00	per hour
Project Director	\$245.00	NA	NA	NA	per hour
Senior Project Manager	\$215.00	NA	NA	NA	per hour
Project Engineer	\$190.00	NA	NA	NA	per hour
Project Surveyor	\$195.00	NA	NA	NA	per hour
Project Manager	\$160.00	NA	NA	NA	per hour
SUE Manager	\$150.00	NA	NA	NA	per hour
Assistant Project Manager	\$130.00	NA	NA	NA	per hour
CADD Supervisor	\$125.00	NA	NA	NA	per hour
SUE Supervisor	\$105.00	\$157.50	\$130.00	\$175.00	per hour
SUE Technician III	\$90.00	\$135.00	\$130.00	\$175.00	per hour
SUE Technician II	\$80.00	\$120.00	\$130.00	\$175.00	per hour
SUE Technician I	\$70.00	\$105.00	\$130.00	\$175.00	per hour
CADD Technician	\$90.00	\$127.50	NA	NA	per hour
Administrative Support	\$90.00	\$112.50	NA	NA	per hour
Mobilization: Vac-Truck & Crew	\$4.32	\$5.68	\$5.77	\$7.50	per mile
Mobilization: Designating or Survey Truck & Crew	\$3.02	\$4.08	\$4.26	\$5.74	per mile
Expenses					
Per Diem	GSA rates				
Encroachment and Traffic Permits	cost plus 10%				
Traffic Control Plans - Engineer Stamped	\$800 per sheet				
Subcontractors - Asphalt, Traffic Control, Ect.	cost plus 10%				
Miscellaneous Expenses	cost plus 10%				

EXHIBIT C
Task Order Form

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

TASK ORDER FORM

Project: _____

Consultant: _____

Project Task Order Number: [X of X] _____

Description of Task and Services: _____

Maximum Compensation for Task: \$ _____ .00

Task Completion Time: The Consultant must complete the services and deliverable for this task in On or before: [DATE]

Year-to-Date Total Authorized Task Order Compensation: \$ _____ .00

Remaining Total Not to Exceed Amount upon completion of this Task: \$ _____ .00

APPROVED BY CITY REPRESENTATIVE

[Insert Name and Position]

Date

Agenda Item 3.A

RECOMMENDATION

Staff recommends that the City Council:

- 1. Conduct a hearing on the Resolutions of Necessity (RON) to authorize the acquisition of abutter's rights and access thereto from two properties already the subject of eminent domain actions for the I-580/Patterson Road Interchange Project (CIP 73147) and to make the required findings for these two properties owned by and located at:**
 - 1. ARP Minimart Corporation – 25775 Patterson Pass Road (Assessor's Parcel Number 209-100-040) (Minimart); and**
 - 2. Harminder Kaur; Rajwinder Kaur; Gupreet Singh; Charnit Singh and Ramandeep Kaur, Trustees – 25883 S. Patterson Pass Road (Assessor's Parcel Number 209-100-280) (Kaur et al).**

- 2. Adopt RONs for Minimart and Kaur et al., Finding that the Public Interest, Convenience and Necessity Require the Acquisition of Certain Property Interests for the Project, Authorizing the Acquisition Thereof, and Directing the City Attorney to File Eminent Domain Proceedings.**

EXECUTIVE SUMMARY

The City of Tracy (City), in partnership with the California Department of Transportation (Caltrans), has completed designs for improvements at the Interstate 580 (I-580)/Patterson Pass Road Interchange (Project). The Project will construct a new interchange, freeway auxiliary lanes, and connecting roadways at the existing Patterson Pass Road/International Parkway overcrossing on I-580. On February 21, 2023, the City Council adopted RONs for various property interested needed to complete the Project. Subsequent to that action, additional rights related to abutters rights and access have been identified that must be acquired as well in order to complete construction of the interchange.

It is necessary for the City of Tracy to consider the adoption of Resolutions of Necessity (RON) authorizing the City to acquire, by eminent domain, the property interests needed for public use, namely for public street and state highway purposes, and all uses necessary or convenient thereto in connection with the Project.

Prior to initiating condemnation proceedings to acquire the additional needed right-of-way for a programmed project, the City Council must first adopt RONs in which they declare that they have made the specific findings identified under Section 1245.230 of the Code of Civil Procedure.

BACKGROUND AND LEGISLATIVE HISTORY

This staff report is submitted for review by the City Council prior to the recommended adoption of the proposed and attached RONs for Minimart and Kaur et al., to authorize the acquisition, by eminent domain, of certain abutters rights and access thereto from such properties for the Project. As set forth below, the Project proposes to construct a new interchange, auxiliary lanes, and connecting roadways at the I-580/International Parkway

Interchange to reduce traffic and increase safety. The City has already obtained possession of all property interests needed for the Project except those Property Interests that are the subject of the RON hearing.

The property interests required for the Project are located within the area the Project will be constructed. For each property from which additional property interests are required for the Project, another Resolution of Necessity (RON) must be adopted prior to the commencement of eminent domain proceedings to acquire those additional interests pursuant to Code of Civil Procedure section 1245.220. This requirement “is designed to ensure that public entities will verify and confirm the validity of their intended use of the power of eminent domain prior to the application of that power in any one particular instance”. (*San Bernardino Flood Control Dist. v. Grabowski* (1988) 205 Cal.App.3d 885, 897).

A RON must contain a general statement of the public uses for which the property is to be taken, a reference to the statute authorizing the exercise of eminent domain, a description of the property, and a declaration stating that each of the following have been found and determined by the City Council (Code of Civil Procedure section 1245.230):

1. The public interest and necessity require the proposed project;
2. The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
3. The property described in the resolution is necessary for the proposed project; and
4. That either the offer required by Section 7267.2 of the Government Code has been made to the owner(s) of record or the offer has not been made because the owner cannot be located with reasonable diligence.

In addition, to the extent the property interests that are proposed to be acquired are already devoted to a public use, the RON must include a finding that the use of the property interests sought to be acquired for the Project are a compatible use that will not unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure section 1240.510) or the use of the property interests sought to be acquired for the Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure section 1240.610). The RONs should also confirm that the requirements under California Environmental Quality Act (CEQA) have been satisfied for the Project that the City has complied with the notice requirements set forth in Code of Civil Procedure section 1245.235, and that all conditions and statutory requirements to exercise the power of eminent domain to acquire the properties described in the Resolutions of Necessity have been complied with by the City.

This staff report provides data and information addressing each of these issues.

THE PUBLIC INTEREST AND NECESSITY REQUIRE THE PROJECT

A. Description of Existing Conditions

Mountain House Parkway is a north-south arterial running from Byron Road in Mountain House to the eastbound (EB) I-205 ramp intersection, where it becomes International

Parkway. North of I-205, Mountain House Parkway is a median-separated four-lane roadway with a posted speed limit of 45 miles per hour (mph), which serves primarily residential and agricultural uses. From the EB I-205 ramp intersection to Berkeley Road, International Parkway narrows to one lane in each direction with a 45-mph speed limit with limited adjacent land uses. From South of Berkeley Road to Schulte Road, International Parkway widens to two southbound lanes and one northbound lane adjacent to large-scale light-industrial uses, eventually widening to two lanes in each direction at its intersection with Schulte Road. South of Schulte Road, International Parkway narrows to one lane in each direction at the intersection of I-580 and becomes Patterson Pass Road south of I-580. International Parkway is planned to be widened to four lanes (two lanes in each direction) as part of the Cordes Ranch development project as outlined in the adopted Specific Plan. Within the project area, Patterson Pass Road-International Parkway is a two-lane road with 12-foot lanes, 4-foot outside shoulders and no median or sidewalks.

I-580 is a major west-east freeway that connects the San Francisco Bay Area to the Central Valley. I-580, between I-680 in Dublin and the junction at I-5, is designated as a route on the Rural and Single Interstate Routing System. In the Project vicinity I-580 essentially travels in a north-south direction, originating in Marin County and running through Alameda County to San Joaquin County, eventually terminating at its intersection with I-5 southeast of Tracy. The existing I-580/I-205 freeway-to-freeway interchange is 2.15 miles to the west of the I-580/Patterson Pass Road-International Parkway interchange, which is less than the standard 3 mile spacing required between a local interchange and a freeway-to-freeway interchange, and the I-580/Corral Hollow Road interchange is 5.4 miles to the east. West of I-205, I-580 provides four mixed-flow lanes in each direction with a posted speed limit of 70 mph. Between I-205 and I-5, I-580 provides two lanes in each direction with a posted speed limit of 70 mph. Through the Project area, I-580 is a four-lane freeway with 12-foot lanes, 10-foot outside shoulders, 5-foot inside shoulders, and a median width of approximately 74 feet. The freeway to freeway (I-580/I-205) interchange provides connectors between I-205 westbound (WB) and I-580 WB, and between I-580 EB and I-205 EB. Ramps at Mountain House Parkway/Patterson Pass Road provide the nearest access to the future developments adjacent to I-580.

The existing interchange of I-580/International Parkway is a tight diamond interchange with a two-lane road overcrossing. The ramps are one-lane in all directions; the off-ramps are currently controlled by signals.

As the Project sponsor, the City of Tracy, has been actively involved in the development of the Project in partnership with Caltrans. The Draft Environmental Document was approved for public circulation on June 10, 2020, and the Draft Project Report was approved on June 23, 2020. Community outreach took place during circulation of the Draft Environmental Document in July 2020. A public hearing was offered but there was no request for one.

The Final Initial Study/Mitigated Negative Declaration (IS/MND) (CEQA Approval) and Categorical Exclusions (CE) (National Environmental Policy Act (NEPA) Approval) were obtained on February 25, 2021. The CEQA and NEPA Approvals and all studies and documents related thereto are incorporated herein by reference as if fully set forth in full and are available for review.

B. Public Need and Necessity

The Project is needed to reduce congestion resulting from ongoing and planned development as well as to improve local traffic circulation. The Project is needed to accommodate the increase in traffic demand projected as part of the planned development in the Cordes Ranch Specific Plan area and nearby areas in the City of Tracy and to discourage highway traffic from using local roadways, thereby improving local circulation.

The Cordes Ranch Specific Plan Environmental Impact Report (EIR) concluded that traffic resulting from the specific plan development would cause a significant impact on the intersections of International Parkway and the on-ramps and off-ramps of I-580. The Project was identified as a mitigation measure to reduce potential impacts to a less than significant level in the EIR for the Cordes Ranch Specific Plan.

Under existing conditions, the I-580/International Parkway Interchange serves a combination of traffic to and from the Cordes Ranch Specific Plan area and regional traffic from Schulte Road in Tracy. Because of the congestion on I-580, I-205, and the Altamont Pass to and from the Bay Area, a significant amount of commuter traffic uses the I-580/International Parkway Interchange and Patterson Pass Road to bypass Altamont Pass during the morning and evening peak periods, resulting in congestion and delays at the existing side street intersections. Under existing pre-Project conditions, congestion and delays at three of the four intersections examined by the CEQA Approval operate at an unacceptable level of service, which is defined as the measure of the quality of performance of intersections and road or highway segments related to traffic flow and time delay.

The Project is designed to accommodate traffic resulting from congestion as described above, and the ongoing and planned development, primarily of the Cordes Ranch Specific Plan area. The Project as proposed will bring substantial benefits to the public and the local community by reducing traffic congestion and delay on the freeways and intersections and increasing safety.

THE PROJECT IS PLANNED OR LOCATED IN THE MANNER THAT WILL BE MOST COMPATIBLE WITH THE GREATEST PUBLIC NEED AND LEAST PRIVATE INJURY

A. Project Alternatives

Several design alternatives were reviewed by Caltrans and the City of Tracy as a part of the Project development. These included a No Project Alternative, the Diverging Diamond Interchange (DDI) Alternative, a Compact Diamond (Type L-1) Alternative, and a Partial Cloverleaf (Type L-9) Alternative.

The No Project Alternative would result in continued and worsening traffic and congestion on intersections and freeway operations, with impacts to the community from traffic associated with nearby freeways and the Cordes Ranch Specific Plan area. Three of the four studied intersections would worsen to unacceptable levels of service. By 2043, all four intersections would worsen to unacceptable levels of service. At the International Parkway/I-580 westbound ramps, levels of service for morning and evening peak hours would worsen to unacceptable level of service. At the International Parkway diagonal off ramp, levels of service would decrease to unacceptable conditions in the morning peak hours, and by 2043, all westbound segments would operate at unacceptable conditions in the morning peak hours and all eastbound segments would operate at unacceptable level of service during the evening peak hours. The current poor traffic operation is primarily due to commuter traffic which results in long delays on mainline I-580 and heavy congestion at local intersections.

The DDI Alternative, which is the Project, allows a compact diamond configuration with minor realignments to the existing ramps that will reduce the footprint of the interchange, and maintain access to an existing gas station while accomplishing the goals of reducing congestion resulting from ongoing and planned development as well as improving local traffic circulation. Vehicle delay will be reduced for almost all travel lanes, and overall intersection operation will be improved at all studied locations by at least one level of service letter grade. This Alternative [the Project] will improve operation of the International Parkway/I-580 westbound ramp connection, Patterson/Frontage Road ramp, and Patterson Pass Road/I-580 eastbound ramp, alleviate congestion on I-580, and significantly reduce intersection vehicle delay in almost all travel lanes.

The Type L-1 Alternative was considered but rejected due to poor operational performance. It was not compatible with the greatest public good.

The Type L-9 Alternative was considered but rejected because the DDI Alternative [the Project] achieves comparable operational performance with a significantly smaller footprint, lower cost, and significant reduction of right-of-way acquisition, meaning less private property would be needed to construct the Project.

In sum, the DDI Alternative was selected because it improves traffic flow and safety, while providing the best total project cost and requires the least impact to private properties. Therefore, the Project is planned or located in the manner that will be most compatible with the greatest public need and least private injury.

B. Project Features

The Project will divert traffic in both directions to the opposite side of the road while crossing I-580, providing direct left turns to I-580 on-ramps and from I-580 off-ramps. Traffic will be signalized where it crosses to the other side of the road in either direction.

The existing Patterson Pass Road overcrossing will be widened to the east to accommodate three 14-foot northbound lanes, two 14-foot southbound lanes, 6-foot outside and inside shoulders, a 15-foot-wide multi-use (bicycle and pedestrian) path in the middle of the overcrossing, and 6-foot-wide Class II Bike Lanes are also provided through the interchange.

The EB on-ramp will be realigned to allow for three lanes, including a HOV lane at the entrance ramp. The WB on-ramp will consist of two general purpose lanes and an HOV lane.

The WB off-ramp will be a two-lane exit ramp that will widen to four lanes: two left turn lanes to Patterson Pass Road and two right-turn lanes to International Parkway. The Project will also add a 1,500-foot auxiliary lane for the WB off-ramp. The EB off-ramp will remain a single-lane exit ramp that will widen to three lanes: two left-turn lanes and a single right-turn lane to Patterson Pass Road.

The Project maintains access to the existing gas station in the southwest quadrant of the interchange through a modified driveway along Patterson Pass Road and a new public road being acquired. Modification to the EB off-ramp will require realigning the existing private road and converting it to a public road to connect to Patterson Pass Road south of the gas station. A new driveway to the gas station is proposed to connect to the new public road with an intersection to provide access to Patterson Pass Road approximately 500 feet from the

intersection of Patterson Pass Road and the EB ramps. Improvements will conform to Patterson Pass Road extending south approximately to the intersection with Via Nicolo Road to provide adequate distance for reducing the number of travel lanes from four lanes through the interchange to the existing two lanes on Patterson Pass Road. The public road will have public parking to accommodate tired commuters, allow for park and ride opportunities, and to allow the City of Tracy, as well as other public entities to conduct maintenance of their facilities.

Improvements north of I-580 on Patterson Pass Road will conform just south of the existing California Aqueduct Overcrossing.

The existing underground drainage systems and cross culverts in the interchange area will be modified/replaced as needed for the new and modified interchange ramps. Roadside ditches will be reconstructed/added to continue to convey surface runoff generally to the existing low point along I-580 just east of the existing OC and ultimately to the north to the California Aqueduct. The existing Caltrans right-of-way along I-580 at the approaches to the interchange will be maintained while additional right-of-way in the interchange area will be needed for the ramp modifications. The limits of access control will be extended south along Patterson Pass Road and north along International Parkway to accommodate the ramp modifications.

The Project is, therefore, planned or located in the manner that will be most compatible with the greatest public need. Moreover, as explained above, it is also planned to minimize impacts to private properties.

THE PROPERTY INTERESTS DESCRIBED IN THE RESOLUTIONS OF NECESSITY ARE NECESSARY FOR THE PROJECT

90.13 linear feet, including access rights and 142.62 linear feet in abutter's rights of access is needed from the property located at 25775 Patterson Pass Road in unincorporated San Joaquin County APN 209-100- 040 to limit access. The acquisition areas are described and depicted in the legal description and plat map attached to the RON for Minimart as Exhibits A and B.

25.03 linear feet in abutter's rights, including access rights are needed from the property located at 25883 S. Patterson Pass Road in unincorporated San Joaquin County, California, APN 209-100-280 to limit access. The acquisition areas are depicted and described in Exhibits A and B attached to the RON for Kaur et. al.

The various property interests being acquired for the Project are referred to collectively as the Subject Property Interests.

STATUTORY AUTHORIZATION FOR EXERCISING EMINENT DOMAIN

The City is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses set forth herein pursuant to Article 1, Section 19 of the Constitution of the State of California, Section 37350.5 and 40404 of the California Government Code, and Sections 1240.010-1240.050, 1240.110, 1240.120, 1240.150, 1240.220, 1240.410, 1240.610, and 1240.650 of the California Code of Civil Procedure.

Under Government Code section 37350.5, cities are authorized to "acquire by eminent domain

any property necessary to carry out any of its powers or functions.” Cities have “considerable discretion in identifying and implementing public uses.” (*City of Oakland v. Oakland Raiders* (1982) 32 Cal.3d 60, 70).

Under Government Code section 40404, cities “may acquire private property by condemnation or otherwise when it is necessary to take or damage such property for (a) Establishing, laying out, extending, and widening streets and other public highways and places within the city. (b) Rights-of-way for drains, sewers, and aqueducts...(f) Any other purposes authorized by law.”

Based on the foregoing, the City is authorized to acquire the Subject Property Interests by eminent domain.

COMPLIANCE WITH EMINENT DOMAIN REQUIREMENTS

1. Notice of Decision to Appraise

As a part of the right-of-way acquisition process, the City sent the owners a notice of decision to appraise on the dates listed below:

- ARP Minimart Corporation – July 15, 2022 and May 22, 2023.
- Harminder Kaur; Rajwinder Kaur; Gupreet Singh; Charnit Singh and Ramandeep Kaur, Trustees – July 26, 2022 and May 22, 2023.

The Notices of Decision to Appraise are incorporated herein by reference and available for review.

2. Government Code Offer

The City extended a written offer pursuant to Government Code Section 7267.2 for the purchase of the property interests needed for the Project at the dates listed below:

- ARP Minimart Corporation – October 11, 2023
 - Approximate 90.13 linear feet in abutter’s rights, including access rights and 142.63 linear feet in abutter’s rights of access
- Harminder Kaur; Rajwinder Kaur; Gupreet Singh; Charnit Singh and Ramandeep Kaur, Trustees – 10/11/2023
 - Approximate 25.03 linear feet in abutter’s rights, including access rights

The City’s written offer included an informational pamphlet describing the eminent domain process and the record owner’s rights under the Eminent Domain Law. In accordance with Government Code Section 7267.2, the City’s written offer contained a written statement of, and summary of the basis for, the amount it established as just compensation. The City provided a copy of the independent appraisal, prepared by a qualified appraiser, to the owners which described the date of value utilized by the appraiser and explained the appraiser’s opinion of the highest and best use of the larger parcel, and the applicable zoning and General Plan designation of the larger parcel. The appraisal also included the principal transactions

relied on by the appraiser to arrive at the appraiser's opinion of value and explained the appraiser's valuation analysis, including severance damages. Further, the City offered, pursuant to Code of Civil Procedure Section 1263.025, to pay the record owner the reasonable costs, up to \$5,000.00, for an independent appraisal of the parcels. The offer packages sent to each property owner is incorporated herein by reference and made a part of this staff report and are available for review.

3. Good Faith Negotiations

The City has attempted to negotiate with the owners in good faith to purchase all the property interests needed for the Project. As of the date of this staff report, the parties have not reached a settlement for the City's purchase of the needed property interests. Based on the timing of the construction schedule for the Project, and the fact that eminent domain actions have already been filed and possession of all needed property interests except those the subject of the RON hearing have already been obtained by the City and a trial date has already been set for Kaur et al, it is necessary for the City to consider the adoption of Resolutions of Necessity at this time. The City continues to work with owners in hopes of avoiding trial and reaching an amicable settlement, but the property owners would like to defend only one action that includes all property interests needed for the Project. Representatives of the property owners have both articulated a desire to try to settle once the abutter's rights are added to the pending eminent domain actions.

4. Notices of Intent to Adopt RONs Were sent to Each of the Record Owners

The notice of hearing as to the RONs for Minimart and Kaur et al., incorporated herein by reference, were mailed by certified mail, return receipt requested to all of the record property owner(s) which evidence that the required statutory notice has been provided. The notices to the record owner(s) provided notice of and a reasonable opportunity to appear and be heard before the City Council on the following matters:

- a. whether the public interest and necessity require the Project.
- b. whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
- c. whether the Subject Property Interests are necessary for the Project.
- d. whether the offer required by Government Code section 7267.2 has been made to all owners of record unless the owner(s) could not be located with reasonable diligence.

Notice was provided to the private record owner(s)' legal representative to the extent such owner(s) notified the City they were being represented by counsel. These notices are available for review and are a part of this staff report.

FISCAL IMPACT

The Interstate 580/Patterson Pass Road/International Parkway Diverging Diamond Interchange, CIP 73147, is an approved Capital Improvement Project with a total budget of \$50,877,000.

PUBLIC OUTREACH / INTEREST

Caltrans and the City of Tracy circulated the draft Initial Study/Mitigated Negative Declaration (IS/MND) for public comment and review on July 1, 2020. An opportunity for a public meeting was offered, but none was requested. All written comments received were addressed in the final IS/MND for CEQA and Categorical Exclusion for NEPA.

The project was submitted as the City of Tracy 2023 regional transportation submittal for congressional appropriation requests during the San Joaquin Council of Government's (SJCOG) One Voice trip to Washington D.C.

COORDINATION

The City's Engineering Division coordinated with several stakeholders including Caltrans staff, SJCOG staff, Federal Highway Administration (FHWA), resource agency staff, California Public Utilities Commission (CPUC), California Highway Patrol, public and private utility companies.

CEQA DETERMINATION

The Final IS/MND (CEQA Approval) and CE (NEPA Approval) were obtained on February 25, 2021. Those documents as well as all related studies and reports are incorporated by reference and made a part of this staff report.

STRATEGIC PLAN

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

ACTION REQUESTED OF THE CITY COUNCIL

The City Council, by resolution:

1. Conduct a hearing on the Resolutions of Necessity (RON) to authorize the acquisition of abutter's rights and access thereto from two properties already the subject of eminent domain actions for the I-580/Patterson Road Interchange Project (CIP 73147) and to make the required findings for these two properties owned by and located at:
 1. ARP Minimart Corporation – 25775 Patterson Pass Road (Assessor's Parcel Number 209-100-040) (Minimart); and
 2. Harminder Kaur; Rajwinder Kaur; Gupreet Singh; Charnit Singh and Ramandeep Kaur, Trustees – 25883 S. Patterson Pass Road (Assessor's Parcel Number 209-100-280) (Kaur et al).
2. Adopt RONs for Minimart and Kaur et al., Finding that the Public Interest, Convenience and Necessity Require the Acquisition of Certain Property Interests for the Project, Authorizing the Acquisition Thereof, and Directing the City Attorney to File Eminent Domain Proceedings.

Prepared by: Sharat Bandugula, PE, Senior Civil Engineer

Reviewed by: Koosun Kim, PE, City Engineer
Sara Castro, Finance Director
Bijal M. Patel, City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

ATTACHMENTS

Attachment A – RON FOR ARP Minimart Corporation – 25775 Patterson Pass Road
(Assessor's Parcel Number 209-100-040).

Attachment B – RON for Harminder Kaur; Rajwinder Kaur; Gupreet Singh; Charnit Singh and
Ramandeep Kaur, Trustees – 25883 S. Patterson Pass Road (Assessor's
Parcel Number 209-100-280).

EXHIBIT “A”
LEGAL DESCRIPTION
RELINQUISHMENT OF ACCESS RIGHTS

PARCEL 17571-2

All that real property in the unincorporated area of County of San Joaquin, within Section 33, Township 2 South, Range 4 East, Mount Diablo Meridian, described in that GRANT DEED, recorded August 31, 2005, as Document Number 2005-216968, San Joaquin County Official Records, as shown on that certain Map, filed June 10, 1969, as Book 19 of Surveys Page 62, San Joaquin County Records more particularly described as:

This conveyance is made for the purpose of a freeway and the grantor hereby releases and relinquishes to the grantee any and all abutter's rights, including access rights, over and across the following described line:


COMMENCING at the most southerly corner of said Map, said corner being the southeasterly terminus of that course shown as “N 20°50'49” W 206.16” on said Map, being the northwesterly right-of-way of Patterson Pass Road, as shown on the “PROPOSED RELINQUISHMENT MAP TO THE COUNTY OF SAN JOAQUIN”, filed in State Highway Book No. 15, at Page 29;

Thence along the southeasterly line of said Map, North 55°07'52” East (Record = N 55°07” E as shown on said Map), 159.86 feet, to the **POINT OF BEGINNING** of this line description;

Thence continuing along said southeasterly line, 90.13 feet to the westerly line of Parcel 1, as shown on said Map to the **POINT OF TERMINATION**.

The bearings and distances used in the above description are based on the California Coordinate System of 1983, Zone 3, Epoch 2010.00. Multiply the above distances by 1.000077186 to obtain ground level distances.

This real property description has been prepared at Mark Thomas & Company Inc. by me or under my direction in conformance with the Professional Land Surveyors' Act.



Bob R. Knuth, LS 7938



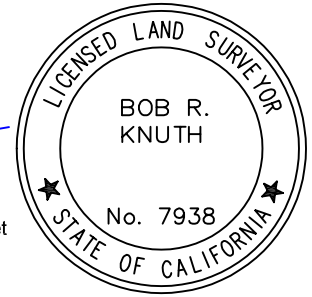
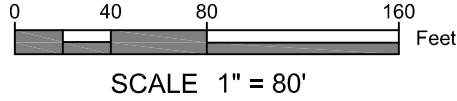
April 14, 2023
Date

LEGEND

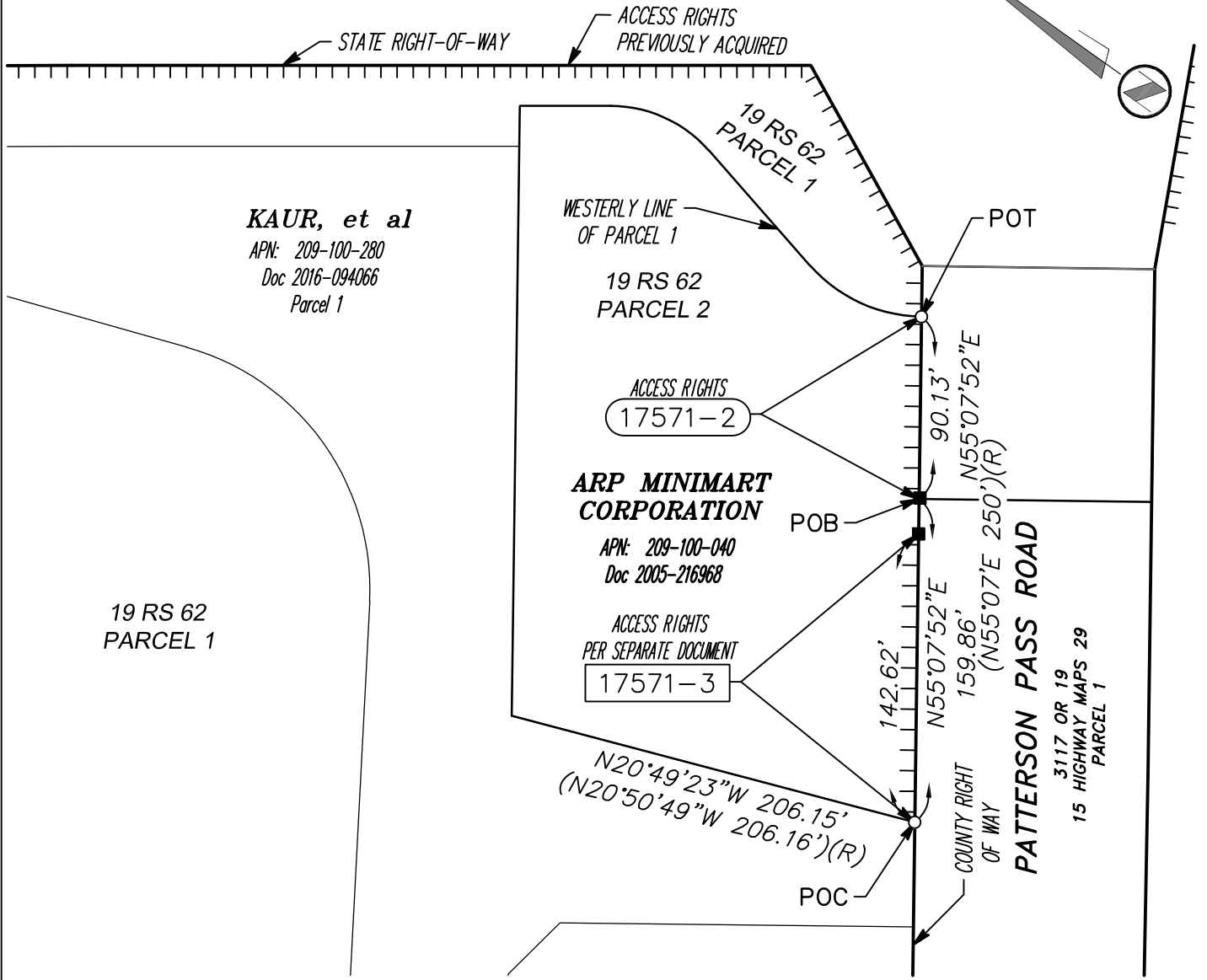
- POB POINT OF BEGINNING
- POC POINT OF COMMENCEMENT
- POT POINT OF TERMINATION
- DIMENSION POINT
- ||| ACCESS CONTROLLED
- (R) RECORD DATA PER 19 RS 62
- ACCESS OPENING (PRIVATE)

SECTION 33
T2S, R4E M.D.M.

Bob R Knuth



INTERSTATE 580



SHEET 1 OF 1



Scale: 1" = 80'
Date April 2023
Drawn By MLP
Checked By BRK

Exhibit B
Parcel 17571-2
APN 209-100-040
Plat to Accompany Legal Description
In the County of San Joaquin, California

Bearings and distances are based on the California Coordinate System of 1983, Zone 3, Epoch 2010.00. Multiply distances shown by 1.000077186 to obtain ground level distances.

EXHIBIT "A"
LEGAL DESCRIPTION
RELINQUISHMENT OF ACCESS RIGHTS

PARCEL 17571-3

All that real property in the unincorporated area of County of San Joaquin, within Section 33, Township 2 South, Range 4 East, Mount Diablo Meridian, described in that GRANT DEED, recorded August 31, 2005, as Document Number 2005-216968, San Joaquin County Official Records, as shown on that certain Map, filed June 10, 1969, as Book 19 of Surveys Page 62, San Joaquin County Records more particularly described as:

The grantor hereby releases and relinquishes to the grantee any and all abutter's rights of access appurtenant to the above described property in and to Petterson Pass Road right-of-way over and across the following described line:

BEGINNING at the southeasterly terminus of that course shown as "N 20°50'49" W 206.16'" on said Map, being on the northwesterly right-of-way of Patterson Pass Road, as shown on the "PROPOSED RELINQUISHMENT MAP TO THE COUNTY OF SAN JOAQUIN", filed in State Highway Book No. 15, at Page 29, said southeasterly terminus being the **POINT OF BEGINNING** of this line description;

Thence along the southeasterly line of said Map, North 55°07'52" East (Record = N 55°07" E as shown on said Map), 142.62 feet, to the **POINT OF TERMINATION**.

The bearings and distances used in the above description are based on the California Coordinate System of 1983, Zone 3, Epoch 2010.00. Multiply the above distances by 1.000077186 to obtain ground level distances.

This real property description has been prepared at Mark Thomas & Company Inc. by me or under my direction in conformance with the Professional Land Surveyors' Act.



Bob R. Knuth, LS 7938



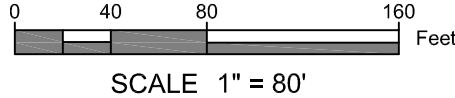
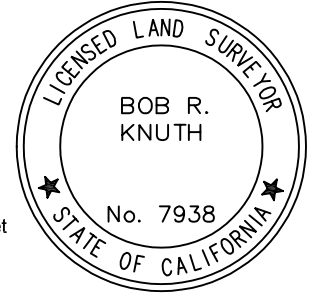
April 14, 2023
Date

LEGEND

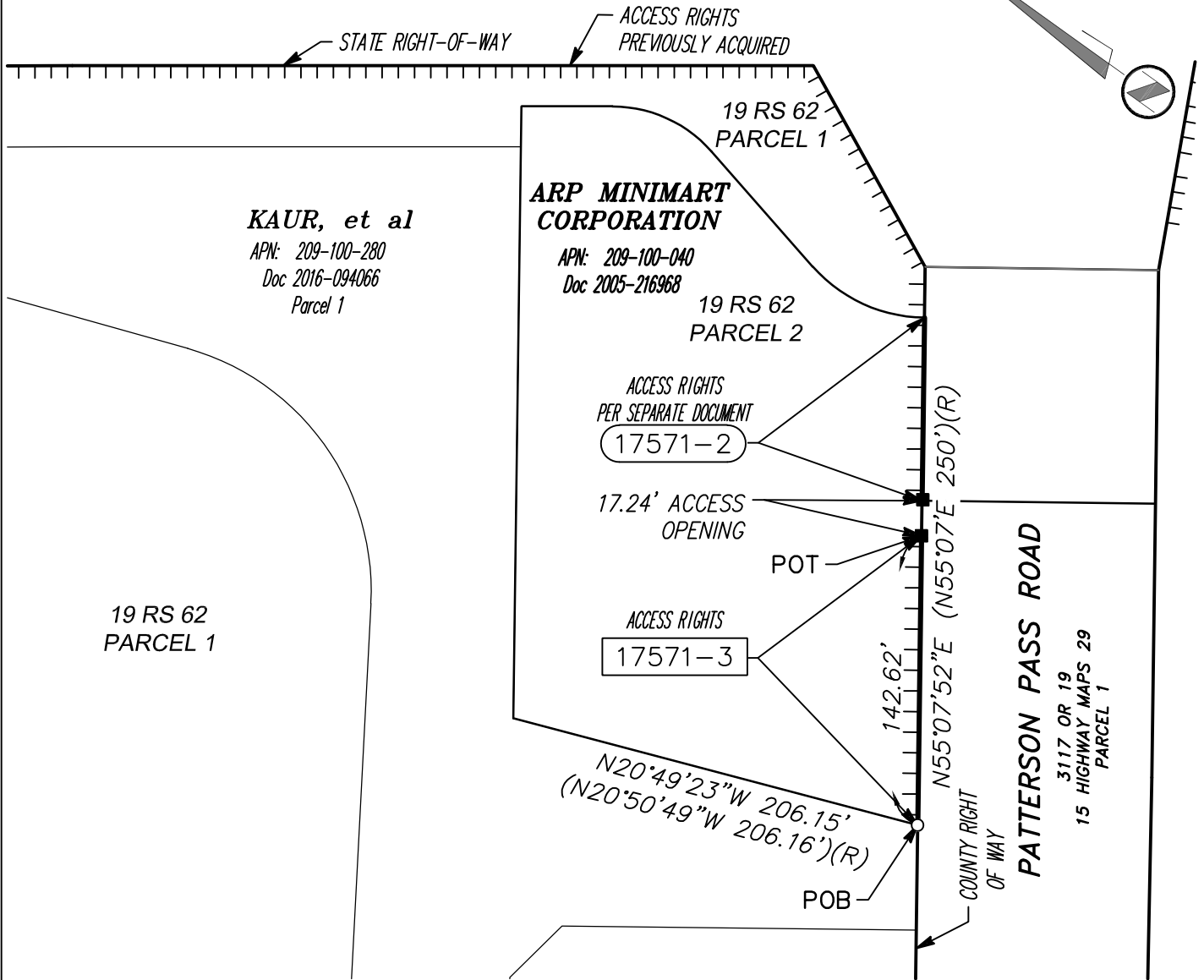
- POB POINT OF BEGINNING
- POT POINT OF TERMINATION
- o DIMENSION POINT
- ||| ACCESS CONTROLLED
- (R) RECORD DATA PER 19 RS 62
- ACCESS OPENING (PRIVATE)

SECTION 33
T2S, R4E M.D.M.

Bob R Knuth



INTERSTATE 580



SHEET 1 OF 1



Scale: 1" = 80'
Date April 2023
Drawn By MLP
Checked By BRK

Exhibit B
Parcel 17571-3
APN 209-100-040
Plat to Accompany Legal Description
In the County of San Joaquin, California

Bearings and distances are based on the California Coordinate System of 1983, Zone 3, Epoch 2010.00. Multiply distances shown by 1.000077186 to obtain ground level distances.

EXHIBIT "A"

LEGAL DESCRIPTION

RELINQUISHMENT OF ACCESS RIGHTS

PARCEL 17574-6

All that real property in the unincorporated area of County of San Joaquin, within Section 33, Township 2 South, Range 4 East, Mount Diablo Meridian, described and designated as "Parcel "1" Per PA 1600069" in that certain NOTICE OF LOT LINE ADJUSTMENT, recorded August 11, 2016, as Document Number 2016-094066, San Joaquin County Official Records, more particularly described as:

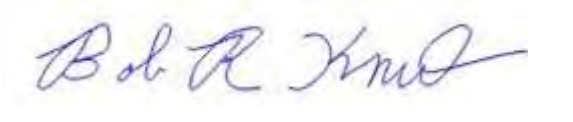
This conveyance is made for the purpose of a freeway and the grantor hereby releases and relinquishes to the grantee any and all abutter's rights, including access rights, over and across the following described line:

BEGINNING at the easterly common corner between Parcel 1 and Parcel 2 as shown on that certain Map, filed for record on June 10, 1969, in Book 19 of Surveys at Page 62, San Joaquin County Records, said corner being situated on the northwesterly right-of-way of Patterson Pass Road, as right-of-way is delineated in "PROPOSED RELINQUISHMENT TO THE COUNTY OF SAN JOAQUIN", filed in the State Highway Map Book No. 15, at Page 29;

Thence along the southeasterly line of said Parcel 1 of said Map, North 55°07'52" East (Record= N. 55°07' E as shown on said Map), 25.03 feet to the southwesterly terminus of the course shown as "(39) N. 25°20'18" E., 113.50 feet" in that AMENDED PARCEL 4-A of that certain FINAL ORDER OF CONDEMNATION, recorded January 2, 1967 in Book 3095 at Page 691, San Joaquin County Official Records and the **POINT OF TERMINATION**.

The bearings and distances used in the above description are based on the California Coordinate System of 1983, Zone 3, Epoch 2010.00. Multiply the above distances by 1.000077186 to obtain ground level distances.

This real property description has been prepared at Mark Thomas & Company Inc. by me or under my direction in conformance with the Professional Land Surveyors' Act.



Bob R. Knuth, LS 7938



April 14, 2023
Date

INTERSTATE 580

SECTION 33
T2S, R4E M.D.M.

FEE & ACCESS RIGHTS
PER SEPARATE DOCUMENT

17574-1

STATE RIGHT OF WAY

3095 OR 691
PARCEL NO. 4-A

19 RS 62
PARCEL 1

KAUR, et al

Project Parcel # 17574
APN: 209-100-280
Doc 2016-094066
Parcel 1

ACCESS RIGHTS
PREVIOUSLY
ACQUIRED

POT

19 RS 62
PARCEL 2

APN: 209-100-040
Doc 2005-216968
Parcel 2

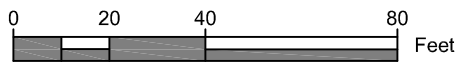
ACCESS RIGHTS
17574-6

POB

PROPERTY LINE

LINE TABLE

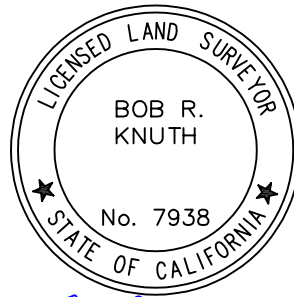
L1 S55°07'52"W 25.03'



SCALE 1" = 40'

LEGEND

- POB POINT OF BEGINNING
- POT POINT OF TERMINATION
- o DIMENSION POINT
- ||| ACCESS CONTROLLED
- (R1) RECORD DATA PER 3117 OR 19
- (R2) RECORD DATA PER 3095 OR 691
- ACCESS OPENING (PRIVATE)



Bob R Knuth

17.24' ACCESS
OPENING

N55°07'52"E 530.32'
(N.55°07'E: 530.32')(R1)

COUNTY RIGHT OF WAY

PATTERSON PASS ROAD
3117 OR 19
15 HIGHWAY MAPS 29
PARCEL 1

SHEET 1 OF 1



Scale: 1" = 40'
Date April 2023
Drawn By MLP
Checked By BRK

Exhibit B
Parcel 17574-6
APN 209-100-280
Plat to Accompany Legal Description
In the County of San Joaquin, California

Bearings and distances are based on the California Coordinate System of 1983, Zone 3, Epoch 2010.00. Multiply distances shown by 1.000077186 to obtain ground level distances.

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF TRACY FINDING THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN PROPERTY INTERESTS FOR THE PUBLIC PROJECT (I-580/PATTERSON PASS ROAD INTERCHANGE PROJECT, CIP 73147), AUTHORIZING THE ACQUISITION THEREOF, AND DIRECTING THE CITY ATTORNEY TO FILE EMINENT DOMAIN PROCEEDINGS.

(ARP MINI MART, APN 209-100-040)

WHEREAS, the City of Tracy (City), in cooperation with the California Department of Transportation (Caltrans), seeks to construct the proposed Interstate 580 (I-580)/Patterson Pass Road Interchange (Project), which consists of modifications to the existing interchange, freeway auxiliary lanes, and connecting roadways at the existing Patterson Pass Road Interchange at I-580 in Tracy; and

WHEREAS, the City and the State of California, acting through Caltrans, entered into a Cooperative Agreement (Agreement 10-516) on February 4, 2021, which set forth the obligations of the parties in connection with the Project. Pursuant to Agreement 10-516, Caltrans is the lead agency under the National Environmental Policy Act of 1969, as amended (Pub. L. 91-190, 42 U.S.C. 4321-4347, January 1, 1970, as amended by Pub. L. 94-52, July 3, 1975, Pub. L. 94-83, August 9, 1975, and Pub. L. 97-258, § 4(b), Sept. 13, 1982) (NEPA) and under the California Environmental Quality Act (CEQA), Public Resources Code Section 21000, *et seq.* The City is the sponsor of the Project, and is the implementing agency for plans, specifications, estimates, and right-of-way activities; and

WHEREAS, pursuant to Agreement 10-516, the parties agreed that the City is authorized to hear and adopt Resolutions of Necessity in connection with the Project and in accordance with applicable law; and

WHEREAS, it is desirable and necessary for the City to acquire certain real property specifically 90.13 linear feet in abutter's rights, including access rights and 142.62 linear feet in abutter's rights of access from the improved property located at 25775 Patterson Road in the unincorporated area of San Joaquin County, California, Assessor's Parcel Number 209-100-040 (Subject Property), for the Project; and

WHEREAS, the City is vested with the power of eminent domain to acquire real property by virtue of Article 1, Section 19 of the Constitution of the State of California, Section 37350.5 and 40404 of the California Government Code, and Sections 1240.010-1240.050, 1240.110,

1240.120, 1240.150, 1240.220, 1240.410, 1240.610, and 1240.650 of the California Code of Civil Procedure; and

WHEREAS, pursuant to the provisions of Section 7267.2 of the California Government Code, the City made an offer to the owners of record to acquire the abutter's rights and access thereto described and depicted in **Exhibit 1 (Plat and Legal descriptions)** for the amount which it established to be just compensation; and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure, written notice of the intent to consider the adoption of this resolution of necessity was sent on August 16, 2024, to ARP Minimart Corporation, the owners of record of the Subject Property providing them notice and granting them a reasonable opportunity to appear and be heard before the City Council at the Resolution of Necessity hearing held on September 17, 2024 on the following matters:

- a. Whether the public interest and necessity require the Project;
- b. Whether the Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- c. Whether the abutter's rights and access thereto described and depicted in **Exhibit 1 (Plat and Legal descriptions)** are necessary for the Project; and
- d. Whether the offer required by Government Code Section 7267.2 has been made to all owners of record; and

WHEREAS, due consideration of all oral and documentary evidence introduced has been given; and

NOW, THEREFORE, be it, by vote of four (4/5) or more of its members, the City Council of the City of Tracy found; and be it

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

FURTHER RESOLVED: That the public interest and necessity require the Project which is intended to reduce traffic congestion and improve local traffic circulation; and be it

FURTHER RESOLVED: That the Project is planned or located in a manner that will be the most compatible with the greatest public good and the least private injury; and be it

FURTHER RESOLVED: That the taking of the abutter's rights and access thereto more particularly described and depicted in **Exhibit 1 (Plat and Legal descriptions)** is necessary for the Project; and be it

FURTHER RESOLVED: That the offer to purchase required by California Government Code section 7267.2 has been made to the record owner(s) of the Subject Property; and be it

FURTHER RESOLVED: That the necessary notice of hearing on this Resolution has been given as required by Code of Civil Procedure section 1245.235; and be it

FURTHER RESOLVED: That the City has fully complied with the California Environmental Quality Act (CEQA) with respect to the Project and the acquisition of the

abutter's rights and access thereto, as The Final Initial Study/Mitigated Negative Declaration (IS/MND) (CEQA Approval) and CE (National Environmental Policy Act (NEPA) Approval) were obtained on February 25, 2021; and be it

FURTHER RESOLVED: That the City has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain (the "right to take") to acquire the abutter's rights and access thereto; and be it

FURTHER RESOLVED: That the City declares its intention to acquire the abutter's rights and access thereto in accordance with the provision of the laws of the State of California governing condemnation procedures; and be it

FURTHER RESOLVED: That the City finds that if any portion of the abutter's rights and access thereto has been appropriated to some public use, the public uses to which it is to be applied by the City for the Project, as described above, are more necessary and paramount public uses, pursuant to Code of Civil Procedure section 1240.610, or, alternatively, are compatible with those other uses pursuant to Code of Civil Procedure section 1240.510; and be it

FURTHER RESOLVED: That the City is AUTHORIZED AND EMPOWERED:

1. To acquire in the name of the City of Tracy, by condemnation, the abutter's rights and access thereto in accordance with the provisions of the eminent domain law, the Code of Civil Procedure, the Government Code, and the Constitution of California;
2. To prepare and prosecute in the name of the City of Tracy, such proceedings in the proper court as are necessary for such acquisition; and
3. To deposit the probable amounts of compensation, based on appraisals, and to apply to said court for an order permitting the City of Tracy to take immediate possession and use said abutter's rights and access thereto for said public uses and purposes.

The foregoing Resolution 2024-_____ was adopted by the Tracy City Council on the 17TH day of September 2024 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

EXHIBITS:

Exhibit 1 – RON FOR ARP Minimart Corporation – 25775 Patterson Pass Road
(Assessor’s Parcel Number 209-100-040).

EXHIBIT “A”
LEGAL DESCRIPTION
RELINQUISHMENT OF ACCESS RIGHTS

PARCEL 17571-2

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This conveyance is made for the purpose of a freeway and the grantor hereby releases and relinquishes to the grantee any and all abutter's rights, including access rights, over and across the following described line:

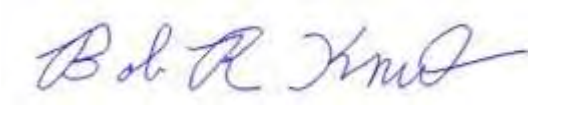
COMMENCING at the most southerly corner of said Map, said corner being the southeasterly terminus of that course shown as “N 20°50'49” W 206.16” on said Map, being the northwesterly right-of-way of Patterson Pass Road, as shown on the “PROPOSED RELINQUISHMENT MAP TO THE COUNTY OF SAN JOAQUIN”, filed in State Highway Book No. 15, at Page 29;

Thence along the southeasterly line of said Map, North 55°07'52” East (Record = N 55°07” E as shown on said Map), 159.86 feet, to the **POINT OF BEGINNING** of this line description;

Thence continuing along said southeasterly line, 90.13 feet to the westerly line of Parcel 1, as shown on said Map to the **POINT OF TERMINATION**.

The bearings and distances used in the above description are based on the California Coordinate System of 1983, Zone 3, Epoch 2010.00. Multiply the above distances by 1.000077186 to obtain ground level distances.

This real property description has been prepared at Mark Thomas & Company Inc. by me or under my direction in conformance with the Professional Land Surveyors' Act.



Bob R. Knuth, LS 7938



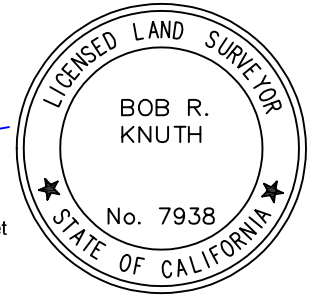
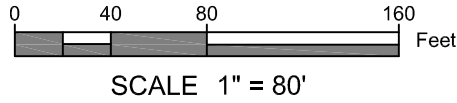
April 14, 2023
Date

LEGEND

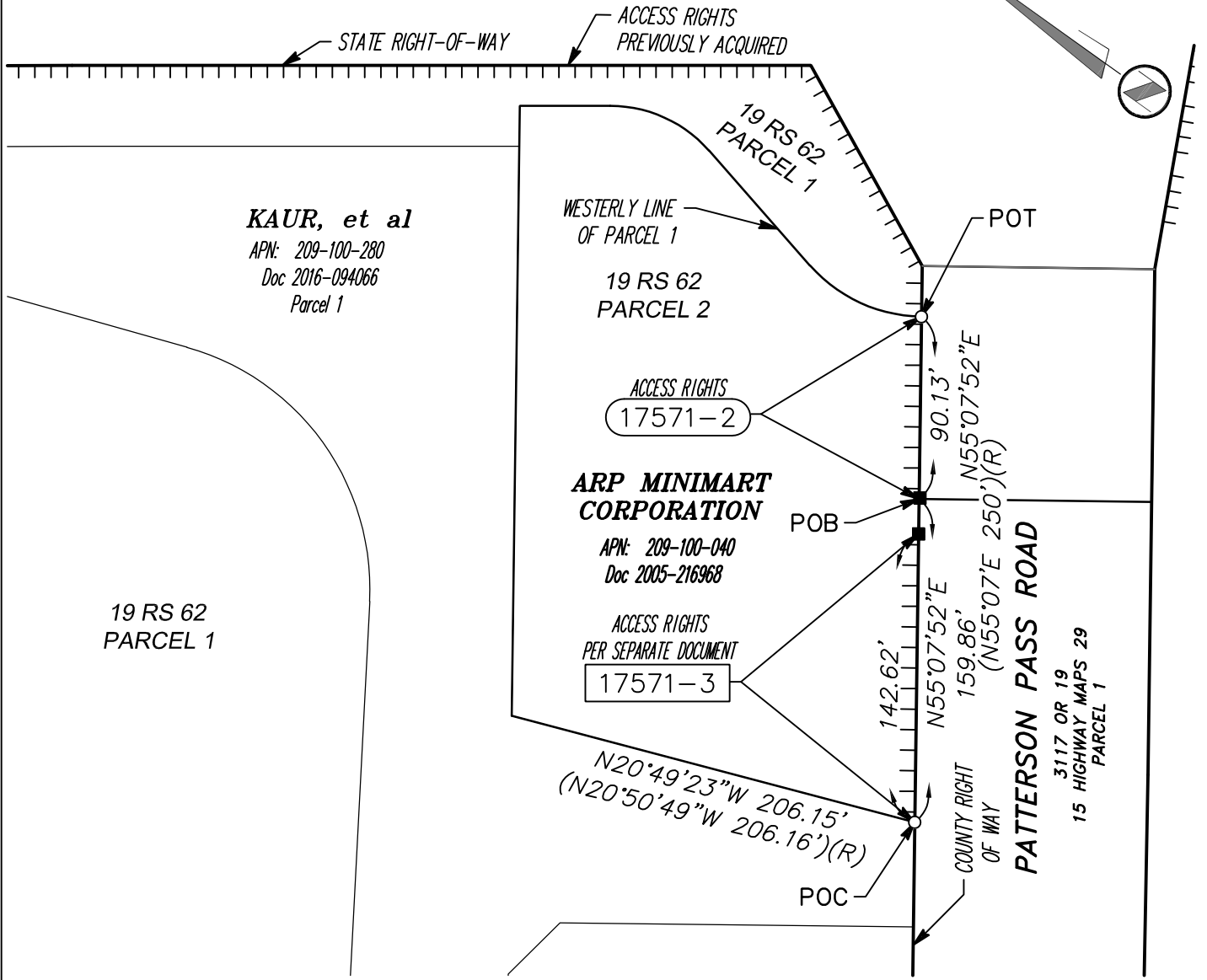
- POB POINT OF BEGINNING
- POC POINT OF COMMENCEMENT
- POT POINT OF TERMINATION
- DIMENSION POINT
- ||| ACCESS CONTROLLED
- (R) RECORD DATA PER 19 RS 62
- ACCESS OPENING (PRIVATE)

SECTION 33
T2S, R4E M.D.M.

Bob R Knuth



INTERSTATE 580



SHEET 1 OF 1



Scale: 1" = 80'
Date April 2023
Drawn By MLP
Checked By BRK

Exhibit B
Parcel 17571-2
APN 209-100-040
Plat to Accompany Legal Description
In the County of San Joaquin, California

Bearings and distances are based on the California Coordinate System of 1983, Zone 3, Epoch 2010.00. Multiply distances shown by 1.000077186 to obtain ground level distances.

EXHIBIT "A"

LEGAL DESCRIPTION

RELINQUISHMENT OF ACCESS RIGHTS

PARCEL 17571-3

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The grantor hereby releases and relinquishes to the grantee any and all abutter's rights of access appurtenant to the above described property in and to Petterson Pass Road right-of-way over and across the following described line:

BEGINNING at the southeasterly terminus of that course shown as "N 20°50'49" W 206.16'" on said Map, being on the northwesterly right-of-way of Patterson Pass Road, as shown on the "PROPOSED RELINQUISHMENT MAP TO THE COUNTY OF SAN JOAQUIN", filed in State Highway Book No. 15, at Page 29, said southeasterly terminus being the **POINT OF BEGINNING** of this line description;

Thence along the southeasterly line of said Map, North 55°07'52" East (Record = N 55°07" E as shown on said Map), 142.62 feet, to the **POINT OF TERMINATION**.

The bearings and distances used in the above description are based on the California Coordinate System of 1983, Zone 3, Epoch 2010.00. Multiply the above distances by 1.000077186 to obtain ground level distances.

This real property description has been prepared at Mark Thomas & Company Inc. by me or under my direction in conformance with the Professional Land Surveyors' Act.



Bob R. Knuth, LS 7938



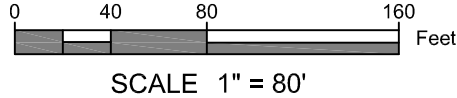
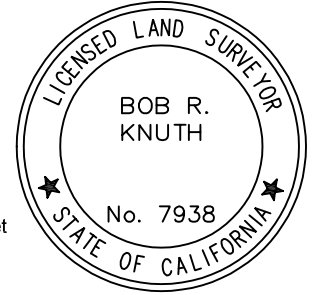
April 14, 2023
Date

LEGEND

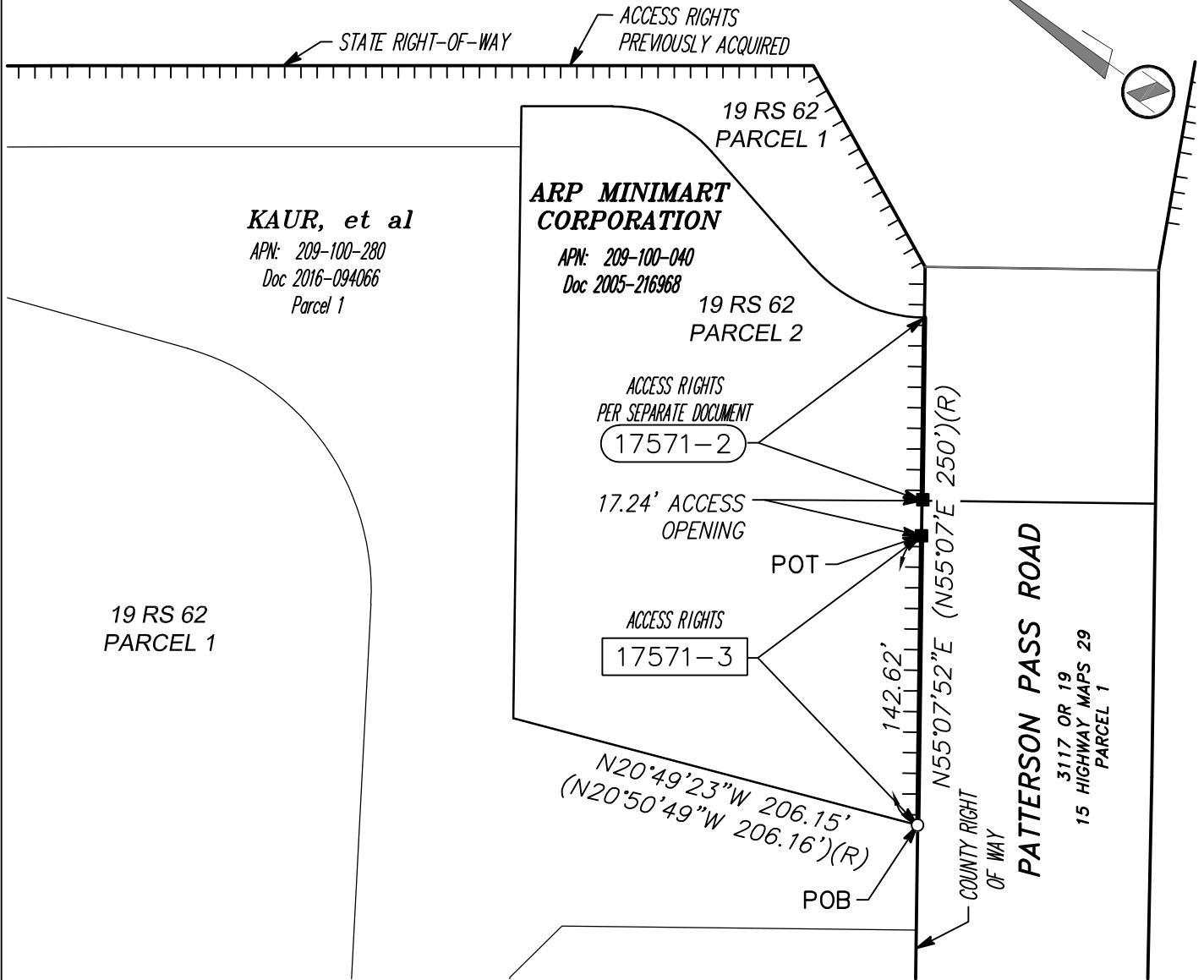
- POB POINT OF BEGINNING
- POT POINT OF TERMINATION
- o DIMENSION POINT
- ||| ACCESS CONTROLLED
- (R) RECORD DATA PER 19 RS 62
- ACCESS OPENING (PRIVATE)

SECTION 33
T2S, R4E M.D.M.

Bob R Knuth



INTERSTATE 580



SHEET 1 OF 1



Scale: 1" = 80'
Date April 2023
Drawn By MLP
Checked By BRK

Exhibit B
Parcel 17571-3
APN 209-100-040
Plat to Accompany Legal Description
In the County of San Joaquin, California

Bearings and distances are based on the California Coordinate System of 1983, Zone 3, Epoch 2010.00. Multiply distances shown by 1.000077186 to obtain ground level distances.

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF TRACY FINDING THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN PROPERTY INTERESTS FOR THE PUBLIC PROJECT (I-580/PATTERSON PASS ROAD INTERCHANGE PROJECT, CIP 73147), AUTHORIZING THE ACQUISITION THEREOF, AND DIRECTING THE CITY ATTORNEY TO FILE EMINENT DOMAIN PROCEEDINGS.

**(HARMINDER KAUR; RAJWINDER KAUR; GUPREET SINGH;
CHARNIT SINGH AND RAMANDEEP KAUR, TRUSTEES –
ASSESSOR'S PARCEL NUMBER 209-100-280)**

WHEREAS, the City of Tracy (City), in cooperation with the California Department of Transportation (Caltrans), seeks to construct the proposed Interstate 580 (I-580)/Patterson Pass Road Interchange (Project), which consists of modifications to the existing interchange, freeway auxiliary lanes, and connecting roadways at the existing Patterson Pass Road Interchange at I-580 in Tracy; and

WHEREAS, the City and the State of California, acting through Caltrans, entered into a Cooperative Agreement (Agreement 10-516) on February 4, 2021, which sets forth the obligations of the parties in connection with the Project. Pursuant to Agreement 10-516, Caltrans is the lead agency under the National Environmental Policy Act of 1969, as amended (Pub. L. 91-190, 42 U.S.C. 4321-4347, January 1, 1970, as amended by Pub. L. 94-52, July 3, 1975, Pub. L. 94-83, August 9, 1975, and Pub. L. 97-258, § 4(b), Sept. 13, 1982) (NEPA) and under the California Environmental Quality Act (CEQA), Public Resources Code Section 21000, *et seq.* The City is the sponsor of the Project, and is the implementing agency for plans, specifications, estimates, and right-of-way activities; and

WHEREAS, pursuant to Agreement 10-516, the parties agreed that the City is authorized to hear and adopt Resolutions of Necessity in connection with the Project and in accordance with applicable law; and

WHEREAS, it is desirable and necessary for the City to acquire certain real property, specifically, 25.03 linear feet in abutter's rights, including access rights ("Subject Property Interests") for the Project; and

WHEREAS, the City is vested with the power of eminent domain to acquire real property by virtue of Article 1, Section 19 of the Constitution of the State of California, Section 37350.5 and 40404 of the California Government Code, and Sections 1240.010-1240.050,

1240.110, 1240.120, 1240.150, 1240.220, 1240.410, 1240.610, and 1240.650 of the California Code of Civil Procedure; and

WHEREAS, pursuant to the provisions of Section 7267.2 of the California Government Code, the City made an offer to the owners of record to acquire the Subject Property interests described and depicted in **Exhibit 1 (Plat and Legal descriptions)** for the amount which it established to be just compensation; and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure, written notice of the intent to consider the adoption of this resolution of necessity was sent on August 16, 2024, to Harminder Kaur; Rajwinder Kaur; Gupreet Singh; Charnit Singh and Ramandeep Kaur, Trustees who are the owners of record of the Subject Property Interests providing them notice and granting them a reasonable opportunity to appear and be heard before the City Council at the Resolution of Necessity hearing held on September 17, 2024 on the following matters:

- a. Whether the public interest and necessity require the Project;
- b. Whether the Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- c. Whether the Subject Property Interests described and depicted in **Exhibit 1 (Plat and Legal descriptions)** are necessary for the Project; and
- d. Whether the offer required by Government Code Section 7267.2 has been made to all owners of record; and

WHEREAS, due consideration of all oral and documentary evidence introduced has been given; and

NOW, THEREFORE, be it, by vote of four (4/5) or more of its members, the City Council of the City of Tracy found; and be it

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

FURTHER RESOLVED: That the public interest and necessity require the Project which is intended to reduce traffic congestion and improve local traffic circulation; and be it

FURTHER RESOLVED: That the Project is planned or located in a manner that will be the most compatible with the greatest public good and the least private injury; and be it

FURTHER RESOLVED: That the Subject Property Interests described and depicted in **Exhibit 1 (Plat and Legal descriptions)** are necessary for the Project; and be it

FURTHER RESOLVED: That the offer to purchase required by California Government Code section 7267.2 has been made to the record owner(s) of the Subject Property Interests; and be it

FURTHER RESOLVED: That the necessary notice of hearing on this Resolution has been given as required by Code of Civil Procedure section 1245.235; and be it

FURTHER RESOLVED: That the City has fully complied with the California Environmental Quality Act (CEQA) with respect to the Project and the acquisition of the Subject

Property Interests, as The Final Initial Study/Mitigated Negative Declaration (IS/MND (CEQA Approval) and CE (National Environmental Act (NEPA) Approval) were obtained on February 25, 2021; and be it

FURTHER RESOLVED: That the City has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain (the “right to take”) to acquire the Subject Property Interests; and be it

FURTHER RESOLVED: That the City declares its intention to acquire the Subject Property Interests in accordance with the provision of the laws of the State of California governing condemnation procedures; and be it

FURTHER RESOLVED: That the City finds that if any portion of the Subject Property Interests has been appropriated to some public use, the public uses to which it is to be applied by the City for the Project, as described above, are more necessary and paramount public uses, pursuant to Code of Civil Procedure section 1240.610, or, alternatively, are compatible with those other uses pursuant to Code of Civil Procedure section 1240.510; and be it

FURTHER RESOLVED: That the City is AUTHORIZED AND EMPOWERED:

1. To acquire in the name of the City of Tracy, by condemnation, the said Subject Property Interests in accordance with the provisions of the eminent domain law, the Code of Civil Procedure, the Government Code, and the Constitution of California;
2. To prepare and prosecute in the name of the City of Tracy, such proceedings in the proper court as are necessary for such acquisition; and
3. To deposit the probable amounts of compensation, based on appraisals, and to apply to said court for an order permitting the City of Tracy to take immediate possession and use said Subject Property Interests for said public uses and purposes.

Resolution _____

Page 4

The foregoing Resolution 2024-_____ was adopted by the City Council on the 17th day of September 2024 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

EXHIBITS:

Exhibit 1 – RON for Harminder Kaur; Rajwinder Kaur; Gupreet Singh; Charnit Singh and Ramandeep Kaur, Trustees – 25883 S. Patterson Pass Road (Assessor's Parcel Number 209-100-280).

EXHIBIT "A"
LEGAL DESCRIPTION
RELINQUISHMENT OF ACCESS RIGHTS

PARCEL 17574-6

All that real property in the unincorporated area of County of San Joaquin, within Section 33, Township 2 South, Range 4 East, Mount Diablo Meridian, described and designated as "Parcel "1" Per PA 1600069" in that certain NOTICE OF LOT LINE ADJUSTMENT, recorded August 11, 2016, as Document Number 2016-094066, San Joaquin County Official Records, more particularly described as:

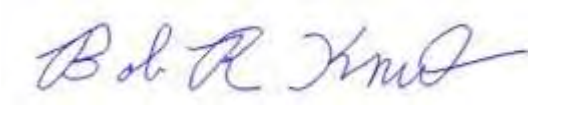
This conveyance is made for the purpose of a freeway and the grantor hereby releases and relinquishes to the grantee any and all abutter's rights, including access rights, over and across the following described line:

BEGINNING at the easterly common corner between Parcel 1 and Parcel 2 as shown on that certain Map, filed for record on June 10, 1969, in Book 19 of Surveys at Page 62, San Joaquin County Records, said corner being situated on the northwesterly right-of-way of Patterson Pass Road, as right-of-way is delineated in "PROPOSED RELINQUISHMENT TO THE COUNTY OF SAN JOAQUIN", filed in the State Highway Map Book No. 15, at Page 29;

Thence along the southeasterly line of said Parcel 1 of said Map, North 55°07'52" East (Record= N. 55°07' E as shown on said Map), 25.03 feet to the southwesterly terminus of the course shown as "(39) N. 25°20'18" E., 113.50 feet" in that AMENDED PARCEL 4-A of that certain FINAL ORDER OF CONDEMNATION, recorded January 2, 1967 in Book 3095 at Page 691, San Joaquin County Official Records and the **POINT OF TERMINATION**.

The bearings and distances used in the above description are based on the California Coordinate System of 1983, Zone 3, Epoch 2010.00. Multiply the above distances by 1.000077186 to obtain ground level distances.

This real property description has been prepared at Mark Thomas & Company Inc. by me or under my direction in conformance with the Professional Land Surveyors' Act.



Bob R. Knuth, LS 7938



April 14, 2023
Date

INTERSTATE 580

SECTION 33
T2S, R4E M.D.M.

FEE & ACCESS RIGHTS
PER SEPARATE DOCUMENT

17574-1

STATE RIGHT OF WAY

3095 OR 691
PARCEL NO. 4-A

19 RS 62
PARCEL 1

KAUR, et al

Project Parcel # 17574
APN: 209-100-280
Doc 2016-094066
Parcel 1

ACCESS RIGHTS
PREVIOUSLY
ACQUIRED

POT

19 RS 62
PARCEL 2

APN: 209-100-040
Doc 2005-216968
Parcel 2

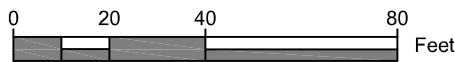
ACCESS RIGHTS
17574-6

POB

PROPERTY LINE

LINE TABLE

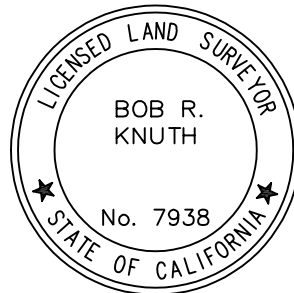
L1 S55°07'52"W 25.03'



SCALE 1" = 40'

LEGEND

- POB POINT OF BEGINNING
- POT POINT OF TERMINATION
- o DIMENSION POINT
- ||| ACCESS CONTROLLED
- (R1) RECORD DATA PER 3117 OR 19
- (R2) RECORD DATA PER 3095 OR 691
- ACCESS OPENING (PRIVATE)



Bob R Knuth

17.24' ACCESS
OPENING

N55°07'52"E 530.32'
(N.55°07'E: 530.32')(R1)

COUNTY RIGHT OF WAY

PATTERSON PASS ROAD
3117 OR 19
15 HIGHWAY MAPS 29
PARCEL 1

SHEET 1 OF 1



Scale: 1" = 40'
Date April 2023
Drawn By MLP
Checked By BRK

Exhibit B
Parcel 17574-6
APN 209-100-280
Plat to Accompany Legal Description
In the County of San Joaquin, California

Bearings and distances are based on the California Coordinate System of 1983, Zone 3, Epoch 2010.00. Multiply distances shown by 1.000077186 to obtain ground level distances.

Agenda Item 3.B

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing, and upon conclusion, introduce an ordinance amending Tracy Municipal Code Section 10.08.2356 to provide an alternative to the current 120-foot width lot standard in the Community Recreation Support Services Zoning District.

EXECUTIVE SUMMARY

This agenda item, with City Council approval, would amend Tracy Municipal Code (TMC) Section 10.08.2356 (which is part of the City's Zoning Ordinance) to allow for the use of an alternative lot width standard in the Community Recreation Support Services (CRS) Zoning District. This alternative would enable greater design flexibility for commercial development.

BACKGROUND AND LEGISLATIVE HISTORY

The proposed amendment would apply to the entirety of the Community Recreation Support Services (CRS) Zoning District, which consists of just two parcels located on W. Larch Road, adjacent to I-205 and west of N. Tracy Boulevard (Attachment A). These parcels contain 14.52 acres in total and were annexed into the City on June 10, 2020, as part of the Byron Alvarez Annexation. Upon annexation, they were designated Commercial by the City's General Plan and zoned CRS. The CRS zone permits freeway-oriented uses, such as hotels, gas stations, and restaurants. No other parcels with the CRS designation occur in the City of Tracy. Both CRS parcels are owned by the same owner.

The owner of the CRS zone site would like to pursue a subdivision to create five parcels with shared access that would ultimately be developed with separate commercial uses. The site would be developed in a shopping center format with common driveway access points and private internal circulation. The current street frontage width standard prevents development of the site in this manner.

A Public Hearing Notice was published in anticipation of this meeting per Tracy Municipal Code Section 10.08.3890. The Planning Commission considered this item at its July 10, 2024 meeting and recommended that the City Council adopt the proposed ordinance.

ANALYSIS

Tracy Municipal Code Section 10.08.2356 currently states the following:

"10.08.2356 Lot area (CRS)

All newly created lots in the CRS Zone shall have a minimum area of 20,000 square feet and shall have a minimum width of 120 feet street frontage."

The current standard for 120 feet of street frontage reflects an assumption that future parcels would have direct frontage on public streets. It did not anticipate the common practice of commercial subdivisions, which often rely on private easements in lieu of public street frontage for access to interior parcels. The applicant proposes to modify TMC Section 10.08.2356 as follows:

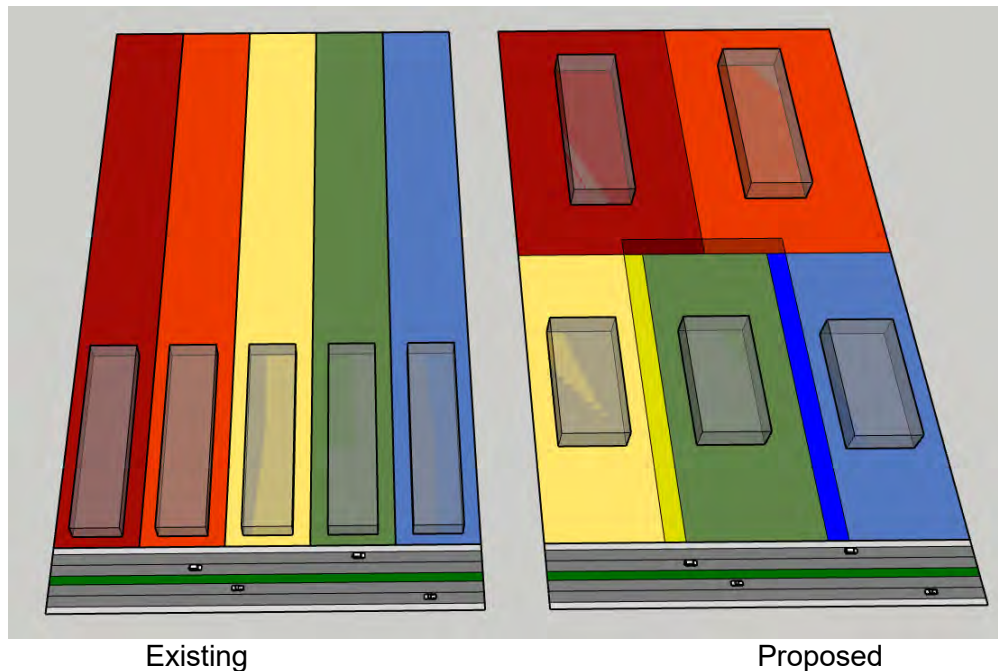
10.08.2356 Lot area (CRS)

All newly created lots in the CRS Zone shall have a minimum area of 20,000 square feet and shall have a minimum width of 120 feet street frontage. As an alternative to the street frontage requirement, an applicant may substitute coordinated access easements, utility connections, emergency vehicle access points, shared maintenance agreements, and/or storm water infrastructure on the Tentative Subdivision Map to the satisfaction of the City Engineer.

The scaled graphic below shows the expected results from implementing the existing code and the proposed amendment.

Under the existing code, the hypothetical lot could be divided into five 120' wide, 1000' deep parcels (120,000 square feet). Each would have its own driveway from the public street and, as a result, the buildings would be deep and narrow. West Larch Road is designated as a Minor Arterial/Major Collector in the General Plan and the introduction of five separate driveways across this frontage would conflict with traffic engineering standards for this type of busy road.

As proposed, the overall lot could be divided into five lots with shared private access easements, shown darkened. This site would need just two driveways from the public street, which would improve traffic safety and aesthetics, and take better advantage of its freeway visibility from the rear.



As demonstrated, the proposed alternative would better accommodate typical commercial subdivisions and would create a preferred development type.

CEQA DETERMINATION

The proposed ordinance is not a project within the meaning of Section 15378 of the California

Environmental Quality Act (CEQA) Guidelines because it has no potential for resulting in physical change in the environment, either directly or ultimately. In the event that the ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the environment. Any forthcoming project would be subject to additional environmental review under CEQA.

FISCAL IMPACT

This action will enable development of the commercial site in a manner consistent with contemporary development practices, which may result in new commercial uses that would positively benefit the City through payment of business tax and supportive economic activity. This amendment was advanced by Staff using ordinary resources because the proposed amendment applies across the entire zoning district.

STRATEGIC PRIORITY

A strategic priority is to support business attraction, expansion, and retention. By offering alternative means to develop a commercial site, the City is furthering its attraction efforts by allowing the creation of lots more suitable for development than the current standards afford.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council conduct a public hearing, and upon conclusion, introduce an ordinance amending Tracy Municipal Code Section 10.08.2356 to provide an alternative to the current 120-foot width lot standard in the Community Recreation Support Services Zoning District.

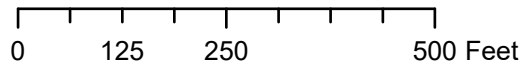
Prepared By: Forrest Ebbs, Director of Community and Economic Development
Jorge Barrera, Economic Development Manager

Reviewed by: Sara Castro, Director of Finance
Bijal M. Patel, City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

ATTACHMENTS

Attachment A – Zoning Map of CRS Zone
Attachment B – Planning Commission Minutes of July 10, 2024



**MINUTES
TRACY CITY PLANNING COMMISSION
REGULAR MEETING
JULY 10, 2024, 7:00 P.M.
CITY OF TRACY COUNCIL CHAMBERS
333 CIVIC CENTER PLAZA**

CALL TO ORDER

Chair Orcutt called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

Chair Orcutt led the pledge of allegiance.

ROLL CALL

Roll Call found Commissioner Boakye-Boateng, Commissioner English, Commissioner Penning, Vice Chair Atwal, and Chair Orcutt present. Also present were Dan Doporto, City Attorney Consultant; Forrest Ebbs, Director of Community and Economic Development, Scott Claar, Interim Planning Manager; Craig Hoffman, Senior Planner; Ben Ritchie, Consultant; Kellie Jones, Assistant Planner; and Miranda Aguilar, Administrative Assistant.

MINUTES

Chair Orcutt introduced the Regular Meeting Minutes from the May 22, 2024, Planning Commission Regular Meeting.

ACTION: It was moved by Chair Orcutt and seconded by Commissioner English to approve the May 22, 2024 Planning Commission Regular Meeting Minutes. A voice vote found Chair Orcutt, Vice Chair Atwal, Commissioner Boakye-Boateng, Commissioner English, and Commissioner Penning in favor. Passed and so ordered; 5-0-0-0.

DIRECTOR'S REPORT REGARDING THIS AGENDA

Scott Claar, Interim Planning Manager reminded Commissioners of the Planning Commission Academy in Santa Rosa March of 2025 and to reach out to the Executive Assistant, Gina Peace, or Administrative Assistant Miranda Aguilar, if they would like to sign up. He also notified the Commission that the July 24, 2024, Planning Commission meeting is cancelled due to the Summer Recess. Scott introduced staff members Craig Hoffman, Senior Planner who was recently hired, and Kellie Jones, who was recently promoted to Assistant Planner.

ITEMS FROM THE AUDIENCE

None.

1. NEW BUSINESS

A. BY MOTION, ELECTION OF NEW PLANNING COMMISSION CHAIR AND VICE CHAIR FOR FISCAL YEAR 24-25.

Commission discussion began.

Chair Orcutt opened the Public Hearing at 7:06 p.m. Seeing as no one came forward, Chair Orcutt closed the Public Hearing.

ACTION: It was moved by Commissioner English and seconded by Commissioner Penning that Chair Orcutt would be re-appointed as Planning Commission Chair and Commissioner Penning to be appointed as Vice Chair for fiscal year 24/25 beginning July 1, 2024, through June 30, 2025.

A roll call vote found Chair Orcutt, Commissioner Boakye-Boateng, Commissioner English, and Commissioner Penning in favor, Vice Chair Atwal against. Passed and so ordered; 4-1-0-0.

B. STAFF RECOMMENDS THAT THE PLANNING COMMISSION APPROVE A RESOLUTION RECOMMENDING CITY COUNCIL: (1) ADOPT AN ORDINANCE APPROVING A ZONING TEXT AMENDMENT TO ADD LANGUAGE TO TRACY MUNICIPAL CODE SECTION 10.08.2356 – LOT AREA FROM THE COMMUNITY RECREATION SUPPORT SERVICES ZONE; AND (2) DETERMINE THAT THE ZONING TEXT AMENDMENT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTION 15061(b)(3). THE APPLICANT IS SCHACK AND COMPANY FOR BYRON ALVAREZ.

Forrest Ebbs, Director of Community and Economic Development, presented the staff report and addressed questions from the Commission.

Chair Orcutt opened the Public Hearing at 7:22 p.m.

Mike Souza representing Mr. Alvarez addressed the Commission and clarified some information on the Project.

Seeing as no one else came forward, the Public Hearing was closed at 7:24 p.m.

ACTION: It was moved by Commissioner Atwal and seconded by Vice Chair Penning that the Planning Commission recommend that the City Council adopt an Ordinance:

- (1) Approving a Zoning Text Amendment to add language to the Tracy Municipal Code Section 10.08.2356 – lot area from the Community Recreation Support Services Zone; and
- (2) Determining that the Zoning Text Amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(B)(3).

A roll call vote found Chair Orcutt, Vice Chair Penning, Commissioner Atwal, Commissioner Boakye-Boateng, and Commissioner English all in favor. Passed and so ordered; 5-0-0-0.

C. STAFF RECOMMENDS THAT THE PLANNING COMMISSION CONDUCT A PUBLIC HEARING, AND UPON ITS CONCLUSION, ADOPT A RESOLUTION: 1)

APPROVING A DEVELOPMENT REVIEW PERMIT (D22-0042) TO ALLOW THE CONSTRUCTION OF FIVE VACUUM PARKING STALLS AND AN 81 SQ. FT. VACUUM EQUIPMENT ENCLOSURE AT AN EXISTING ARCO SERVICE STATION AT 550 W. VALPICO RD., ASSESSORS PARCEL NUMBER (APN): 248-020-21, APPLICATION NUMBER D22-0042; 2) GRANTING A CONDITIONAL USE PERMIT (CUP22-0016) TO ALLOW THE ACCESSORY USE OF FIVE VACUUM PARKING STALLS AND AN 81 SQ. FT. VACUUM EQUIPMENT ENCLOSURE AT AN EXISTING ARCO SERVICE STATION AT 550 W. VALPICO RD., APN:248-020-21, APPLICATION NUMBER CUP22-0016; AND 3) DETERMINING THAT THIS PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA), PURSUANT TO CEQA GUIDELINES SECTION 15303. THE APPLICANT IS EDGAR RIZKALLI AND THE PROPERTY OWNER IS VALPICO INVESTMENT LLC.

Kellie Jones, Assistant Planner, presented the staff report and addressed questions from the Commission.

Scott Claar, Interim Planning Manager, addressed questions from the Commission.

Chair Orcutt opened the Public Hearing at 7:39 p.m.

Seeing as no one came forward, Chair Orcutt closed the Public Hearing.

ACTION: It was moved by Commissioner Boakye-Boateng and seconded by Vice Chair Penning that the Planning Commission adopt a resolution:

- (1) Approving a Development Review Permit (D22-0042) to allow the construction of five vacuum parking stalls and an 81 sq. ft. vacuum equipment enclosure at an existing Arco Service Station at 550 W. Valpico Road, Assessor's Parcel Number (APN): 248-020-21;
- (2) Granting a Conditional Use Permit (CUP22-0016) to allow the accessory use of five vacuum parking stalls and an 81 sq. ft. vacuum equipment enclosure at an existing Arco Service Station at 550 W. Valpico Road, APN: 248-020-21; and
- (3) Determining that this project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15303.

A roll call vote found Chair Orcutt, Vice Chair Penning, Commissioner Atwal, Commissioner Boakye-Boateng, and Commissioner English all in favor. Passed and so ordered; 5-0-0-0.

D. STAFF RECOMMENDS THAT THE PLANNING COMMISSION CONDUCT A SCOPING MEETING PURSUANT TO CEQA REQUIREMENTS TO RECEIVE INPUT ON THE DRAFT ENVIRONMENTAL IMPACT REPORT FOR CITY OF TRACY REZONE PROGRAM AND GENERAL PLAN AMENDMENT (PROJECT).

Craig Hoffman, Senior Planner, introduced Ben Ritchie, with DeNovo Planning and stated he would be available for questions from the Commission.

Ben Ritchie, DeNovo Planning, presented the staff report and addressed questions from the Commission.

Scott Claar, Interim Planning Manager, addressed questions from the Commission.

Dan Doporto, City Attorney Consultant, addressed questions from the Commission.

Chair Orcutt opened the Public Hearing at 8:15 p.m.

Robert Tanner, Tracy Resident, addressed the Commission with comments.

Seeing as no one else came forward, Chair Orcutt closed the Public Hearing at 8:25 p.m.

ACTION: No Action needed from the Planning Commission.

2. ITEMS FROM THE AUDIENCE

None.

3. DIRECTOR'S REPORT

None.

4. ITEMS FROM THE COMMISSION

Commissioner Atwal congratulated Chair Orcutt and Vice Chair Penning on being appointed.

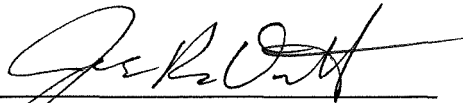
Commissioner English and Chair Orcutt wanted to follow up regarding CIP 75163, Tracy Hills Zone 5 Water Booster Station which was discussed at the 05/22/24 Planning Commission Meeting. Staff has confirmed they will reach out to Al Gali, Associate Engineer, to remind him of the request and will reach out to the Planning Commissioners with the information requested.

Chair Orcutt congratulated Craig Hoffman, Senior Planner, and Kellie Jones, Assistant Planner on their new positions.

5. ADJOURNMENT

ACTION: It was moved by Chair Orcutt and seconded by Commissioner Atwal to adjourn. A voice vote found all in favor. Passed and so ordered; 5-0-0-0.

Time: 8:28 p.m.



CHAIR



STAFF LIAISON

TRACY CITY COUNCIL

ORDINANCE NO. _____

AMENDING TRACY MUNICIPAL CODE SECTION 10.08.2356 TO PROVIDE AN ALTERNATIVE TO THE CURRENT 120-FOOT WIDTH LOT STANDARD IN THE COMMUNITY RECREATION SUPPORT SERVICES ZONING DISTRICT.

WHEREAS, The Community Recreation Support Services (CRS) Zone is located along W. Larch Road adjacent to Interstate 205; and

WHEREAS, The CRS Zone permits freeway-oriented commercial uses, such as hotels, gas stations, and restaurants; and

WHEREAS, The CRS Zone, which is codified as Tracy Municipal Code Section 10.08.2356, requires that all lots in the CRS Zone have a minimum area of 20,000 square feet and shall have a minimum width of 120 feet street frontage; and

WHEREAS, Only two parcels are in the CRS Zone and they are both owned by the same owner; and

WHEREAS, An application was submitted to amend the minimum street frontage requirements in the CRS Zone; and

WHEREAS, The proposed amendment would add language to allow, as an alternative to the street frontage requirement in the CRS Zone, for an applicant to substitute coordinated access easements, utility connections, emergency vehicle access points, shared maintenance agreements, and/or storm water infrastructure on the Tentative Subdivision Map to the satisfaction of the City Engineer; and

WHEREAS, The proposed amendment to the Tracy Municipal Code is not a project within the meaning of the California Environmental Quality Act (CEQA) because it does not have the potential for causing a significant effect on the environment (CEQA Guidelines, 14 California Code of Regulations, §15061(b)(3)); and

WHEREAS, The Planning Commission considered this matter at a duly noticed public hearing held on July 10, 2024 and recommended that the City Council introduce an ordinance; and

WHEREAS, The City Council considered this matter at a duly noticed public hearing held on September 17, 2024.

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

SECTION 1: The foregoing recitals are incorporated fully herein and made a part hereof.

SECTION 2: Section 10.08.2356, Lot Area (CRS), of Title 10 (Planning and Zoning) of the Tracy Municipal Code is amended to read as follows (additions are underlined):

“10.08.2356 Lot Area (CRS).

All lots in the CRS Zone shall have a minimum area of 20,000 square feet and shall have a minimum width of 120 feet street frontage. As an alternative to the street frontage requirement, an applicant may substitute coordinated access easements, utility connections, emergency vehicle access points, shared maintenance agreements, and/or storm water infrastructure on the Tentative Subdivision Map to the satisfaction of the City Engineer.”

SECTION 3: The proposed amendment to the Tracy Municipal Code is not a project within the meaning of the California Environmental Quality Act because it does not have the potential for causing a significant effect on the environment (CEQA Guidelines, 14 California Code of Regulations, §15061(b)(3)).

SECTION 4: This Ordinance shall take effect 30 days after its final passage and adoption.

* * * * *

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the 17th day of September, 2024, and finally adopted on the ____ day of _____, 2024, 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

Date of Attestation: _____

NOTICE AND DIGEST

AMENDING TRACY MUNICIPAL CODE SECTION 10.08.2356 TO PROVIDE AN ALTERNATIVE TO THE CURRENT 120-FOOT WIDTH LOT STANDARD IN THE COMMUNITY RECREATION SUPPORT SERVICES ZONING DISTRICT.

This Ordinance (Ordinance) amends the current development standard for street frontage for all properties located within the Community Recreation Support Services Zoning District. This amendment would allow alternate means to the current 120 foot minimum street width standard to enable more efficient development of sites.

Agenda Item 3.C

RECOMMENDATION

Staff recommends that City Council take the following actions:

- 1) Adopt an Urgency Ordinance, pursuant to Government Code, § 36937(d): (A) rescinding Urgency Ordinance 1346 that established a moratorium on the processing of business taxes under Section 6.04.310 of the Tracy Municipal Code (TMC) and (B) adopting amendments to Chapter 6.04 of the TMC reflecting revised business tax rates and categories; and**
- 2) Introduce an Ordinance amending Chapter 6.04 of the TMC to reflect revised business tax rates and categories.**

EXECUTIVE SUMMARY

On June 4, 2024, the City Council adopted Urgency Ordinance 1345 establishing a 45-day moratorium (Moratorium) on the processing of business taxes under Section 6.04.310 of the Tracy Municipal Code (TMC). The Moratorium was needed to immediately pause the processing of applications by the deadline of July 1st and provide the City additional time to analyze potential amendments to the current tax structure that could mitigate financial impacts to local businesses if tax bills were sent under the current version of Chapter 6.04.

On July 9, 2024, the City Council extended the Moratorium for an additional ten months and fifteen days pursuant to Urgency Ordinance 1346.

On August 13, 2024, the City Council conducted a “Town Hall” style workshop intended to facilitate and provide further input to the City Council on proposed amendments to Chapter 6.04.310 that would result in a “fair” tax structure for local businesses. After the workshop, the City Council directed staff to return with the following amendments to the TMC: a reduction of the Measure B adopted rates, creation of exemptions for gasoline, cannabis, and automobile dealerships, setting a max tax cap of \$65,000, and a 3-year sunset provision.

To implement the City Council’s direction, staff returns now with the following actions: 1) a rescission of the Moratorium; 2) adoption of a new urgency ordinance to immediately enact the amendments; and 3) introduction of a regular ordinance which would become effective 30 days after its second reading.

BACKGROUND

On the November 8, 2022, general election, the voters of Tracy approved a new business tax structure proposed pursuant to Ballot Measure B, which was proposed as a voluntary referendum item (as opposed to a voter initiative). The new tax structure took effect on July 1, 2023, and was codified as Chapter 6.04 in the TMC. According to the voter-approved changes to Chapter 6.04, commencing on July 1, businesses would pay a flat business tax of \$50 on the first \$500,000 of gross receipts and pay a percentage of gross receipts for any gross receipts above \$500,000. The percentage applied to gross receipts over \$500,000 ranges from \$0.001 to \$0.003, or \$1 to \$3 for every \$1,000 in gross receipts, depending on the category of business.

Measure B was the result of efforts started in March 2020, when the City Council formed the Ad-Hoc Committee for fiscal sustainability (which now has become the standing Finance Committee of the City Council). The Ad-Hoc Committee, consisting of former Mayor Pro Tem Vargas and current Councilmember Arriola, was formed with the intention of providing guidance to develop short and long-term fiscal sustainability strategies. During this time, the City was facing a budget deficit. One of the recommendations from the Ad-Hoc Committee was to review the structure of the City's

Business Tax, which had remained unchanged since 1984. This old business tax structure was based upon the number of employees and had a cap of \$2,018, regardless of the sales volume or category of the business.

At the regular City Council meeting of May 21, 2024, many business owners expressed their concerns about the financial impact and strain caused by the new business tax on their operations. Some businesses indicated that they would not be able to survive this new business tax burden, and other businesses indicated they would be relocating outside of the City of Tracy.

On June 4, 2024, the City Council adopted Urgency Ordinance 1345 to establish a temporary Moratorium for 45 days, on the processing of the adopted business tax as the City Council and staff needed additional time to analyze potential amendments to the current tax structure that could mitigate the severe consequences to local businesses if tax bills are sent under the current version of Chapter 6.04. On June 18, 2024, the City Council further analyzed the information presented to them and determined that much more robust analysis was needed before amendments to the existing business structure could be made. This additional analysis included information gathering that would occur at a "town hall" style special City Council meeting and additional meetings between staff and the Tracy Chamber of Commerce. This additional analysis could not be completed within the 45-day moratorium period. On July 9, 2024, the City Council adopted a new Urgency Ordinance 1346 extending the Moratorium on Chapter 6.04 for an additional ten months and fifteen days.

On July 31, 2024, staff met with Chamber of Commerce board members to discuss their preferred proposals, explain the calculator and methodology to be developed by staff, as well as to explain the format of this "Town Hall" style meeting. On August 13, 2024, the City Council held a special City Council meeting in a "Town Hall" style workshop and, by majority vote, directed staff to return with amendments that reduced Measure B adopted rates, provided exemptions for gasoline, cannabis, and automobile dealerships, set a max tax cap of \$65,000, and had a 3-year sunset provision.

ANALYSIS

Under the structure approved by voters in November 2022, businesses would pay a flat business tax of \$50 on the first \$500,000 of gross receipts and pay a percentage of gross receipts for any gross receipts above \$500,000. The percentage applied to gross receipts over \$500,000 ranges from \$0.001 to \$0.003, or \$1 to \$3 for every \$1,000 in gross receipts, depending on the category of business.

The new tax structure took effect July 1, 2023, and while the ballot measure anticipated approximately \$4.8 million in annual revenue, it resulted in total revenues of \$7.8 million for the City, which was an increase of \$6.2 million from the prior tax structure's revenues of \$1.6 million. While 78% of Tracy's businesses saw tax payments that either decreased or stayed the same, 22% of businesses saw an increase in their tax payments. Many of those seeing an increase expressed concerns over the financial impacts of the new tax.

Through discussions with business owners, the Chamber of Commerce, Tracy Finance Committee, and the City Council over the last year, staff analyzed various options for modification of the tax structure.

On June 4, 2024, the City Council adopted Urgency Ordinance 1345 to establish a temporary moratorium for 45 days, on the processing of the adopted business tax as the City Council and staff needed additional time to analyze potential amendments to the current tax structure that could mitigate financial impact to local businesses if tax bills are sent under the current version of Chapter 6.04. On June 18, 2024, the City Council further analyzed the information presented to them and determined that much more robust analysis was needed before amendments to the existing business structure could be made. Because of this determination, the Fiscal Year (FY) 2024-25 adopted budget reduced Business Tax revenues to zero.

This additional analysis included information gathering that would occur at a “Town Hall” style special City Council meeting and additional meetings between staff and the Tracy Chamber of Commerce. This additional analysis could not be completed within the 45-day moratorium period. On July 9, 2024, the City Council adopted a new Urgency Ordinance 1346 extending the Moratorium on Chapter 6.04 of the Tracy Municipal Code for an additional ten months and fifteen days.

On August 13, 2024, the City Council held a special City Council meeting in a “Town Hall” style workshop and by majority vote directed staff to return with legislation what would provide for a reduction of the Measure B adopted rates, exemptions for gasoline, cannabis, and automobile dealerships, combined with a cap of \$65,000 and a 3-year sunset provision. With the 3-year sunset provision, the rates will reset to the voter approved Measure B rates. Without a sunset provision, the reductions made with this ordinance will become permanent and can only be modified with a new voter approved ballot measure.

The proposed rates, as listed in the chart below, reflect anticipated annual Business Tax revenues of \$3.07 million.

Business License Tax			
Business Rate Categories	Minimum Fee	Tax Rate (if > \$500K x Gross Receipts)	Maximum Fee (Cap)
Category 1 Retail/General Business	\$50 Annual Flat Rate for First \$500k of Gross Receipts	0.0005	65,000
Category 2 Manufacturing, Warehousing, Wholesaling		0.0009	65,000
Category 3 Contractor/Service		0.001	65,000
Category 4 Professionals/Rentals		0.0015	65,000
Category 5 Gasoline		0.0005	50
Category 6 Cannabis		0.0005	50
Category 7 Automobile Dealerships		0.0005	2,500

CEQA

The City Council finds that this Ordinance is not a “project” under the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15378, as it has no potential to result in either a direct or indirect physical change in the environment.

FISCAL IMPACT

Depicted below are the historical Business Tax revenues over the last three fiscal years.

Business Tax Revenues				
Pre Measure B	Measure B Ballot	Actual FY24	Budgeted FY25	Proposed FY25
\$1.6M	\$4.8M	\$7.8M	\$0M	\$3.07M

The FY2024-25 adopted budget reflects Business Tax revenues of zero, due to the moratorium in place at the time of budget adoption. Upon adoption of the proposed action in this agenda by the City Council, staff will return to the City Council to amend the budget to reflect the anticipated amount of Business Tax revenue for FY2024-25.

The draft Business Tax ordinance includes a 3-year sunset provision that will reset all rates to the voter approved Measure B rates. Without a sunset provision, the reductions made with this ordinance will become permanent and can only be modified with a new voter approved ballot measure.

STRATEGIC PLAN

The agenda item supports Governance Strategic Goal 2: ensuring short- and long-term fiscal health.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that City Council take the following actions:

- 1) Adopt an Urgency Ordinance, pursuant to Government Code, § 36937(d): (A) rescinding Urgency Ordinance 1346 that established a moratorium on the processing of business taxes under Section 6.04.310 of the Tracy Municipal Code (TMC) and (B) adopting amendments to Chapter 6.04 of the TMC reflecting revised business tax rates and categories; and
- 2) Introduce an Ordinance amending Chapter 6.04 of the TMC to reflect revised business tax rates and categories.

Prepared by: Sara Castro, Finance Director

Reviewed by: Karin Schnaider, Assistant City Manager
Bijal M. Patel, City Attorney

Approved by: Midori Lichtwardt, City Manager

ATTACHMENTS

Attachment A: Urgency Ordinance rescinding Ordinance 1346

Attachment B: Ordinance amending Chapter 6.04 of the Tracy Municipal Code to reflect revised business tax and categories.

ATTACHMENT A

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL URGENCY

ORDINANCE NO.

TO TAKE EFFECT IMMEDIATELY UPON ADOPTION

(A) RESCINDING URGENCY ORDINANCE 1346 THAT ESTABLISHED A MORATORIUM ON THE PROCESSING OF BUSINESS TAXES UNDER SECTION 6.04.310 OF TRACY MUNICIPAL CODE (TMC) AND (B) ADOPTING AMENDMENTS TO CHAPTER 6.04 OF THE TMC REFLECTING REVISED BUSINESS TAX RATES AND CATEGORIES

WHEREAS, pursuant to Government Code Section 37101(a), the governing body of a city has the power to license, regulate and tax any lawful occupation; and

WHEREAS, pursuant to Chapter 6.04 of the Tracy Municipal Code, business tax is an annual tax charged to businesses operating in the City of Tracy, for the purpose of contributing revenue to the City's General Fund in support of essential services, such as public safety, streets maintenance, and recreation programs; and

WHEREAS, in March 2020, the City Council formed an Ad-Hoc Committee, consisting of former Mayor Pro Tem Vargas and Councilmember Arriola, for fiscal sustainability; and

WHEREAS, the Ad-Hoc Committee now has become the standing Finance Committee of the City Council and has broader fiscal jurisdiction; and

WHEREAS, the Ad-Hoc Committee was formed with the intention of providing guidance to develop short and long-term fiscal sustainability strategies, as during this time, the City was facing a budget deficit; and

WHEREAS, one of the recommendations from the Ad-Hoc Committee was to review the structure of the City's Business Tax, which structure was based upon the number of employees, had a cap of \$2,018 and had remained unchanged since 1984; and

WHEREAS, In March 2022, the City Council directed staff to proceed with placing a tax measure on the November 2022 ballot; and

WHEREAS, in November 2022, voters in the City of Tracy approved Measure B, which adopted an updated Business Tax structure based upon gross receipts; and

WHEREAS, Measure B took effect July 1, 2023, and is codified in Tracy Municipal Code (TMC) Chapter 6.04; and

WHEREAS, according to Chapter 6.04, businesses pay a flat business tax of \$50 on the first \$500,000 of gross receipts and pay a percentage of gross receipts for any gross receipts above \$500,000; the percentage applied to gross receipts over \$500,000 ranges from 0.001 to 0.003, or \$1 to \$3 for every \$1,000 in gross receipts, depending on the category of business; and

WHEREAS, the updated Business Tax structure was aimed to bring a proportionate tax amongst small and large businesses and to give Tracy control over local funds, providing resources for community priorities including public safety, recreational programs, and economic development; and

WHEREAS, at the City Council meeting on May 21, 2024, various business owners in the City expressed concerns about the substantial financial impact and strain on their operations caused by the new business tax; and

WHEREAS, some businesses indicated that they would not be able to survive the business tax burden, and other businesses indicated they would be relocating outside of the City of Tracy; and

WHEREAS, based upon requisite finding, the City Council adopted Urgency Ordinance 1345 on June 4, 2024, establishing a 45-day moratorium (Moratorium) on the processing of business taxes under Section 6.04.310 of the TMC; and

WHEREAS, the Moratorium was needed to immediately pause the processing of applications by the deadline July 1st and provide the City additional time to analyze potential amendments to the current tax structure that could mitigate the severe consequences to local businesses if tax bills were sent under the current version of Chapter 6.04; and

WHEREAS, on July 9, 2024, the City Council extended the Moratorium for an additional ten months and fifteen days pursuant to Urgency Ordinance 1346; and

WHEREAS, on August 13, 2024, the City Council conducted a “Town Hall” style workshop and City Council meeting, at the conclusion of which, the City Council directed staff to return with appropriate legislation for adoption that would amend Chapter 6.04 to reflect the following: (a) businesses to pay a flat business tax of \$50 on the first \$500,000 of gross receipts and pay a percentage of gross receipts for any gross receipts above \$500,000; (b) the percentage applied to gross receipts over \$500,000 to be reduced by fifty percent (50%) in certain categories and forty percent (40%) in one category, (c) the creation of maximum tax caps for gasoline, cannabis, and automobile dealerships, (d) a maximum tax cap of \$65,000 across all categories, and (e) a 3 year sunset provision for the foregoing amendments; and

WHEREAS, the City Council conducted a properly noticed public hearing on September 17, 2024, to consider the adoption of this Urgency Ordinance to rescind the Moratorium authorized by Ordinance 1346 and amend Chapter 6.04 of the Tracy Municipal Code to adopt revised business tax rates and categories, to take effect immediately upon adoption; and

WHEREAS, concurrently with this Urgency Ordinance, the City Council introduced Ordinance _____ to amend Chapter 6.04, in identical form, with this Urgency Ordinance, to become effective thirty (30) days after its final adoption, at which date this Urgency Ordinance shall automatically be rescinded.

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. Urgency Ordinance 1346. Urgency Ordinance 1346 is hereby rescinded.

SECTION 3. Amendments to Business Tax Provisions. Section 6.04.310, subdivision (d) of the Tracy Municipal Code is amended as set forth in Exhibit 1, which exhibit is hereby incorporated fully herein.

SECTION 4. Revisions Declaratory of Existing Law. The revisions provided in Section 2 above are declaratory of the voters' expressed intent by passing Measure B in the November 2022 general election, as those revisions are consistent with what the City represented to voters about what this City Council proposed initiative would do. This Ordinance is not intended to, and does not, amend Measure B so as to change its scope and effect in any way the voters did not intend.

SECTION 5. Urgency Findings. This Urgency Ordinance relates to taxes for the usual and current expenses of the City. (Gov. Code, § 36937, subd. (d).) Further, the City Council finds that, unless it adopts this Urgency Ordinance to take immediate action, the City will lack the clarity it requires to responsibly administer its Business Tax at the beginning of Fiscal Year 2023–2024. This Urgency Ordinance is therefore necessary to ensure certainty in administration of the City's taxes.

SECTION 6. CEQA Determination. The City Council finds that this Ordinance is categorically exempt from the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15061(b)(3), pertaining to actions that do not have the potential for causing a significant effect on the environment. This Ordinance is also not a "project" under CEQA Guidelines Section 15378, as it has no potential to result in either a direct or indirect physical change in the environment.

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

SECTION 8. Effective Date. This Urgency Ordinance is adopted by 4/5th vote of the City Council and shall be in full force and effect immediately after its adoption.

SECTION 9. Rescission Date. This Urgency Ordinance shall automatically be rescinded and be of no further force or effect upon the effective date of Ordinance ____, concurrently herein being introduced.

SECTION 10. Publication. The City Clerk is directed to publish this Urgency Ordinance in a manner required by law.

SECTION 11. Codification. This Urgency Ordinance shall be codified in the Tracy Municipal Code.

The foregoing Urgency Ordinance was introduced and adopted at a regular meeting of the Tracy City Council on the 17th day of September 2024, 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 1 – Amendments to Chapter 6.04 Business Taxes (Redlined)

AMENDMENTS TO**Chapter 6.04 BUSINESS TAXES**(with additions underlined, and deletions in ~~striketrough~~):**ALL AMENDMENTS SHALL AUTOMATICALLY SUNSET AND
BE OF NO FORCE AND EFFECT AS OF JUNE 30, 2027****Sections:*****Article 1. General Provisions*****6.04.010 Definitions.**

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Automobile dealership" shall be as defined in Section 6.04.310(d)(72)(A).

"Base Gross receipts" means the first Five Hundred Thousand and no/100ths (\$500,000.00) Dollars of Gross receipts.

"Business" means and includes full-time or part-time professional services and retail, wholesale, manufacturing, or other occupations, trades, or callings of any kind, whether or not carried on for profit or livelihood.

"Business tax" means the business activity tax.

"Cannabis" shall be as defined in Section 6.04.310(d)(6)(A).

"City" means the City of Tracy, a municipal corporation of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged, or reincorporated form.

"Code" means the Tracy Municipal Code, as amended from time to time.

"Collector" means the Finance Director of the City or other designees charged by the Finance Director or City Manager of the City, as the case may be, with the administration of the provisions of this chapter.

"County" means the County of San Joaquin.

"Constitution" means the United States Constitution or the California Constitution, as the case may be.

"Employee" means all persons engaged in the operation or conduct of any business, whether as a member of the owner's family, agent, manager, solicitor, and all other persons employed or working in said business including, without limitations of the foregoing, all individuals who derive all or part of their income from commissioned sales. For purposes of computing tax based on employees, the average number of employees per year, as defined in this section, will be used.

"Fixed place of business" means premises in the City where a business is conducted from day to day and regularly kept open for the purposes of such business, also referred to as "regular place of business."

"Gasoline" shall be as defined in Section 6.04.310(d)(56)(A).

"Gross receipts" means the total amount of the sale price of all sales, and/or the total amount charged or received for the performance of any act or service or employment, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act, service or employment is done as a part of or in connection with the sale of materials, goods, wares or merchandise, and when such act, service or employment occurs as a result of any activity within the City. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, except as excluded in this subsection, without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever as shown by either the Federal or State income tax return required to be filed by such person.

Where the gross receipts, as defined above, are less than the cost of operations of the business, then the business shall be deemed to produce gross receipts in an amount at least equal to the cost of maintaining such operations. Such cost of operations shall include, but not be limited to, rent and/or depreciation, salaries and wages, fixed charges and other expenses.

Excluded from "gross receipts" shall be:

- (a) Cash discounts allowed and taken on sales;
- (b) Credit allowed on property accepted as part of the purchase price and which property may later be sold;
- (c) Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- (d) Such part of the sale price of property returned by purchasers upon rescission of the contract of sale as is refunded either in cash or by credit;
- (e) Amounts collected for others where the Business is acting as an agent or trustee to the extent that such amounts are paid to those whom collected;
- (f) The amount of each single sale to a single customer in excess of Fifty Thousand and no/100ths (\$50,000.00) Dollars where the gross profits derived therefrom does not exceed one percent (1%) of the sale price; and

The amount of gross receipts which has been the measure of a license tax paid to any other City. "Hearing officer" means an impartial person designated by the City Manager, as defined in Chapter 1.12 of the Tracy Municipal Code.

"Manufacturing" ~~shall be as defined in Section 6.04.310(d)(2)(A) means making materials, raw or partly finished, into wares suitable for use by persons other than the manufacturer, including, but not limited to, fabrication, processing, packing, bottling, assembling, canning, compounding, and forging.~~

"Not-for-profit entities" means any organization that qualifies under Section 501, subsection (c)(3) of the United States Internal Revenue Code or equivalent federal statute.

"Peddler" means any person who goes from house to house or from place to place or in or along the streets of the City selling and making an immediate delivery, or offering for sale and immediate delivery, anything of value in his possession to persons other than dealers in such commodities.

"Person" means any individual, firm, company, partnership, limited liability partnership, joint venture, association, proprietorship, social club, fraternal organization, joint stock company, domestic or foreign corporation, limited liability corporation, estate, trust, business trust, receiver, trustee, trustee in bankruptcy, administrator, executor, assignee, syndicate, or any other group or combination acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise, excepting: the United States of America, the State of California, and any political subdivision of either thereof upon which the City is without power to impose the tax herein provided.

"Restaurant" shall be as defined in Section 6.04.310(d)(1)(A).

"Retail" shall be as defined in Section 6.04.310(d)(1)(A).

"Solicitor" means a person engaged in soliciting, canvassing, or taking orders from house to house, or from place to place, or by telephone, or by any other means of communication for any goods, wares, or merchandise or any article to be delivered in the future, or for services to be performed in the future, or for making, manufacturing, or repairing any article whatsoever for future delivery, or for subscriptions to periodicals or tickets of admission to entertainments or memberships in any clubs.

"State" means the State of California.

"Sworn statement" means an affidavit sworn to before a person authorized to take oaths or a declaration or certification made under penalty of perjury.

"Tax certificate" means the business tax certificate and any other identifying decal or marker as may be required by the collector for purposes of this Chapter 6.04.

"Tax certificate holder" means the person to whom a tax certificate has been issued.

"Tour operator" shall be as defined in Section 6.04.310(d)(1)(B).

"Transient business" means every business not conducted at a "fixed place of business" or at a regular place of business, whether the person conducting such transient business is or is not a resident of the City.

~~"Warehousing business" shall be as defined in Section 6.04.310(d)(2)(B). means every business conducted solely for the purpose of maintaining or renting space for the storage of any kind of property.~~

~~"Wholesale business" means every business conducted solely for the purpose of selling goods, wares, or merchandise in wholesale lots for resale shall be as defined in Section 6.04.310(d)(2)(C).~~

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.020 Revenue measure.

This chapter is enacted for the sole purpose of raising revenue for municipal purposes and is not intended for regulation. The issuance of any tax certificate shall not be construed as authorizing any business to operate without first complying with all other applicable laws and regulations.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.030 Effect on other laws.

- (a) Persons required to pay a business tax for transacting and carrying on any business under this chapter shall not be relieved from the payment of any similar tax for the privilege of doing such business required by any other law of the City, the County or the State and shall remain subject to the regulatory provisions of those other laws.
- (b) Any person required to pay a business tax for transacting and carrying on any business under this chapter shall not be relieved from the payment of such business tax, notwithstanding that such business is not in compliance with zoning, health, safety, or other regulatory provisions of the Code or other State or federal law. Compliance with the provisions of this chapter shall not constitute evidence that such business is in compliance with any other such regulations or provisions of law.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.040 Required business tax payment.

- (a) It shall be unlawful for any person to transact and carry on any business, trade, profession, calling, or occupation in the City without first having paid the business tax, as prescribed in this chapter or without complying with any and all applicable requirements of this chapter.
- (b) This section shall not be construed to require any person to pay a business tax or to comply with any other requirement of this chapter prior to doing business within the City if such requirements conflict with applicable statutes of the United States or of the State.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.050 Evidence of doing business.

When any person, by the use of signs, circulars, cards, telephone books, or newspapers, shall advertise, hold out, or represent that the person is in business in the City, or when any person holds an active license or permit issued by a governmental agency indicating that the person is in business in the City, or when any person makes a sale, takes an order, renders a commercial service, or performs any other similar act within the City, and such person fails to deny by a sworn statement given to the Collector that the person is not conducting a business in the City after being requested to do so by the Collector, then such facts shall be considered prima facie evidence that the person is conducting a business in the City.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.060 Constitutional apportionment.

- (a) None of the business taxes provided for by this chapter shall be so applied as to occasion an undue burden upon interstate commerce or be violative of the equal protection and due process clauses of the Constitution.
- (b) In any case where a business tax is believed by a person transacting or carrying on any business in the City to place an undue burden upon interstate commerce or be violative of such constitutional clauses, such person may apply to the Collector for an adjustment of the tax. Such application may be made before or at the time the tax is required to be paid or within six (6) months after the payment of the prescribed business tax. The applicant, by sworn statement and supporting testimony, shall show the applicant's method of business, the gross volume or estimated gross volume of such business, and such other information as the Collector may deem necessary in order to determine the extent, if any, of such undue burden or violation. The Collector shall then conduct an investigation and, after having first obtained the written approval of the City Attorney, shall fix as the business tax for the applicant an amount that is reasonable and nondiscriminatory or, if the business tax has already been paid, shall order a refund of the amount over and above the business tax so fixed. Such investigation, fixing of the business tax, and order of refund shall be accomplished within a reasonable time upon receiving the requisite information by the City. In fixing the business tax, the Collector shall have the power to fix the business tax on any basis which will assure that the business tax assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the business tax prescribed by this chapter. If it is determined that no business tax is due, the applicant exempt from the business tax shall obtain, and the Collector shall issue, a tax certificate indicating such exemption from the tax.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.070 Exemptions.

- (a) Nothing contained in this chapter shall be deemed or construed as applying to any person transacting, engaging in, and carrying on any business exempt by virtue of the Constitution or applicable statutes of the United States or of the State from payment of taxes prescribed herein.
- (b) Exemptions requiring tax-exempt tax certificates. The following persons shall be exempted from the provisions of this chapter, except that any such person shall be required to obtain a tax-exempt tax certificate:
 - (1) Not-for-profit entities, as defined in this Code;
 - (2) Banks, including national banking associations as provided by subsection 1(a) of Section 16 of Article XIII of the State Constitution; and
 - (3) Insurance companies and associations as provided by Section 14 of Article XIII of the State Constitution provided however that insurance brokers shall not be excluded under this section.
- (c) Exemptions not requiring tax-exempt tax certificates. The following persons shall be exempted from the provisions of this chapter, and shall not be required to obtain a tax-exempt tax certificate:
 - (1) Any delivery by a firm lacking a fixed place of business in the City, which delivery is occasional and incidental to a business carried on outside the City provided, however, that four (4) or more deliveries within any twelve (12) month period shall be considered proof that any further delivery is not occasional and incidental to such business;
 - (2) Any public utility or other organization which is wholly owned and operated by a political subdivision of the State and any public district organized under the laws of the State; and
 - (3) Any vehicle which is subject to the Motor Carriers of Property Permit Fee Act (California Revenue and Taxation Code section 7231 et. al); provided, however, this exemption shall only apply to the transportation business.
- (d) Claims for exemption. Any person desiring to claim an exemption from the payment of a business tax and to have a free tax-exempt tax certificate issued shall make an application therefor upon a form prescribed by the City and shall furnish such information and make such affidavits as may be required, on an annual basis. Upon the determination being made that the applicant is entitled to an exemption from the payment of the business tax for any reason set forth in this chapter, the City, upon the applicant complying with the provisions of this chapter or any other law of the City which may require a permit for the doing of the particular act proposed to be done, shall issue a free tax-exempt tax certificate to such person, which certificate shall show upon its face that the business is exempt from the business tax.
- (e) Revocation of exemptions. The City may revoke any tax-exempt tax certificate granted pursuant to the provisions of this chapter upon information that the business is not entitled to the exemption as provided therein. In such revocation, the procedure to be followed and the right of appeal shall be as provided in this chapter for the determination of a disputed tax.
- (f) Sworn statements. The City may require the filing of a sworn statement from any person claiming to be excluded by the provisions of the section, which statement shall set forth all the facts upon which the exclusion is claimed.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.080 Posting and keeping tax certificates—Record keeping.

- (a) Any person carrying on business at a fixed place of business in the City shall keep the tax certificate posted in a conspicuous place on the premises where such business is carried on.
- (b) Every tax certificate holder not having a fixed place of business in the City shall keep the tax certificate upon his or her person, or if required by the Collector affixed in plain view upon any cart, vehicle, van, or other movable structure or device, at all times while transacting or carrying on the business for which it is issued.
- (c) All persons subject to the provisions of this chapter shall keep complete records of business transactions, including sales, receipts, purchases, and other expenditures, and shall retain all such records for examination by the Collector. Such records shall be maintained for a period of at least three (3) years. No person required to keep records under this section shall refuse to allow authorized representatives of the Collector to examine said records at reasonable times and places.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.090 Information confidentiality.

No statement shall be conclusive as to the matters set forth in any application filed under the provisions of this chapter and neither the filing thereof, the assessment or payment of any tax, nor the issuance of any tax certificate shall preclude the City from collecting by appropriate action such sum as is actually due and payable. Such statement, and each of the several items therein contained, shall be subject to audit and verification by the Finance Director, who is hereby authorized to examine, audit, and inspect such books and records of any tax certificate holder or applicant for a tax certificate as may be necessary for the judgment of the Collector to verify or ascertain the amount of business tax due.

- (a) It is unlawful for the Collector or any person having an administrative duty under the provisions of this chapter to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person required to have a tax certificate, or pay a business tax, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth in any statement or application, or copy of either, or any book containing any abstract particulars thereof to be seen or examined by any person. Provided that nothing in this section shall be construed to prevent:
 - (1) The disclosure to, or the examination of records and equipment by, another City official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this chapter, or collecting taxes imposed hereunder;
 - (2) The disclosure of information to, or the examination of records by Federal or State officials, or the tax officials of another city or county, or city and county, if a reciprocal arrangement exists, or to a grand jury or court of law, upon subpoena;
 - (3) The disclosure of information and results of the examination of records of particular taxpayers, or relating to particular payers, to a court of law in a proceeding brought to determine the existence or amount of any business tax liability of the particular taxpayers to the City;
 - (4) The disclosure after the filing of a written request to that effect, to the taxpayer himself, or to his successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, of information as to the items included to the measure of any paid tax, any unpaid tax or amounts of tax required to be collected, interest and penalties; further provided, however, that the City Attorney approves each such disclosure and that the Collector may refuse to make

any disclosure referred to in this paragraph when in his opinion the public interest would suffer thereby;

- (5) The disclosure of the names and addresses of persons to whom business tax receipts have been issued, and the general type or nature of their business;
- (6) The disclosure by way of public meeting or otherwise of such information as may be necessary to the City Council in order to permit it to be fully advised as the facts when a taxpayer files a claim for refund of business taxes or submits an offer of compromise with regard to a claim asserted against him by the City for business taxes, or when acting upon any other matter;
- (7) The disclosure of general statistics regarding taxes collected or business done in the City.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.100 Failure to file statements or corrected statements.

- (a) If any person fails to file any required statement within the time prescribed, or if, after demand therefor made by the Collector, such person fails to file a corrected statement, or if any person subject to the tax imposed by this chapter fails to submit the information required by the Collector necessary to determine the business tax due and payable, or if the Collector is not satisfied with the information supplied and the statement filed, the Collector may determine the amount of the business tax due from such person by means of such information as he may be able to obtain.
- (b) If such a determination is made, the Collector shall give notice of the amount so assessed by serving such notice electronically, personally, or by depositing it in the United States Post Office, postage prepaid, addressed to the person so assessed at his last known address.
- (c) Assessments so established shall be paid within fifteen (15) days after the mailing of such notice, subject to the provisions of section 6.04.180 of this chapter.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.110 Amount of business tax debt to city.

The amount of any business tax imposed by this chapter shall be deemed a debt to the City, and any person carrying on any trade, calling, profession or occupation mentioned in this chapter without having a tax certificate from the City shall be liable to an action in the name of the City in any court of competent jurisdiction for the amount of the business tax by this chapter imposed on such trade, calling, profession, or occupation.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.120 Effect of convictions.

The conviction and punishment of any person for transacting any trade, calling, profession, or occupation without a tax shall not excuse or exempt such person from the payment of any business tax due or unpaid at the time of such conviction, and nothing in this chapter shall prevent a criminal prosecution for any violation of the provisions of this chapter.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.130 Duty of City to issue business tax certificates.

- (a) It shall be the duty of the City to prepare and issue a tax certificate pursuant to the provisions of this chapter for every person liable to pay a business tax and to state in each tax certificate the period of time covered thereby; the name of the person or business to whom issued; the business classification to which the tax certificate is issued; the trade, calling, profession, or occupation to which the license certificate is issued and the location or place of business where such trade, calling, profession, or occupation is to be carried.
- (b) No tax certificate granted or issued under any provision of this chapter shall be in any manner transferred or assigned, nor shall such tax certificate authorize any person, other than is therein mentioned or named, to not pay a business tax.
- (c) The City may make a charge of Ten (\$10.00) Dollars for each duplicate tax certificate issued to replace any tax certificate issued under the provisions of this chapter that has been lost or destroyed. In no case shall any mistake made by the City in stating the amount of a business tax prevent or prejudice the collection by the City of what shall be due from any person carrying on a trade, calling, profession, or occupation subject to business tax under this chapter.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.140 Business taxes payable at City offices.

All business taxes shall be paid in advance in lawful money of the United States to the City of Tracy, in a manner prescribed by the Collector.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.150 Separate business tax certificate required—Warehouses excepted.

A separate tax certificate shall be obtained for each branch establishment or location. Warehouses and distributing establishments used in connection with and incidental to a business taxed under the provisions of this chapter shall not be deemed to be separate places of business or branch establishments.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.160 Business tax certificate period.

No tax certificate shall be issued for a period of more than twelve (12) months of the City's fiscal year beginning July 1 and ending June 30. Any application for a tax certificate received by the City mid-fiscal year will use a prospective estimate of how much the applicant would pay had they applied at the beginning of the tax certificate period.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.170 Business taxes—Payment, delinquencies, and penalties.

- (a) All business taxes shall be due on the first day of July and delinquent at 5:00 p.m. on the last day of July.
- (b) For failure to pay a business tax when due, the Collector shall add a penalty of ten (10%) percent of such business tax on the first day of delinquency and shall add a further penalty of ten (10%) percent of such business tax on the first day of every subsequent calendar month following such first day of delinquency

provided the amount of such penalties to be added shall in no event exceed fifty (50%) percent of the business tax due. The penalties provided in this subsection shall be assessed from the date when such deficiency was required to be paid pursuant to the provisions of this chapter.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.180 Application—Initial.

- (a) Upon a person making an application for the first business tax certificate for a newly established or acquired business, such person shall furnish to the Collector a statement, upon a form provided by the Collector; setting forth the following information:
 - (1) The exact nature or kind of business;
 - (2) The place where such business is to be carried on, and if the same is not to be carried on at any permanent place of business, the places of residence of the owners of same;
 - (3) In all cases where the amount of tax to be paid is measured by gross receipts, the application shall set forth such information as may be therein required and as may be necessary to determine the amount of the tax to be paid by the applicant;
 - (4) Any further information which the Collector may require.
- (b) If the amount of the tax to be paid by the applicant is measured by gross receipts, he or she shall estimate the gross receipts for the period covered. Such estimate, if accepted by the Collector as reasonable, shall be used in determining the amount of tax to be paid by the applicant; provided, however, the amount of the tax so determined shall be tentative only, and such person shall, within 60 days after the expiration of the period covered, furnish the Collector with a statement, upon a form prescribed by the Collector, showing the applicant's actual gross receipts during the period covered, and the tax for such period shall be finally ascertained and paid in the manner provided by this chapter for the ascertaining and paying of such taxes, after deducting from the payment found to be due the amounts initially paid.
- (c) In all cases, the applicant shall, upon filing his or her application, pay no less than the prescribed minimum tax in advance, without being prorated, to cover the remaining portion of the current reporting period.
- (d) The Collector shall not issue to any such person another business tax certificate for the same or any other business until such person shall have furnished to him or her a statement and paid the tax as herein required.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.190 Application—Renewal.

In all cases, the applicant for the renewal of a business tax certificate shall submit to the Collector for his or her guidance in ascertaining the amount of the tax to be paid by the applicant, a statement, upon a form prescribed by the Collector, setting forth such information concerning the applicant's business during the preceding year as may be required by the Collector to enable him or her to ascertain the amount of the tax to be paid by said applicant pursuant to the provisions of this chapter.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.200 Extensions of filing dates—Interest charges.

The Collector shall have the power, for good cause, to extend the time for filing any required sworn statement for a period not exceeding sixty (60) days and in such case to waive any penalty that would have otherwise accrued, except that twelve (12%) percent simple interest shall be added to any tax determined to be payable.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.210 Refunds.

No refund of an overpayment of a business tax imposed by this chapter shall be allowed in whole or in part unless a claim for a refund is filed with the Collector within a period of one (1) years after the last day of the calendar month following the period for which the overpayment was made, and all such claims for refunds shall be filed with the Collector on forms the Collector furnishes in the manner prescribed by the Collector. Upon the filing of such a claim and when the Collector determines, in a reasonable time, that an overpayment has been made, the Collector may refund the amount overpaid.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.220 Determinations of business classifications an administrative function.

The final determination of which business or class of business a tax certificate holder or applicant for a tax certificate is engaged in, or about to engage in, shall be an administrative function of the City.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.230 Applications for changes of business classifications.

- (a) In any case, where a tax certificate holder or an applicant for a tax certificate believes that his or her business is not assigned to the proper classification under this chapter because of circumstances peculiar to it, as distinguished from other businesses of the same kind, he or she may apply to the Collector for reclassification. Such application shall contain such information as the Collector may deem necessary and require in order to determine whether the applicant's individual business is properly classified. The Collector shall then conduct an investigation following which he or she shall assign the applicant's individual business to the classification shown to be proper on the basis of such investigation. The proper classification is that classification which, in the opinion of the Collector, most nearly fits the applicant's business. The reclassification shall not be retroactive but shall apply at the time of the next regularly ensuing calculation of the applicant's tax. No business shall be classified more than once a year.
- (b) The Collector shall notify the applicant of the action taken on the application for reclassification. Such notice shall be given by serving it personally or by depositing it in the United States Post Office postage prepaid, addressed to the applicant at his or her last known address. Such applicant may, within ten (10) working days after the mailing or serving of such notices, make a written request to the Collector for a appeal hearing on the application's reclassification. If such a request is made within the time prescribed, the Collector shall cause the matter to be set for hearing before the City Council within fifteen (15) days. The Collector shall give the applicant at least ten (10) days' notice of the time and place of the hearing in the manner prescribed under section 1.12.020 for serving notice of the action taken on the application for reclassification. The City Council shall consider all evidence adduced and shall adopt a resolution reflecting its decision. The decision of the City Council shall be final.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.240 Appeals on decisions of business classifications.

Any applicant or tax certificate holder aggrieved by the business classification decision of the City shall have the right of appeal to an impartial Hearing Officer as outlined by section 1.12.030 of the Code. Such appeal shall be taken by filing with the City Clerk, within fifteen (15) days after the notice of the decision of the City, a written statement setting forth the grounds for the appeal. The City Clerk shall set a time and place for a hearing on such appeal within thirty (30) days after the receipt of the appeal. Notwithstanding chapter 1.12 of the Code, the decisions and orders of the Hearing Officer shall be final and conclusive.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.250 Rules and regulations.

The City Manager may promulgate such rules and regulations, not inconsistent with the provisions of this chapter, as may be necessary or desirable to aid in the enforcement of the provisions of this chapter.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.260 Referrals to other agencies—Prepayment of taxes.

- (a) Referrals to other agencies. The Collector may refer to any governmental agency any statement and all other information submitted by persons subject to the provisions of this chapter in connection with the conduct of a Business regulated or supervised or otherwise the concern of any such agency, including agencies concerned with health regulations, zoning conformance, fire safety, police considerations, or any other safeguard of the public interest.
- (b) Prepayment of taxes. The Collector may advise any person filing a statement in connection with the payment of a business tax for a new or other business not actually in operation that such person may desire to defer the payment of the business tax until the person has obtained whatever approval may be required in order to transact and carry on the business until such business is actually in operation. If any person does, however, pay the business tax in advance of the commencement of the operation of the business, but does not operate the business because City or other governmental agency did not grant an approval which is required by regulation or law in order for such Business to be transacted and carried on, then the business tax shall be refunded in full, after the person has informed Collector in a timely manner, to the person having paid such tax minus the application fee as set by resolution of the City Council and revised from time to time.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.270 Enforcement.

- (a) It shall be the duty of the Collector to enforce each and all of the provisions of this chapter, and the various City departments shall render such assistance in the enforcement as may from time to time be required by the Collector, City Manager, or City Council.
- (b) The Collector, in the exercise of the duties imposed upon the Collector shall examine, or cause to be examined, all places of business in the City to ascertain whether the provisions of this chapter have been complied with.

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- (c) The Collector, and each designee, and any police officer or duly authorized inspector, shall have the power and authority to enter free of charge at any reasonable time any place of business or to question any person, which business or person is, or there is reasonable cause to believe such business or person may be, subject to the provision of this chapter, and demand an exhibition of proof of business tax payment.
 - (d) The Collector's designees who have satisfactorily completed a certified course in "Powers of Arrest" may thereafter exercise the powers of arrest as specified in Section 836.5 of the California Penal Code on any person who has committed a misdemeanor or infraction in their presence which is a violation of the provisions of this chapter.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.280 Remedies cumulative.

All remedies prescribed in this chapter shall be cumulative, and the use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.290 Severability.

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

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.300 Violations—Penalties.

Any person violating any of the provisions of this chapter or knowingly or intentionally misrepresenting to any officer or employee of the City any material fact in procuring, or attempting to procure, the business tax certificate provided for in this chapter shall be deemed guilty of an infraction.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

Article 2. Taxes

6.04.310 Determination of tax due based on gross receipts plus annual registration tax.

- (a) Every person who engages in business within the City shall pay a business tax based upon Ggross receipts at the specified category rates listed in this section.
- (b) A flat rate of Fifty and no/100ths (\$50.00) Dollars will be applied to the base Ggross receipts, as defined by section 6.04.010, regardless of which category the business falls under. If the business makes less than the base Ggross receipts but more than \$1, the business will only pay Fifty and no/100ths (\$50.00) Dollars in business tax. Any dollar amount in excess of the base Ggross receipts, will be calculated by the rates below.

For example, if a business has a Ggross receipt of Seven Hundred Thousand and no/100ths (\$700,000.00) Dollars and is a Category 1 Business, the total amount of tax the business would pay would be a Fifty and

no/100ths (\$50.00) Dollars (for the first Five hundred Thousand and no/100ths (\$500,000.00) Dollars [base gross receipt]) + Two Hundred and no/100ths (\$200.00) Dollars $(\text{\$700,000} - \text{\$500,000}) \times .001$ for a total of Two Hundred Fifty and no/100ths (\$250.00) Dollars in business tax.

(c) If a business has no Gross receipts, ~~as defined in section 6.04.010,~~ then the business shall be deemed to produce Gross receipts in an amount at least equal to the cost of maintaining such operations for such business. The cost of operations shall include, but not be limited to, rent and/or depreciation, salaries and wages, fixed charges, and other expenses.

(d) Categories of businesses:

(1) CATEGORY 1: General Business including Retail, Restaurants, Hotels, and Tour operators and any business not otherwise classified ($.00050-001 \times \text{G}$ ross receipts in excess of the base Gross receipts), with subject to a the maximum fee of Sixty Five Thousand (\$65,000) Dollars in business tax:

For example, if a business has a Gross receipt of Seven Hundred Thousand and no/100ths (\$700,000.00) Dollars and is a Category 1 Business, the total amount of tax the business would pay would be a Fifty and no/100ths (\$50.00) Dollars (for the first Five hundred Thousand and no/100ths (\$500,000.00) Dollars [base Gross receipt]) + \$100 ~~\$200~~ $(\text{\$700,000} - \text{\$500,000}) \times .0005$ for a total of One ~~Two~~ Hundred Fifty (\$150.00) ~~(\$250.00)~~ Dollars in business tax.

(A) This Category includes aAny establishment or Business that conducts "Retail" (the sale of goods to ultimate consumers, usually in small quantities, }, but excludes Gasoline, Automobile dealerships or Cannabis sales), or "Restaurant" (an establishment where meals, prepared food, and / or beverages are served to customers).

(B) "Tour operator" means a business that provides tours in the City for compensation.

(2) CATEGORY 2: Manufacturing, warehousing and wholesaling ($.00090-0015 \times \text{G}$ ross receipts) in excess of the base Gross receipts), with subject to a the maximum fee of Sixty Five Thousand Dollars in business tax:

For example, if a business has a Gross receipt of Seven Hundred Thousand and no/100ths (\$700,000.00) Dollars and is a Category 2 Business, the total amount of tax the business would pay would be a \$50 (for the first Five hundred Thousand and no/100ths (\$500,000.00) Dollars [base Gross receipt]) + One ~~Three~~ Hundred and Eighty and no/100ths (\$180.00) ~~(\$300.00)~~ Dollars $(\text{\$700,000} - \text{\$500,000}) \times .0009$ for a total of Three Hundred Fifty and no/100ths (\$230.00) ~~(\$350.00)~~ Dollars in business tax.

(A) "Manufacturing" includes every person conducting or carrying on a business consisting of manufacturing, packing, or processing any goods, wares, merchandise, or commodities at a fixed place of business within the City or conducting or carrying on a business of cold storage or refrigeration.

(B) "Warehousing" means every Business conducted solely for the purpose of maintaining or renting space for the storage of any kind of property.

(C) "Wholesaling" means every Business conducted solely for the purpose of selling goods, wares, or merchandise in wholesale lots for resale.

(3) CATEGORY 3: Contractors and Services ($.0010-002 \times \text{G}$ ross receipts) in excess of the base Gross receipts), with subject to a the maximum fee of Sixty Five Thousand Dollars in business tax:

For example, if a business has a Gross receipts of seven hundred thousand and no/100ths (\$700,000.00) Dollars and is a Category 3 Business, the total amount of tax the business would pay would be a Fifty and no/100ths (\$50.00) Dollars (for the first Five hundred Thousand and no/100ths (\$500,000.00) Dollars [base Gross receipt]) + Two ~~Four~~ Hundred and no/100ths (\$400.00) Dollars

~~(\$700,000 - \$500,000) x .001~~ for a total of ~~Two~~ Four Hundred Fifty and no/100ths ~~(\$250.00)~~ Dollars in business tax.

(A) “Contractors” means: every person, firm, or corporation conducting, managing, or carrying on the business of a contractor, subcontractor, or builder; or engaging in the construction or repair of any buildings; or engaged in any engineering, construction, operating, or advertising as such, or representing himself as such, and regularly employing help for building construction, sewer construction, plumbing construction or general construction.

(B) "Services" means any Pprofessional services, as that term is ordinarily and commonly used and understood, wherein individuals are engaged in the business of offering services for compensation, and not specifically covered under any other part, chapter, or section of this chapter, and shall include those professions that may require a licensure, but not be limited to the services rendered by a person engaged in the practice or profession such as hairstylist, beautician or cosmetologist, aesthetician, or art instructor.

(4) CATEGORY 4: Professionals and Rrental units (Commercial and Residential) ~~(.00150-003~~ x Ggross receipts in excess of the base Ggross receipts), with subject to a the maximum of Sixty Five Thousand (\$65,000) Dollars in business tax:

For example, if a business has a Ggross receipt of Seven Hundred Thousand and no/100ths (\$700,000.00) Dollars and is a Category 4 Business, the total amount of tax the business would pay would be a Fifty and no/100ths (\$50.00) Dollars (for the first Five hundred Thousand and no/100ths (\$500,000.00) Dollars [base Ggross receipt]) + ~~Three Six~~ Hundred and no/100ths ~~(\$300.00)~~ Dollars ~~(\$300.00)~~ Dollars ~~([\$700,000 - \$500,000] x .003)~~ for a total of ~~Three Six~~ Hundred Fifty and no/100ths ~~(\$350.00)~~ Dollars in business tax.

(A) "Professionals sservices" means any Pprofessional services, as that term is ordinarily and commonly used and understood, wherein provided by individuals ~~are~~ engaged in the business of offering to the public professional or semiprofessional services for compensation, and not specifically covered under any other part, chapter or section of this chapter, and shall include those professions generally requiring governmental certification or a professional degree, but not be limited to the serves rendered by a person engaged in the practice or profession of law, medicine, surgery, dentistry, ophthalmologist, optometry, chiropractic, osteopathy, chiropody, dental technician, laboratory technician, physical therapist, mortician, undertaker, psychologist, psychotherapy, radiologist, speech therapist, veterinary, licensed financial planner, licensed investment counselor, real estate agent, real estate broker, stock / bond or security agent or broker, civil, mechanical, electrical, industrial, or other class of engineer, surveyor, geologist, appraiser, architect, accountant, real estate management, property management, income tax preparers, bookkeepers, income tax consultants, developer, or marriage counselors.

(B) “Rental units” means any unit, whether commercial, residential or industrial, offered by aAny business, individual, or entity that leases, rents, or otherwise provides property to another individual or entity for compensation.

(5) CATEGORY 5: Gasoline sSales ~~(0.0005~~ x Gross receipts in excess of the base Ggross receipts), with the maximum fee of Fifty (\$50) Dollars in business tax:

For example, if a business has a Ggross receipts of Seven Hundred Thousand and no/100ths ~~(\$700,000.00) Dollars and is a Category 5 Business, the total amount of tax the business would pay would be a Fifty and no/100ths (\$50.00) Dollars (for the first Five hundred Thousand and no/100ths (\$500,000.00) Dollars [base Gross receipt]) + \$100 ([\$700,000 - \$500,000] x .0005) for a total of One Hundred Fifty (\$150.00) . Since this category has a maximum fee cap of Fifty Dollars (\$50), the total would be Fifty Dollars in business tax.~~

(A) ~~"Gasoline sales" includes~~ means sale of "Motor Vehicle Fuel" as defined under California Code of Regulations Title 18, Section 1101 and ~~it includes aviation gasoline, gasohol, finished gasoline, gasoline, gasoline blendstocks, and blended motor vehicle fuel.~~

(B) ~~Any person or entity with both Gasoline and Retail sales shall provide separate accounting of Gross receipts and shall pay the applicable business tax rate for each such Category.~~

(6) ~~CATEGORY 6: Cannabis (0.0005 x Gross receipts in excess of the base Ggross receipts), with~~subject to a ~~the~~ maximum fee of Fifty (\$50) Dollars in business tax:

~~For example, if a business has a Ggross receipts of Seven Hundred Thousand and no/100ths (\$700,000.00) Dollars and is a Category 5 Business, the total amount of tax the business would pay would be a Fifty and no/100ths (\$50.00) Dollars (for the first Five hundred Thousand and no/100ths (\$500,000.00) Dollars [base Ggross receipts]) +\$100 ([\$700,000 - \$500,000] x .0005) for a total of One Hundred Fifty (\$150.00) . Since this category has a maximum fee cap of Fifty Dollars (\$50), the total would be Fifty Dollars in business tax.~~

(A) ~~"Cannabis" business means sales at of any business engaged in commercial cannabis activity, includinges the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided for in this cChapter 6.36 and in MAUCRSA. This definition shall have the same meaning as set forth in California Business and Professions Code Section 26001(k) as the same may be amended from time to time.~~

(7) ~~CATEGORY 7: CarAutomobile dDealership sales- (0.0005 x Gross receipts in excess of the Bbase Ggross receipts), with~~subject to ~~thea~~ maximum fee of Twenty Five Hundred (\$2500) Dollars in business tax:

~~For example, if a business has a Ggross receipts of Seven Hundred Thousand and no/100ths (\$700,000.00) Dollars and is a Category 5 Business, the total amount of tax the business would pay would be a Fifty and no/100ths (\$50.00) Dollars (for the first Five hundred Thousand and no/100ths (\$500,000.00) Dollars [base Ggross receipts]) +\$100 ([\$700,000 - \$500,000] x .0005) for a total of One Hundred Fifty (\$150.00) Dollars in business tax~~

(A) ~~"Automobile dDealership" is Sales are sales of new or used motor vehicles, or both, as the term "motor vehicle" is defined in the California Vehicle Code by a Bbusiness that is a non-Mmanufacturing establishment and is engaged in the business of buying, selling, offering to buy, offering to sell, consigned to be sold, or otherwise dealing in Mmotor Vvehicles sales or repairs, as the term "Motor Vehicle" is defined in the California Vehicle Code.~~

(Res. No. 2022-106, § 7(Exh. A), 7-12-22; Ord. No. 1339, § 2, 6-27-2023; Ord. No. 1340, § 2, 8-15-2023)

NOTICE AND DIGEST

(A) RESCINDING URGENCY ORDINANCE 1346 THAT ESTABLISHED A MORATORIUM ON THE PROCESSING OF BUSINESS TAXES UNDER SECTION 6.04.310 OF TRACY MUNICIPAL CODE AND (B) ADOPTING AMENDMENTS TO CHAPTER 6.04 OF THE TMC REFLECTING REVISED BUSINESS TAX RATES AND CATEGORIES

The Tracy City Council discussed, for immediate adoption, an Urgency Ordinance which among other things rescinds the moratorium established by Ordinance 1346 and applies a fifty percent reduction to four different tax rates to businesses; provides for a cap on business tax of \$65,000 to all categories, and a sunset of 3 years after adoption of a regular ordinance, which was concurrently introduced.

ATTACHMENT B

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

**TRACY CITY COUNCIL ORDINANCE NO.
ORDINANCE AMENDING CHAPTER 6.04 OF THE TRACY MUNICIPAL CODE TO REFLECT
REVISED BUSINESS TAX AND CATEGORIES**

WHEREAS, pursuant to Government Code Section 37101(a), the governing body of a city has the power to license, regulate and tax any lawful occupation; and

WHEREAS, pursuant to Chapter 6.04 of the Tracy Municipal Code, business tax is an annual tax charged to businesses operating in the City of Tracy, for the purpose of contributing revenue to the City's General Fund in support of essential services, such as public safety, streets maintenance, and recreation programs; and

WHEREAS, in March 2020, the City Council formed an Ad-Hoc Committee, consisting of former Mayor Pro Tem Vargas and Councilmember Arriola, for fiscal sustainability; and

WHEREAS, the Ad-Hoc Committee now has become the standing Finance Committee of the City Council and has broader fiscal jurisdiction; and

WHEREAS, the Ad-Hoc Committee was formed with the intention of providing guidance to develop short and long-term fiscal sustainability strategies, as during this time, the City was facing a budget deficit; and

WHEREAS, one of the recommendations from the Ad-Hoc Committee was to review the structure of the City's Business Tax, which structure was based upon the number of employees, had a cap of \$2,018 and had remained unchanged since 1984; and

WHEREAS, in March 2022, the City Council directed staff to proceed with placing a tax measure on the November 2022 ballot; and

WHEREAS, in November 2022, voters in the City of Tracy approved Measure B, which adopted an updated Business Tax structure based upon gross receipts; and

WHEREAS, Measure B took effect July 1, 2023, and is codified in Tracy Municipal Code (TMC) Chapter 6.04; and

WHEREAS, according to Chapter 6.04, businesses pay a flat business tax of \$50 on the first \$500,000 of gross receipts and pay a percentage of gross receipts for any gross receipts above \$500,000; the percentage applied to gross receipts over \$500,000 ranges from 0.001 to 0.003, or \$1 to \$3 for every \$1,000 in gross receipts, depending on the category of business; and

WHEREAS, the updated Business Tax structure was aimed to bring a proportionate tax amongst small and large businesses and to give Tracy control over local funds, providing resources for community priorities including public safety, recreational programs, and economic development; and

WHEREAS, at the City Council meeting on May 21, 2024, various business owners in the City expressed concerns about the substantial financial impact and strain on their operations caused by the new business tax; and

WHEREAS, some businesses indicated that they would not be able to survive the business tax burden, and other businesses indicated they would be relocating outside of the City of Tracy; and

WHEREAS, based upon requisite finding, the City Council adopted Urgency Ordinance 1345 on June 4, 2024, establishing a 45-day moratorium (Moratorium) on the processing of business taxes under Section 6.04.310 of the TMC; and

WHEREAS, the Moratorium was needed to immediately pause the processing of applications by the deadline July 1st and provide the City additional time to analyze potential amendments to the current tax structure that could mitigate the severe consequences to local businesses if tax bills were sent under the current version of Chapter 6.04; and

WHEREAS, on July 9, 2024, the City Council extended the Moratorium for an additional ten months and fifteen days pursuant to the Urgency Ordinance 1346; and

WHEREAS, on August 13, 2024 the City Council conducted a “Town Hall” style workshop and City Council meeting at the conclusion of which the City Council directed staff to return with appropriate legislation for adoption that would amend Chapter 6.04 to reflect the following: (a) businesses to pay a flat business tax of \$50 on the first \$500,000 of gross receipts and pay a percentage of gross receipts for any gross receipts above \$500,000; (b) the percentage applied to gross receipts over \$500,000 to be reduced by fifty percent (50%) in certain categories and forty percent (40%) in one category, (c) the creation of max tax caps for gasoline, cannabis, and automobile dealerships; (d) a maximum tax cap of \$65,000, across all categories and (e) a 3 year sunset provision for the foregoing amendments; and

WHEREAS, the City Council conducted a properly noticed public hearing on September 17, 2024, to consider the adoption of this Ordinance; 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. Amendments to Business Tax Provisions. Chapter 6.04 of the Tracy Municipal Code is amended as set forth in Exhibit 1, which exhibit is hereby incorporated fully herein.

SECTION 3. Revisions Declaratory of Existing Law. The revisions provided in Section 2 above are declaratory of the voters’ expressed intent by passing Measure B in the November 2022 general election, as those revisions are consistent with what the City represented to voters about what this City Council proposed initiative would do. This Ordinance is not intended to, and does not, amend Measure B so as to change its scope and effect in any way the voters did not intend.

SECTION 4. CEQA Determination. The City Council finds that this Ordinance is categorically exempt from the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15061(b)(3), pertaining to actions that do not have the potential for causing a significant effect on the environment. This Ordinance is also not a “project” under CEQA Guidelines Section 15378, as it has no potential to result in either a direct or indirect physical change in 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 after the thirtieth (30th) day after its final adoption.

SECTION 7. Sunset Date. This Ordinance and all amendments to Chapter 6.04 made pursuant to hereof shall automatically sunset and be of no further force or effect as of June 30, 2027.

SECTION 8. Publication. The City Clerk is directed to publish this Ordinance in a manner required by law.

SECTION 9. Codification. This Ordinance shall be codified in the Tracy Municipal Code.

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on September 17, 2024, and finally adopted at a regular meeting of the Tracy City Council on the ____ day of _____ 2024, 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: _____

AMENDMENTS TO**Chapter 6.04 BUSINESS TAXES**(with additions underlined, and deletions in ~~striketrough~~):**ALL AMENDMENTS SHALL AUTOMATICALLY SUNSET AND
BE OF NO FORCE AND EFFECT AS OF JUNE 30, 2027**

Sections:

Article 1. General Provisions**6.04.010 Definitions.**

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Automobile dealership" shall be as defined in Section 6.04.310(d)(72)(A).

"Base Gross receipts" means the first Five Hundred Thousand and no/100ths (\$500,000.00) Dollars of Gross receipts.

"Business" means and includes full-time or part-time professional services and retail, wholesale, manufacturing, or other occupations, trades, or callings of any kind, whether or not carried on for profit or livelihood.

"Business tax" means the business activity tax.

"Cannabis" shall be as defined in Section 6.04.310(d)(6)(A).

"City" means the City of Tracy, a municipal corporation of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged, or reincorporated form.

"Code" means the Tracy Municipal Code, as amended from time to time.

"Collector" means the Finance Director of the City or other designees charged by the Finance Director or City Manager of the City, as the case may be, with the administration of the provisions of this chapter.

"County" means the County of San Joaquin.

"Constitution" means the United States Constitution or the California Constitution, as the case may be.

"Employee" means all persons engaged in the operation or conduct of any business, whether as a member of the owner's family, agent, manager, solicitor, and all other persons employed or working in said business including, without limitations of the foregoing, all individuals who derive all or part of their income from commissioned sales. For purposes of computing tax based on employees, the average number of employees per year, as defined in this section, will be used.

"Fixed place of business" means premises in the City where a business is conducted from day to day and regularly kept open for the purposes of such business, also referred to as "regular place of business."

"Gasoline" shall be as defined in Section 6.04.310(d)(56)(A).

"Gross receipts" means the total amount of the sale price of all sales, and/or the total amount charged or received for the performance of any act or service or employment, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act, service or employment is done as a part of or in connection with the sale of materials, goods, wares or merchandise, and when such act, service or employment occurs as a result of any activity within the City. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, except as excluded in this subsection, without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever as shown by either the Federal or State income tax return required to be filed by such person.

Where the gross receipts, as defined above, are less than the cost of operations of the business, then the business shall be deemed to produce gross receipts in an amount at least equal to the cost of maintaining such operations. Such cost of operations shall include, but not be limited to, rent and/or depreciation, salaries and wages, fixed charges and other expenses.

Excluded from "gross receipts" shall be:

- (a) Cash discounts allowed and taken on sales;
- (b) Credit allowed on property accepted as part of the purchase price and which property may later be sold;
- (c) Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- (d) Such part of the sale price of property returned by purchasers upon rescission of the contract of sale as is refunded either in cash or by credit;
- (e) Amounts collected for others where the Business is acting as an agent or trustee to the extent that such amounts are paid to those whom collected;
- (f) The amount of each single sale to a single customer in excess of Fifty Thousand and no/100ths (\$50,000.00) Dollars where the gross profits derived therefrom does not exceed one percent (1%) of the sale price; and

The amount of gross receipts which has been the measure of a license tax paid to any other City. "Hearing officer" means an impartial person designated by the City Manager, as defined in Chapter 1.12 of the Tracy Municipal Code.

"Manufacturing" ~~shall be as defined in Section 6.04.310(d)(2)(A) means making materials, raw or partly finished, into wares suitable for use by persons other than the manufacturer, including, but not limited to, fabrication, processing, packing, bottling, assembling, canning, compounding, and forging.~~

"Not-for-profit entities" means any organization that qualifies under Section 501, subsection (c)(3) of the United States Internal Revenue Code or equivalent federal statute.

"Peddler" means any person who goes from house to house or from place to place or in or along the streets of the City selling and making an immediate delivery, or offering for sale and immediate delivery, anything of value in his possession to persons other than dealers in such commodities.

"Person" means any individual, firm, company, partnership, limited liability partnership, joint venture, association, proprietorship, social club, fraternal organization, joint stock company, domestic or foreign corporation, limited liability corporation, estate, trust, business trust, receiver, trustee, trustee in bankruptcy, administrator, executor, assignee, syndicate, or any other group or combination acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise, excepting: the United States of America, the State of California, and any political subdivision of either thereof upon which the City is without power to impose the tax herein provided.

"Restaurant" shall be as defined in Section 6.04.310(d)(1)(A).

"Retail" shall be as defined in Section 6.04.310(d)(1)(A).

"Solicitor" means a person engaged in soliciting, canvassing, or taking orders from house to house, or from place to place, or by telephone, or by any other means of communication for any goods, wares, or merchandise or any article to be delivered in the future, or for services to be performed in the future, or for making, manufacturing, or repairing any article whatsoever for future delivery, or for subscriptions to periodicals or tickets of admission to entertainments or memberships in any clubs.

"State" means the State of California.

"Sworn statement" means an affidavit sworn to before a person authorized to take oaths or a declaration or certification made under penalty of perjury.

"Tax certificate" means the business tax certificate and any other identifying decal or marker as may be required by the collector for purposes of this Chapter 6.04.

"Tax certificate holder" means the person to whom a tax certificate has been issued.

"Tour operator" shall be as defined in Section 6.04.310(d)(1)(B).

"Transient business" means every business not conducted at a "fixed place of business" or at a regular place of business, whether the person conducting such transient business is or is not a resident of the City.

~~"Warehousing business" shall be as defined in Section 6.04.310(d)(2)(B). means every business conducted solely for the purpose of maintaining or renting space for the storage of any kind of property.~~

~~"Wholesale business" means every business conducted solely for the purpose of selling goods, wares, or merchandise in wholesale lots for resale shall be as defined in Section 6.04.310(d)(2)(C).~~

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.020 Revenue measure.

This chapter is enacted for the sole purpose of raising revenue for municipal purposes and is not intended for regulation. The issuance of any tax certificate shall not be construed as authorizing any business to operate without first complying with all other applicable laws and regulations.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.030 Effect on other laws.

- (a) Persons required to pay a business tax for transacting and carrying on any business under this chapter shall not be relieved from the payment of any similar tax for the privilege of doing such business required by any other law of the City, the County or the State and shall remain subject to the regulatory provisions of those other laws.
- (b) Any person required to pay a business tax for transacting and carrying on any business under this chapter shall not be relieved from the payment of such business tax, notwithstanding that such business is not in compliance with zoning, health, safety, or other regulatory provisions of the Code or other State or federal law. Compliance with the provisions of this chapter shall not constitute evidence that such business is in compliance with any other such regulations or provisions of law.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.040 Required business tax payment.

- (a) It shall be unlawful for any person to transact and carry on any business, trade, profession, calling, or occupation in the City without first having paid the business tax, as prescribed in this chapter or without complying with any and all applicable requirements of this chapter.
- (b) This section shall not be construed to require any person to pay a business tax or to comply with any other requirement of this chapter prior to doing business within the City if such requirements conflict with applicable statutes of the United States or of the State.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.050 Evidence of doing business.

When any person, by the use of signs, circulars, cards, telephone books, or newspapers, shall advertise, hold out, or represent that the person is in business in the City, or when any person holds an active license or permit issued by a governmental agency indicating that the person is in business in the City, or when any person makes a sale, takes an order, renders a commercial service, or performs any other similar act within the City, and such person fails to deny by a sworn statement given to the Collector that the person is not conducting a business in the City after being requested to do so by the Collector, then such facts shall be considered prima facie evidence that the person is conducting a business in the City.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.060 Constitutional apportionment.

- (a) None of the business taxes provided for by this chapter shall be so applied as to occasion an undue burden upon interstate commerce or be violative of the equal protection and due process clauses of the Constitution.
- (b) In any case where a business tax is believed by a person transacting or carrying on any business in the City to place an undue burden upon interstate commerce or be violative of such constitutional clauses, such person may apply to the Collector for an adjustment of the tax. Such application may be made before or at the time the tax is required to be paid or within six (6) months after the payment of the prescribed business tax. The applicant, by sworn statement and supporting testimony, shall show the applicant's method of business, the gross volume or estimated gross volume of such business, and such other information as the Collector may deem necessary in order to determine the extent, if any, of such undue burden or violation. The Collector shall then conduct an investigation and, after having first obtained the written approval of the City Attorney, shall fix as the business tax for the applicant an amount that is reasonable and nondiscriminatory or, if the business tax has already been paid, shall order a refund of the amount over and above the business tax so fixed. Such investigation, fixing of the business tax, and order of refund shall be accomplished within a reasonable time upon receiving the requisite information by the City. In fixing the business tax, the Collector shall have the power to fix the business tax on any basis which will assure that the business tax assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the business tax prescribed by this chapter. If it is determined that no business tax is due, the applicant exempt from the business tax shall obtain, and the Collector shall issue, a tax certificate indicating such exemption from the tax.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.070 Exemptions.

- (a) Nothing contained in this chapter shall be deemed or construed as applying to any person transacting, engaging in, and carrying on any business exempt by virtue of the Constitution or applicable statutes of the United States or of the State from payment of taxes prescribed herein.
- (b) Exemptions requiring tax-exempt tax certificates. The following persons shall be exempted from the provisions of this chapter, except that any such person shall be required to obtain a tax-exempt tax certificate:
 - (1) Not-for-profit entities, as defined in this Code;
 - (2) Banks, including national banking associations as provided by subsection 1(a) of Section 16 of Article XIII of the State Constitution; and
 - (3) Insurance companies and associations as provided by Section 14 of Article XIII of the State Constitution provided however that insurance brokers shall not be excluded under this section.
- (c) Exemptions not requiring tax-exempt tax certificates. The following persons shall be exempted from the provisions of this chapter, and shall not be required to obtain a tax-exempt tax certificate:
 - (1) Any delivery by a firm lacking a fixed place of business in the City, which delivery is occasional and incidental to a business carried on outside the City provided, however, that four (4) or more deliveries within any twelve (12) month period shall be considered proof that any further delivery is not occasional and incidental to such business;
 - (2) Any public utility or other organization which is wholly owned and operated by a political subdivision of the State and any public district organized under the laws of the State; and
 - (3) Any vehicle which is subject to the Motor Carriers of Property Permit Fee Act (California Revenue and Taxation Code section 7231 et. al); provided, however, this exemption shall only apply to the transportation business.
- (d) Claims for exemption. Any person desiring to claim an exemption from the payment of a business tax and to have a free tax-exempt tax certificate issued shall make an application therefor upon a form prescribed by the City and shall furnish such information and make such affidavits as may be required, on an annual basis. Upon the determination being made that the applicant is entitled to an exemption from the payment of the business tax for any reason set forth in this chapter, the City, upon the applicant complying with the provisions of this chapter or any other law of the City which may require a permit for the doing of the particular act proposed to be done, shall issue a free tax-exempt tax certificate to such person, which certificate shall show upon its face that the business is exempt from the business tax.
- (e) Revocation of exemptions. The City may revoke any tax-exempt tax certificate granted pursuant to the provisions of this chapter upon information that the business is not entitled to the exemption as provided therein. In such revocation, the procedure to be followed and the right of appeal shall be as provided in this chapter for the determination of a disputed tax.
- (f) Sworn statements. The City may require the filing of a sworn statement from any person claiming to be excluded by the provisions of the section, which statement shall set forth all the facts upon which the exclusion is claimed.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.080 Posting and keeping tax certificates—Record keeping.

- (a) Any person carrying on business at a fixed place of business in the City shall keep the tax certificate posted in a conspicuous place on the premises where such business is carried on.
- (b) Every tax certificate holder not having a fixed place of business in the City shall keep the tax certificate upon his or her person, or if required by the Collector affixed in plain view upon any cart, vehicle, van, or other movable structure or device, at all times while transacting or carrying on the business for which it is issued.
- (c) All persons subject to the provisions of this chapter shall keep complete records of business transactions, including sales, receipts, purchases, and other expenditures, and shall retain all such records for examination by the Collector. Such records shall be maintained for a period of at least three (3) years. No person required to keep records under this section shall refuse to allow authorized representatives of the Collector to examine said records at reasonable times and places.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.090 Information confidentiality.

No statement shall be conclusive as to the matters set forth in any application filed under the provisions of this chapter and neither the filing thereof, the assessment or payment of any tax, nor the issuance of any tax certificate shall preclude the City from collecting by appropriate action such sum as is actually due and payable. Such statement, and each of the several items therein contained, shall be subject to audit and verification by the Finance Director, who is hereby authorized to examine, audit, and inspect such books and records of any tax certificate holder or applicant for a tax certificate as may be necessary for the judgment of the Collector to verify or ascertain the amount of business tax due.

- (a) It is unlawful for the Collector or any person having an administrative duty under the provisions of this chapter to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person required to have a tax certificate, or pay a business tax, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth in any statement or application, or copy of either, or any book containing any abstract particulars thereof to be seen or examined by any person. Provided that nothing in this section shall be construed to prevent:
 - (1) The disclosure to, or the examination of records and equipment by, another City official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this chapter, or collecting taxes imposed hereunder;
 - (2) The disclosure of information to, or the examination of records by Federal or State officials, or the tax officials of another city or county, or city and county, if a reciprocal arrangement exists, or to a grand jury or court of law, upon subpoena;
 - (3) The disclosure of information and results of the examination of records of particular taxpayers, or relating to particular payers, to a court of law in a proceeding brought to determine the existence or amount of any business tax liability of the particular taxpayers to the City;
 - (4) The disclosure after the filing of a written request to that effect, to the taxpayer himself, or to his successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, of information as to the items included to the measure of any paid tax, any unpaid tax or amounts of tax required to be collected, interest and penalties; further provided, however, that the City Attorney approves each such disclosure and that the Collector may refuse to make

any disclosure referred to in this paragraph when in his opinion the public interest would suffer thereby;

- (5) The disclosure of the names and addresses of persons to whom business tax receipts have been issued, and the general type or nature of their business;
- (6) The disclosure by way of public meeting or otherwise of such information as may be necessary to the City Council in order to permit it to be fully advised as the facts when a taxpayer files a claim for refund of business taxes or submits an offer of compromise with regard to a claim asserted against him by the City for business taxes, or when acting upon any other matter;
- (7) The disclosure of general statistics regarding taxes collected or business done in the City.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.100 Failure to file statements or corrected statements.

- (a) If any person fails to file any required statement within the time prescribed, or if, after demand therefor made by the Collector, such person fails to file a corrected statement, or if any person subject to the tax imposed by this chapter fails to submit the information required by the Collector necessary to determine the business tax due and payable, or if the Collector is not satisfied with the information supplied and the statement filed, the Collector may determine the amount of the business tax due from such person by means of such information as he may be able to obtain.
- (b) If such a determination is made, the Collector shall give notice of the amount so assessed by serving such notice electronically, personally, or by depositing it in the United States Post Office, postage prepaid, addressed to the person so assessed at his last known address.
- (c) Assessments so established shall be paid within fifteen (15) days after the mailing of such notice, subject to the provisions of section 6.04.180 of this chapter.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.110 Amount of business tax debt to city.

The amount of any business tax imposed by this chapter shall be deemed a debt to the City, and any person carrying on any trade, calling, profession or occupation mentioned in this chapter without having a tax certificate from the City shall be liable to an action in the name of the City in any court of competent jurisdiction for the amount of the business tax by this chapter imposed on such trade, calling, profession, or occupation.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.120 Effect of convictions.

The conviction and punishment of any person for transacting any trade, calling, profession, or occupation without a tax shall not excuse or exempt such person from the payment of any business tax due or unpaid at the time of such conviction, and nothing in this chapter shall prevent a criminal prosecution for any violation of the provisions of this chapter.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.130 Duty of City to issue business tax certificates.

- (a) It shall be the duty of the City to prepare and issue a tax certificate pursuant to the provisions of this chapter for every person liable to pay a business tax and to state in each tax certificate the period of time covered thereby; the name of the person or business to whom issued; the business classification to which the tax certificate is issued; the trade, calling, profession, or occupation to which the license certificate is issued and the location or place of business where such trade, calling, profession, or occupation is to be carried.
- (b) No tax certificate granted or issued under any provision of this chapter shall be in any manner transferred or assigned, nor shall such tax certificate authorize any person, other than is therein mentioned or named, to not pay a business tax.
- (c) The City may make a charge of Ten (\$10.00) Dollars for each duplicate tax certificate issued to replace any tax certificate issued under the provisions of this chapter that has been lost or destroyed. In no case shall any mistake made by the City in stating the amount of a business tax prevent or prejudice the collection by the City of what shall be due from any person carrying on a trade, calling, profession, or occupation subject to business tax under this chapter.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.140 Business taxes payable at City offices.

All business taxes shall be paid in advance in lawful money of the United States to the City of Tracy, in a manner prescribed by the Collector.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.150 Separate business tax certificate required—Warehouses excepted.

A separate tax certificate shall be obtained for each branch establishment or location. Warehouses and distributing establishments used in connection with and incidental to a business taxed under the provisions of this chapter shall not be deemed to be separate places of business or branch establishments.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.160 Business tax certificate period.

No tax certificate shall be issued for a period of more than twelve (12) months of the City's fiscal year beginning July 1 and ending June 30. Any application for a tax certificate received by the City mid-fiscal year will use a prospective estimate of how much the applicant would pay had they applied at the beginning of the tax certificate period.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.170 Business taxes—Payment, delinquencies, and penalties.

- (a) All business taxes shall be due on the first day of July and delinquent at 5:00 p.m. on the last day of July.
- (b) For failure to pay a business tax when due, the Collector shall add a penalty of ten (10%) percent of such business tax on the first day of delinquency and shall add a further penalty of ten (10%) percent of such business tax on the first day of every subsequent calendar month following such first day of delinquency

provided the amount of such penalties to be added shall in no event exceed fifty (50%) percent of the business tax due. The penalties provided in this subsection shall be assessed from the date when such deficiency was required to be paid pursuant to the provisions of this chapter.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.180 Application—Initial.

- (a) Upon a person making an application for the first business tax certificate for a newly established or acquired business, such person shall furnish to the Collector a statement, upon a form provided by the Collector; setting forth the following information:
 - (1) The exact nature or kind of business;
 - (2) The place where such business is to be carried on, and if the same is not to be carried on at any permanent place of business, the places of residence of the owners of same;
 - (3) In all cases where the amount of tax to be paid is measured by gross receipts, the application shall set forth such information as may be therein required and as may be necessary to determine the amount of the tax to be paid by the applicant;
 - (4) Any further information which the Collector may require.
- (b) If the amount of the tax to be paid by the applicant is measured by gross receipts, he or she shall estimate the gross receipts for the period covered. Such estimate, if accepted by the Collector as reasonable, shall be used in determining the amount of tax to be paid by the applicant; provided, however, the amount of the tax so determined shall be tentative only, and such person shall, within 60 days after the expiration of the period covered, furnish the Collector with a statement, upon a form prescribed by the Collector, showing the applicant's actual gross receipts during the period covered, and the tax for such period shall be finally ascertained and paid in the manner provided by this chapter for the ascertaining and paying of such taxes, after deducting from the payment found to be due the amounts initially paid.
- (c) In all cases, the applicant shall, upon filing his or her application, pay no less than the prescribed minimum tax in advance, without being prorated, to cover the remaining portion of the current reporting period.
- (d) The Collector shall not issue to any such person another business tax certificate for the same or any other business until such person shall have furnished to him or her a statement and paid the tax as herein required.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.190 Application—Renewal.

In all cases, the applicant for the renewal of a business tax certificate shall submit to the Collector for his or her guidance in ascertaining the amount of the tax to be paid by the applicant, a statement, upon a form prescribed by the Collector, setting forth such information concerning the applicant's business during the preceding year as may be required by the Collector to enable him or her to ascertain the amount of the tax to be paid by said applicant pursuant to the provisions of this chapter.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.200 Extensions of filing dates—Interest charges.

The Collector shall have the power, for good cause, to extend the time for filing any required sworn statement for a period not exceeding sixty (60) days and in such case to waive any penalty that would have otherwise accrued, except that twelve (12%) percent simple interest shall be added to any tax determined to be payable.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.210 Refunds.

No refund of an overpayment of a business tax imposed by this chapter shall be allowed in whole or in part unless a claim for a refund is filed with the Collector within a period of one (1) years after the last day of the calendar month following the period for which the overpayment was made, and all such claims for refunds shall be filed with the Collector on forms the Collector furnishes in the manner prescribed by the Collector. Upon the filing of such a claim and when the Collector determines, in a reasonable time, that an overpayment has been made, the Collector may refund the amount overpaid.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.220 Determinations of business classifications an administrative function.

The final determination of which business or class of business a tax certificate holder or applicant for a tax certificate is engaged in, or about to engage in, shall be an administrative function of the City.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.230 Applications for changes of business classifications.

- (a) In any case, where a tax certificate holder or an applicant for a tax certificate believes that his or her business is not assigned to the proper classification under this chapter because of circumstances peculiar to it, as distinguished from other businesses of the same kind, he or she may apply to the Collector for reclassification. Such application shall contain such information as the Collector may deem necessary and require in order to determine whether the applicant's individual business is properly classified. The Collector shall then conduct an investigation following which he or she shall assign the applicant's individual business to the classification shown to be proper on the basis of such investigation. The proper classification is that classification which, in the opinion of the Collector, most nearly fits the applicant's business. The reclassification shall not be retroactive but shall apply at the time of the next regularly ensuing calculation of the applicant's tax. No business shall be classified more than once a year.
- (b) The Collector shall notify the applicant of the action taken on the application for reclassification. Such notice shall be given by serving it personally or by depositing it in the United States Post Office postage prepaid, addressed to the applicant at his or her last known address. Such applicant may, within ten (10) working days after the mailing or serving of such notices, make a written request to the Collector for a appeal hearing on the application's reclassification. If such a request is made within the time prescribed, the Collector shall cause the matter to be set for hearing before the City Council within fifteen (15) days. The Collector shall give the applicant at least ten (10) days' notice of the time and place of the hearing in the manner prescribed under section 1.12.020 for serving notice of the action taken on the application for reclassification. The City Council shall consider all evidence adduced and shall adopt a resolution reflecting its decision. The decision of the City Council shall be final.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.240 Appeals on decisions of business classifications.

Any applicant or tax certificate holder aggrieved by the business classification decision of the City shall have the right of appeal to an impartial Hearing Officer as outlined by section 1.12.030 of the Code. Such appeal shall be taken by filing with the City Clerk, within fifteen (15) days after the notice of the decision of the City, a written statement setting forth the grounds for the appeal. The City Clerk shall set a time and place for a hearing on such appeal within thirty (30) days after the receipt of the appeal. Notwithstanding chapter 1.12 of the Code, the decisions and orders of the Hearing Officer shall be final and conclusive.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.250 Rules and regulations.

The City Manager may promulgate such rules and regulations, not inconsistent with the provisions of this chapter, as may be necessary or desirable to aid in the enforcement of the provisions of this chapter.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.260 Referrals to other agencies—Prepayment of taxes.

- (a) Referrals to other agencies. The Collector may refer to any governmental agency any statement and all other information submitted by persons subject to the provisions of this chapter in connection with the conduct of a Business regulated or supervised or otherwise the concern of any such agency, including agencies concerned with health regulations, zoning conformance, fire safety, police considerations, or any other safeguard of the public interest.
- (b) Prepayment of taxes. The Collector may advise any person filing a statement in connection with the payment of a business tax for a new or other business not actually in operation that such person may desire to defer the payment of the business tax until the person has obtained whatever approval may be required in order to transact and carry on the business until such business is actually in operation. If any person does, however, pay the business tax in advance of the commencement of the operation of the business, but does not operate the business because City or other governmental agency did not grant an approval which is required by regulation or law in order for such Business to be transacted and carried on, then the business tax shall be refunded in full, after the person has informed Collector in a timely manner, to the person having paid such tax minus the application fee as set by resolution of the City Council and revised from time to time.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.270 Enforcement.

- (a) It shall be the duty of the Collector to enforce each and all of the provisions of this chapter, and the various City departments shall render such assistance in the enforcement as may from time to time be required by the Collector, City Manager, or City Council.
- (b) The Collector, in the exercise of the duties imposed upon the Collector shall examine, or cause to be examined, all places of business in the City to ascertain whether the provisions of this chapter have been complied with.

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- (c) The Collector, and each designee, and any police officer or duly authorized inspector, shall have the power and authority to enter free of charge at any reasonable time any place of business or to question any person, which business or person is, or there is reasonable cause to believe such business or person may be, subject to the provision of this chapter, and demand an exhibition of proof of business tax payment.
 - (d) The Collector's designees who have satisfactorily completed a certified course in "Powers of Arrest" may thereafter exercise the powers of arrest as specified in Section 836.5 of the California Penal Code on any person who has committed a misdemeanor or infraction in their presence which is a violation of the provisions of this chapter.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.280 Remedies cumulative.

All remedies prescribed in this chapter shall be cumulative, and the use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.290 Severability.

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

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

6.04.300 Violations—Penalties.

Any person violating any of the provisions of this chapter or knowingly or intentionally misrepresenting to any officer or employee of the City any material fact in procuring, or attempting to procure, the business tax certificate provided for in this chapter shall be deemed guilty of an infraction.

(Res. No. 2022-106, § 7(Exh. A), 7-12-22)

Article 2. Taxes

6.04.310 Determination of tax due based on gross receipts plus annual registration tax.

- (a) Every person who engages in business within the City shall pay a business tax based upon Ggross receipts at the specified category rates listed in this section.
- (b) A flat rate of Fifty and no/100ths (\$50.00) Dollars will be applied to the base Ggross receipts, as defined by section 6.04.010, regardless of which category the business falls under. If the business makes less than the base Ggross receipts but more than \$1, the business will only pay Fifty and no/100ths (\$50.00) Dollars in business tax. Any dollar amount in excess of the base Ggross receipts, will be calculated by the rates below.

For example, if a business has a Ggross receipt of Seven Hundred Thousand and no/100ths (\$700,000.00) Dollars and is a Category 1 Business, the total amount of tax the business would pay would be a Fifty and

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no/100ths (\$50.00) Dollars (for the first Five hundred Thousand and no/100ths (\$500,000.00) Dollars [base gross receipt]) + Two Hundred and no/100ths (\$200.00) Dollars $(\text{\$700,000} - \text{\$500,000}) \times .001$ for a total of Two Hundred Fifty and no/100ths (\$250.00) Dollars in business tax.

(c) If a business has no Gross receipts, ~~as defined in section 6.04.010,~~ then the business shall be deemed to produce Gross receipts in an amount at least equal to the cost of maintaining such operations for such business. The cost of operations shall include, but not be limited to, rent and/or depreciation, salaries and wages, fixed charges, and other expenses.

(d) Categories of businesses:

(1) CATEGORY 1: General Business including Retail, Restaurants, Hotels, and Tour operators and any business not otherwise classified ($.00050-001 \times \text{G}$ ross receipts in excess of the base Gross receipts), with subject to a the maximum fee of Sixty Five Thousand (\$65,000) Dollars in business tax:

For example, if a business has a Gross receipt of Seven Hundred Thousand and no/100ths (\$700,000.00) Dollars and is a Category 1 Business, the total amount of tax the business would pay would be a Fifty and no/100ths (\$50.00) Dollars (for the first Five hundred Thousand and no/100ths (\$500,000.00) Dollars [base Gross receipt]) + \$100 ~~\$200~~ $(\text{\$700,000} - \text{\$500,000}) \times .0005$ for a total of One ~~Two~~ Hundred Fifty (\$150.00) ~~(\$250.00)~~ Dollars in business tax.

(A) This Category includes aAny establishment or Business that conducts "Retail" (the sale of goods to ultimate consumers, usually in small quantities, }, but excludes Gasoline, Automobile dealerships or Cannabis sales), or "Restaurant" (an establishment where meals, prepared food, and / or beverages are served to customers).

(B) "Tour operator" means a business that provides tours in the City for compensation.

(2) CATEGORY 2: Manufacturing, warehousing and wholesaling ($.00090-0015 \times \text{G}$ ross receipts) in excess of the base Gross receipts), with subject to a the maximum fee of Sixty Five Thousand Dollars in business tax:

For example, if a business has a Gross receipt of Seven Hundred Thousand and no/100ths (\$700,000.00) Dollars and is a Category 2 Business, the total amount of tax the business would pay would be a \$50 (for the first Five hundred Thousand and no/100ths (\$500,000.00) Dollars [base Gross receipt]) + One ~~Three~~ Hundred and Eighty and no/100ths (\$180.00) ~~(\$300.00)~~ Dollars $(\text{\$700,000} - \text{\$500,000}) \times .0009$ for a total of Three Hundred Fifty and no/100ths (\$230.00) ~~(\$350.00)~~ Dollars in business tax.

(A) "Manufacturing" includes every person conducting or carrying on a business consisting of manufacturing, packing, or processing any goods, wares, merchandise, or commodities at a fixed place of business within the City or conducting or carrying on a business of cold storage or refrigeration.

(B) "Warehousing" means every Business conducted solely for the purpose of maintaining or renting space for the storage of any kind of property.

(C) "Wholesaling" means every Business conducted solely for the purpose of selling goods, wares, or merchandise in wholesale lots for resale.

(3) CATEGORY 3: Contractors and Services ($.0010-002 \times \text{G}$ ross receipts) in excess of the base Gross receipts), with subject to a the maximum fee of Sixty Five Thousand Dollars in business tax:

For example, if a business has a Gross receipts of seven hundred thousand and no/100ths (\$700,000.00) Dollars and is a Category 3 Business, the total amount of tax the business would pay would be a Fifty and no/100ths (\$50.00) Dollars (for the first Five hundred Thousand and no/100ths (\$500,000.00) Dollars [base Gross receipt]) + Two ~~Four~~ Hundred and no/100ths (\$400.00) Dollars

~~(\$700,000 - \$500,000) x .001~~ for a total of ~~Two~~ Four Hundred Fifty and no/100ths ~~(\$250.00)~~ Dollars in business tax.

(A) ~~“Contractors” means:~~ every person, firm, or corporation conducting, managing, or carrying on the business of a contractor, subcontractor, or builder; or engaging in the construction or repair of any buildings; or engaged in any engineering, construction, operating, or advertising as such, or representing himself as such, and regularly employing help for building construction, sewer construction, plumbing construction or general construction.

(B) "Services" means any ~~P~~professional services, as that term is ordinarily and commonly used and understood, wherein individuals are engaged in the business of offering services for compensation, and not specifically covered under any other part, chapter, or section of this chapter, and shall include those professions that may require a licensure, but not be limited to the services rendered by a person engaged in the practice or profession such as hairstylist, beautician or cosmetologist, aesthetician, or art instructor.

(4) CATEGORY 4: Professionals and ~~R~~rental units (Commercial and Residential) (~~.0015~~ ~~0.003~~ x ~~G~~gross receipts in excess of the base ~~G~~gross receipts), ~~with subject to a the maximum of Sixty Five Thousand (\$65,000) Dollars in business tax:~~

For example, if a business has a ~~G~~gross receipt of Seven Hundred Thousand and no/100ths (\$700,000.00) Dollars and is a Category 4 Business, the total amount of tax the business would pay would be a Fifty and no/100ths (\$50.00) Dollars (for the first Five hundred Thousand and no/100ths (\$500,000.00) Dollars [base ~~G~~gross receipt]) + ~~Three Six~~ Hundred and no/100ths ~~(\$300.00)~~ Dollars ($[(\$700,000 - \$500,000) \times .003]$) for a total of ~~Three Six~~ Hundred Fifty and no/100ths ~~(\$350.00)~~ Dollars in business tax.

(A) "Professionals ~~s~~ services" means ~~any P~~professional services, as that term is ordinarily and commonly used and understood, ~~wherein provided by~~ individuals ~~are~~ engaged in the business of offering to the public professional or semiprofessional services for compensation, and not specifically covered under any other part, chapter or section of this chapter, and shall include those professions generally requiring governmental certification or a professional degree, but not be limited to the serves rendered by a person engaged in the practice or profession of law, medicine, surgery, dentistry, ophthalmologist, optometry, chiropractic, osteopathy, chiropody, dental technician, laboratory technician, physical therapist, mortician, undertaker, psychologist, psychotherapy, radiologist, speech therapist, veterinary, licensed financial planner, licensed investment counselor, real estate agent, real estate broker, stock / bond or security agent or broker, civil, mechanical, electrical, industrial, or other class of engineer, surveyor, geologist, appraiser, architect, accountant, real estate management, property management, income tax preparers, bookkeepers, income tax consultants, developer, or marriage counselors.

(B) ~~“Rental units” means any unit, whether commercial, residential or industrial, offered by a~~Any business, individual, or entity that leases, rents, or otherwise provides property to another individual or entity for compensation.

(5) ~~CATEGORY 5: Gasoline s~~Sales (~~0.0005~~ x Gross receipts in excess of the base ~~G~~gross receipts), ~~with the maximum fee of Fifty (\$50) Dollars in business tax:~~

~~For example, if a business has a G~~gross receipts of Seven Hundred Thousand and no/100ths ~~(\$700,000.00) Dollars and is a Category 5 Business, the total amount of tax the business would pay would be a Fifty and no/100ths (\$50.00) Dollars (for the first Five hundred Thousand and no/100ths (\$500,000.00) Dollars [base Gross receipt]) + \$100 $[(\$700,000 - \$500,000) \times .0005]$ for a total of One Hundred Fifty (\$150.00) . Since this category has a maximum fee cap of Fifty Dollars (\$50), the total would be Fifty Dollars in business tax.~~

(A) ~~"Gasoline sales" includes~~ means sale of "Motor Vehicle Fuel" as defined under California Code of Regulations Title 18, Section 1101 and ~~it includes aviation gasoline, gasohol, finished gasoline, gasoline, gasoline blendstocks, and blended motor vehicle fuel.~~

(B) ~~Any person or entity with both Gasoline and Retail sales shall provide separate accounting of Gross receipts and shall pay the applicable business tax rate for each such Category.~~

(6) ~~CATEGORY 6: Cannabis (0.0005 x Gross receipts in excess of the base Gross receipts), with~~ subject to a ~~the~~ maximum fee of Fifty (\$50) Dollars in business tax:

~~For example, if a business has a Gross receipts of Seven Hundred Thousand and no/100ths (\$700,000.00) Dollars and is a Category 5 Business, the total amount of tax the business would pay would be a Fifty and no/100ths (\$50.00) Dollars (for the first Five hundred Thousand and no/100ths (\$500,000.00) Dollars [base Gross receipts]) +\$100 ([\$700,000 - \$500,000] x .0005) for a total of One Hundred Fifty (\$150.00) . Since this category has a maximum fee cap of Fifty Dollars (\$50), the total would be Fifty Dollars in business tax.~~

(A) ~~"Cannabis" business means sales at of any business engaged in commercial cannabis activity, including~~es the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided for in ~~this cChapter 6.36 and in MAUCRSA. This definition shall have the same meaning as set forth in California Business and Professions Code Section 26001(k) as the same may be amended from time to time.~~

(7) ~~CATEGORY 7: Car~~Automobile ~~dDealership sales-~~ (0.0005 x Gross receipts in excess of the ~~Bbase~~ Gross receipts), ~~with~~subject to ~~the~~a maximum fee of Twenty Five Hundred (\$2500) Dollars in business tax:

~~For example, if a business has a Gross receipts of Seven Hundred Thousand and no/100ths (\$700,000.00) Dollars and is a Category 5 Business, the total amount of tax the business would pay would be a Fifty and no/100ths (\$50.00) Dollars (for the first Five hundred Thousand and no/100ths (\$500,000.00) Dollars [base Gross receipts]) +\$100 ([\$700,000 - \$500,000] x .0005) for a total of One Hundred Fifty (\$150.00) Dollars in business tax~~

(A) ~~"Automobile dDealership" is Sales are sales of new or used motor vehicles, or both, as the term "motor vehicle" is defined in the California Vehicle Code by a Bbusiness that is a non-~~ ~~Mmanufacturing establishment and is engaged in the business of buying, selling, offering to buy, offering to sell, consigned to be sold, or otherwise dealing in Mmotor Vvehicles sales or repairs, as the term "Motor Vehicle" is defined in the California Vehicle Code.~~

(Res. No. 2022-106, § 7(Exh. A), 7-12-22; Ord. No. 1339, § 2, 6-27-2023; Ord. No. 1340, § 2, 8-15-2023)

NOTICE AND DIGEST

AN ORDINANCE AMENDING CHAPTER 6.04 OF THE TRACY MUNICIPAL CODE TO ADOPT REVISED BUSINESS TAX RATES AND CATEGORIES.

The Tracy City Council will be discussing the introduction of an ordinance amending Chapter 6.04 of the Tracy Municipal Code to adopt revised business tax rates and categories.

Agenda Item 3.D

RECOMMENDATION

Staff recommends that the City Council take the following actions for the League of California Cities 2024 Annual Conference Business meeting:

- 1) Designate, by motion, a voting delegate and up to two alternate voting delegates; and**
- 2) Discuss General Resolution No. 1 and determine, by motion, how to authorize the appointed delegate to vote**

EXECUTIVE SUMMARY

Staff requests that the City Council, by motion, designate a voting delegate and up to two alternate voting delegates for the upcoming League of California Cities (Cal Cities) 2024 Annual Conference Business Meeting (Annual Conference) and determine their position on resolutions that may be introduced during the conference. Cal Cities' deadline to submit resolutions was Saturday, August 17, 2024, 60 days prior to the opening of the Annual Conference. Cal Cities has reported that one general resolution (See Attachment B) was received by the deadline for consideration and will be considered by the General Assembly.

BACKGROUND AND LEGISLATIVE HISTORY

The League of California Cities (Cal Cities) 2024 Annual Conference is scheduled for Wednesday, October 16 through Friday, October 18, 2024. The League of California Cities advocates on issues that matter to California's 483 towns and cities. Their advocacy teams work with regional field staff and lawmakers to sponsor, draft, and support legislative and regulatory measures that promote local decision making and lobby against policy that erodes local control. Cal Cities takes positions on hundreds of bills annually. With over 400 city officials serving on its seven policy committees, cities directly influence the direction of Cal Cities' overall advocacy efforts.

An important part of the Annual Conference is the Cal Cities Annual Business Meeting held on Friday, October 18, 2024. At this meeting, Cal Cities' membership considers and takes action on resolutions that establish Cal Cities' policy. In order to expedite the conduct of business at this policy-making meeting, each City Council is required to designate a voting delegate and up to two alternates who will be registered at the Annual Conference and present virtually at the Annual Business Meeting. A voting delegate is a council-appointed city official — elected or appointed — who represents their city at the General Assembly. Cal Cities recommends that voting delegates attend the full conference through the General Assembly, which takes place on Fridays of the Annual Conference. However, delegates can register for just the Friday portion of the

Annual Conference if they are unable to attend the full conference. A voting card will be given to the city official designated on the Voting Delegate Form. Cal Cities has requested to receive the names of the delegates by Wednesday, September 25, 2024. See Attachment A for further information about voting delegates.

Annual Conference Resolutions

The Cal Cities' Annual Conference resolutions process is one way that city officials can directly participate in the development of Cal Cities' policy. The deadline to submit resolutions was August 17, 2024. This year, Cal Cities received one general resolution to be considered at the Annual Conference and will be considered by the General Assembly. In addition, a petitioned resolution is an alternate method to introduce policy proposals during the annual conference. The petition must be signed by voting delegates from 10% of member cities and submitted to the Cal Cities President at least 24 hours before the beginning of the General Assembly.

Discussion procedures during the General Assembly are guided by two calendars: the Consent Calendar and the Regular Calendar. As seen below, resolutions are calendared by the recommendations they receive from policy committees and the Resolutions Committee.

For General Resolutions:

Policy Committee Recommendation	Resolutions Committee Recommendation	Calendar
Approve	Approve	Consent Calendar
Approve	Disapprove or refer	Regular Calendar
Disapprove or refer	Approve	Regular Calendar
Disapprove or refer	Disapprove or refer	Does not proceed to General Assembly

Items on the Consent Calendar will be presented as one motion during the General Assembly from the Resolutions Committee chair. Unless an item on the Consent Calendar is set aside by the majority of the General Assembly, a vote will be taken on the whole calendar. If an item is set aside, it will be opened for discussion, followed by a vote. Items on the Regular Calendar will be presented individually by the Resolutions Committee chair. After a recommendation is presented by the Resolutions Committee chair, the resolution will be opened for discussion by the General Assembly. A vote will take place following discussion.

Voting Procedures:

Per Cal Cities Bylaws Article XII, Sec. 2, all votes will be conducted by voice vote first. If the presiding official cannot determine the outcome, a vote will be taken by an alternative method, typically a raise of voting cards by voting delegates. A roll call vote may be called for by delegates of ten percent or more of the General Assembly.

ANALYSIS AND DISCUSSION

Staff recommends that the City Council discuss General Resolution No. 1 and determine, by motion, how to authorize the appointed delegate to vote, which is as follows:

General Resolution No. 1 2024:

Resolution on Fair and Equal Treatment of All Governmental Officials at All Levels submitted by City of Glendora: Attachment B is Cal Cities' analysis of this General Resolution.

"The California State Legislature shall not enact, and the Governor shall not approve, any law or regulation that applies solely to elected officials of California cities and counties, unless such law or regulation also applies equally to members of the California State Assembly and Senate. This prohibition shall not apply to laws or regulations affecting the inherent powers of the legislative branch under the California Constitution."

The following five cities authored letters of concurrence for the City of Glendora's submission:

Mayor John Cruikshank, City of Rancho Palos Verdes
Mayor Bill Uphoff, City of Lomita
Mayor Robert Gonzales, City of Azusa
Mayor April Verlato, City of Arcadia
Mayor Tim Hepburn, City of La Verne

The General Resolution and Cal Cities' analysis cite multiple laws passed by the State Legislature mandating various restrictions or reporting requirements upon local agencies and elected officials; however, these laws include exclusions for the State Legislature and State agencies. The City supports policies that promote local authority and flexibility for local governments to be responsive and transparent to their constituencies. The City policies also do not support unfunded mandates, which are often imposed on the cities and not the State. However, it is not clear what impact this resolution would have on influencing the State Legislature.

Staff recommends that the City Council discuss and provide direction to the voting delegate as to the City of Tracy's position on the General Resolution No.1 for 2024.

FISCAL IMPACT

The City Council and staff travel expenses are included in the Fiscal Year 2024-25 Operating Budget. There are no other fiscal impacts related to the appointment of a voting delegate or the approval of the 2024 Annual Conference General Resolution No. 1.

STRATEGIC PLAN

This agenda item supports Governance Strategic Goal 1: Model Good Governance, Teamwork, and Transparency.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council take the following actions for the League of California Cities 2024 Annual Conference Business Meeting:

- 1) Designate, by motion, a voting delegate and up to two alternate voting delegates; and
- 2) Discuss General Resolution No. 1 and determine, by motion, how to authorize the appointed delegates to vote.

Prepared by: Karin Schnaider, Assistant City Manager

Reviewed by: Sara Castro, Finance Director

Approved by: Midori Lichtwardt, City Manager

Attachments:

Attachment A: 2024-Voting-Delegate-Information-Packet

Attachment B: Final-2024 Resolution Packet (Cal Cities)



ATTACHMENT A

Council Action Advised by September 25, 2024

DATE: Wednesday, July 10, 2024

TO: Mayors, Council Members, City Clerks, and City Managers

RE: DESIGNATION OF VOTING DELEGATES AND ALTERNATES
League of California Cities Annual Conference and Expo, Oct. 16-18, 2024
Long Beach Convention Center

Every year, the League of California Cities convenes a member-driven General Assembly at the [Cal Cities Annual Conference and Expo](#). The General Assembly is an important opportunity where city officials can directly participate in the development of Cal Cities policy.

Taking place on Oct. 18, the General Assembly is comprised of voting delegates appointed by each member city; every city has one voting delegate. Your appointed voting delegate plays an important role during the General Assembly by representing your city and voting on resolutions.

To cast a vote during the General Assembly, your city must designate a voting delegate and up to two alternate voting delegates, one of whom may vote if the designated voting delegate is unable to serve in that capacity. Voting delegates may either be an elected or appointed official.

Action by Council Required. Consistent with Cal Cities bylaws, a city's voting delegate and up to two alternates must be designated by the city council. Please note that designating the voting delegate and alternates **must** be done by city council action and cannot be accomplished by individual action of the mayor or city manager alone.

Following council action, please submit your city's delegates through [the online submission portal](#) by Wed., Sept. 25. When completing the Voting Delegate submission form, you will be asked to attest that council action was taken. You will need to be signed in to your My Cal Cities account when submitting the form.

Submitting your voting delegate form by the deadline will allow us time to establish voting delegate/alternate records prior to the conference and provide pre-conference communications with voting delegates.

Conference Registration Required. The voting delegate and alternates must be registered to attend the conference. They need not register for the entire conference; they may register for Friday only. Conference registration is open on the [Cal Cities](#) website.



For a city to cast a vote, one voter must be present at the General Assembly and in possession of the voting delegate card and voting tool. Voting delegates and alternates need to pick up their conference badges before signing in and picking up the voting delegate card at the voting delegate desk. This will enable them to receive the special sticker on their name badges that will admit the voting delegate into the voting area during the General Assembly.

Please view Cal Cities' [event and meeting policy](#) in advance of the conference.

Transferring Voting Card to Non-Designated Individuals Not Allowed. The voting delegate card may be transferred freely between the voting delegate and alternates, but *only* between the voting delegate and alternates. If the voting delegate and alternates find themselves unable to attend the General Assembly, they may *not* transfer the voting card to another city official.

Seating Protocol during General Assembly. At the General Assembly, individuals with a voting card will sit in a designated area. Admission to the voting area will be limited to the individual in possession of the voting card and with a special sticker on their name badge identifying them as a voting delegate.

The voting delegate desk, located in the conference registration area of the Long Beach Convention Center in Long Beach, will be open at the following times: Wednesday, Oct. 16, 8:00 a.m.-6:00 p.m. and Thursday, Oct. 17, 7:30 a.m.-4:00 p.m. On Friday, Oct. 18, the voting delegate desk will be open at the General Assembly, starting at 7:30 a.m., but will be closed during roll calls and voting.

The voting procedures that will be used at the conference are attached to this memo. Please share these procedures and this memo with your council and especially with the individuals that your council designates as your city's voting delegate and alternates.

Once again, thank you for submitting your voting delegate and alternates by Wednesday, Sept. 25. If you have questions, please contact Zach Seals at zseals@calcities.org.

Attachments:

- General Assembly Voting Guidelines
- Information Sheet: Cal Cities Resolutions and the General Assembly



General Assembly Voting Guidelines

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to Cal Cities policy.
2. **Designating a City Voting Representative.** Prior to the Cal Cities Annual Conference and Expo, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the voting delegate form provided to the Cal Cities Credentials Committee.
3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the voting delegate desk in the conference registration area. Voting delegates and alternates must sign in at the voting delegate desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the General Assembly.
4. **Signing Initiated Resolution Petitions.** Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the credentials committee at the voting delegate desk, may sign petitions to initiate a resolution.
5. **Voting.** To cast the city's vote, a city official must have in their possession the city's voting card and voting tool; and be registered with the credentials committee. The voting card may be transferred freely between the voting delegate and alternates but may not be transferred to another city official who is neither a voting delegate nor alternate.
6. **Voting Area at General Assembly.** At the General Assembly, individuals with a voting card will sit in a designated area. Admission to the voting area will be limited to the individual in possession of the voting card and with a special sticker on their name badge identifying them as a voting delegate.
7. **Resolving Disputes.** In case of dispute, the credentials committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the General Assembly.

How it works: Cal Cities Resolutions and the General Assembly

Developing League of California Cities policy is a dynamic process that engages a wide range of members to ensure Cal Cities represents cities with one voice. These policies directly guide Cal Cities' advocacy to promote local decision-making, and lobby against statewide policies that erode local control.

The resolutions process and General Assembly is one way that city officials can directly participate in the development of Cal Cities policy. If a resolution is approved at the General Assembly, it becomes official Cal Cities policy. Here's how resolutions and the General Assembly work.

Prior to the Annual Conference and Expo

General Resolutions



Sixty days before the Annual Conference and Expo, Cal Cities members may submit policy proposals on issues of importance

to cities. The resolution must have the concurrence of at least five additional member cities or individual members.



Policy Committees



The Cal Cities President assigns general resolutions to policy committees where members

review, debate, and recommend positions for each policy proposal. Recommendations are forwarded to the Resolutions Committee.



During the Annual Conference and Expo

Petitioned Resolutions



The petitioned resolution is an alternate method to introduce policy proposals during

the annual conference. The petition must be signed by voting delegates from 10% of member cities, and submitted to the Cal Cities President at least 24 hours before the beginning of the General Assembly.



Resolutions Committee



The Resolutions Committee considers all resolutions. General Resolutions approved¹ by either a policy committee

or the Resolutions Committee are next considered by the General Assembly. General resolutions not approved, or referred for further study by both a policy committee and the Resolutions Committee do not go to the General Assembly. All Petitioned Resolutions are considered by the General Assembly, unless disqualified.²



General Assembly



During the General Assembly, voting delegates debate and consider general and petitioned resolutions forwarded by the Resolutions Committee. Potential Cal Cities bylaws amendments are also considered at this meeting.

Who's who

Cal Cities policy development is a member-informed process, grounded in the voices and experiences of city officials throughout the state.

The **Resolutions Committee** includes representatives from each Cal Cities diversity caucus, regional division, municipal department, and policy committee, as well as individuals appointed by the Cal Cities president.

Voting delegates are appointed by each member city; every city has one voting delegate.

The **General Assembly** is a meeting of the collective body of all voting delegates—one from every member city.

Seven **policy committees** meet throughout the year to review and recommend positions to take on bills and regulatory proposals. Policy committees include members from each Cal Cities diversity caucus, regional division, and municipal department, as well as individuals appointed by the Cal Cities president.

¹ The Resolution Committee can amend a general resolution prior to sending it to the General Assembly.

² Petitioned Resolutions may be disqualified by the Resolutions Committee according to Cal Cities Bylaws Article VI. Sec. 5(f).



**2023-2024
CAL CITIES OFFICERS**

August 28, 2024

President

Daniel T. Parra
Mayor
Fowler

TO: Mayors, Council Members, City Managers, and City Clerks

RE: Cal Cities 2024 Resolution Packet

First Vice President

Lynne Kennedy
Mayor Pro Tem,
Rancho Cucamonga

Sixty days before the Cal Cities [Annual Conference and Expo](#), Cal Cities members may submit resolutions on issues of importance to cities. This year, Cal Cities received one resolution by the Aug. 17 deadline.

Second Vice President

Gabe Quinto
Council Member,
El Cerrito

The attached packet contains the proposed resolution, supporting letters from city officials, and an analysis of the resolution by Cal Cities. The packet includes detailed information on the resolution process.

Immediate Past President

Ali Sajjad Taj
Mayor Pro Tem,
Artesia

We encourage each city council to consider the resolution and determine a city position so your voting delegate can represent your city's position on the resolution.

**Executive Director
and CEO**

Carolyn M. Coleman

Voting Delegates: City councils must appoint a voting delegate to vote during the General Assembly. Each city may also appoint up to two alternate delegates. If your city has not already done so, please appoint your voting delegate by Sept. 25. [The voting delegate packet](#) contains more information.

The Cal Cities 2024 General Assembly will be held Oct. 18 at 8:30 a.m. in the Long Beach Convention Center during the [Annual Conference and Expo](#).

For questions about resolutions, voting delegates, or the General Assembly, please contact [Zach Seals](#).



LEAGUE OF
CALIFORNIA
CITIES

2024 Resolutions Packet

Information on 2024 Resolutions Process

Consideration by Policy Committee (pre-conference)

Per the Cal Cities bylaws, the Cal Cities President has referred the submitted resolution to the [Governance, Transparency, and Labor Relations Policy Committee](#). The committee will meet on Oct. 3 at 10 a.m. via Zoom to review the resolution and make a recommendation that will be sent to the Resolutions Committee. A public comment period will be held during the meeting. Register for the meeting [here](#).

A list of recommendations the policy committee may make during its meeting are on page three of this packet.

Consideration by Resolutions Committee (during conference)

On Oct. 17 at 1:30 p.m. the Resolutions Committee will meet to review the resolution and the recommendation of the policy committee.

The Resolutions Committee consists of one representative from each of Cal Cities caucuses, departments, divisions, and policy committees, as well as up to ten additional appointments made by the Cal Cities President. A public comment period will be held during the meeting. Refer to the onsite conference program for the location.

A list of recommendations the Resolutions Committee may make during its meeting are on page three of this packet.

Consideration by the General Assembly (during conference)

The General Assembly will convene on Oct. 18 at 8:30 a.m. to consider any qualified resolutions. To vote during the General Assembly, voting delegates must have checked-in at the voting delegate booth.

Conference attendees will receive materials for the General Assembly on the evening of Oct. 17. For more information on voting and discussion procedures during the General Assembly, see page four of this packet.

Petitioned Resolutions (during conference)

The petitioned resolution is an alternate method to introduce policy proposals during the annual conference. To initiate a petitioned resolution, voting delegates from 10% of member cities must sign the petition. The resolution and signatures are due at least 24 hours before the beginning of the General Assembly. Voting delegates who have checked-in at the voting delegate booth can receive more information on petitioned resolutions at the booth onsite.

How it works: Cal Cities Resolutions and the General Assembly

Developing League of California Cities policy is a dynamic process that engages a wide range of members to ensure Cal Cities represents cities with one voice. These policies directly guide Cal Cities' advocacy to promote local decision-making, and lobby against statewide policies that erode local control.

The resolutions process and General Assembly is one way that city officials can directly participate in the development of Cal Cities policy. If a resolution is approved at the General Assembly, it becomes official Cal Cities policy. Here's how resolutions and the General Assembly work.

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to cities. The resolution must have the concurrence of at least five additional member cities or individual members.



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During the Annual Conference and Expo

Petitioned Resolutions



The petitioned resolution is an alternate method to introduce policy proposals during

the annual conference. The petition must be signed by voting delegates from 10% of member cities, and submitted to the Cal Cities President at least 24 hours before the beginning of the General Assembly.



Resolutions Committee



The Resolutions Committee considers all resolutions. General Resolutions approved¹ by either a policy committee

or the Resolutions Committee are next considered by the General Assembly. General resolutions not approved, or referred for further study by both a policy committee and the Resolutions Committee do not go to the General Assembly. All Petitioned Resolutions are considered by the General Assembly, unless disqualified.²



General Assembly



During the General Assembly, voting delegates debate and consider general and petitioned resolutions forwarded by the Resolutions Committee. Potential Cal Cities bylaws amendments are also considered at this meeting.

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¹ The Resolution Committee can amend a general resolution prior to sending it to the General Assembly.

² Petitioned Resolutions may be disqualified by the Resolutions Committee according to Cal Cities Bylaws Article VI. Sec. 5(f).

Policy Committee and Resolutions Committee Actions

The submitted resolution will be heard by the policy committee to which it was assigned, and the Resolutions Committee. The below table shows what recommendations these bodies may make on the resolution.

Policy Committee Actions	Resolutions Committee Actions
Approve	Approve
Disapprove*	Disapprove*
No Action	No Action
Amend and approve	Amend and approve
Refer to appropriate policy committee for further study*	Approve as amended
Refer as amended to appropriate policy committee for further study*	Refer to appropriate policy committee for further study*
	Refer as amended to appropriate policy committee for further study*
	Approve with additional amendment(s)
	Additional amendments and refer to appropriate policy committee for further study*

**If a resolution is disapproved or referred for further study by all policy committees to which it is assigned and the Resolutions Committee, it will not proceed to the General Assembly.*

General Assembly Voting and Discussion Procedures

Discussion Procedures:

Discussion procedures during the General Assembly are guided by two calendars: the Consent Calendar and the Regular Calendar. As seen below, resolutions are calendared by the recommendations they receive from policy committees and the Resolutions Committee.

For General Resolutions:

Policy Committee Recommendation	Resolutions Committee Recommendation	Calendar
Approve	Approve	Consent Calendar
Approve	Disapprove or refer	Regular Calendar
Disapprove or refer	Approve	Regular Calendar
Disapprove or refer	Disapprove or refer	Does not proceed to General Assembly

For Petitioned Resolutions:

Policy Committee Recommendation	Resolutions Committee Action	Calendar
N/A	Approve	Regular Calendar
	Disapprove or Refer	Regular Calendar
	Disqualified	Does not proceed to General Assembly

Items on the Consent Calendar will be presented as one motion during the General Assembly from the Resolutions Committee chair. Unless an item on the Consent Calendar is set aside by the majority of the General Assembly, a vote will be taken on the whole calendar. If an item is set aside, it will be opened for discussion, followed by a vote.

Items on the Regular Calendar will be presented individually by the Resolutions Committee chair. After a recommendation is presented by the Resolutions Committee chair, the resolution will be opened for discussion by the General Assembly. A vote will take place following discussion.

Voting Procedures:

Per Cal Cities Bylaws Article XII, Sec. 2, all votes will be conducted by voice vote first. If the presiding official cannot determine the outcome a vote will be taken by an alternative method, typically a raise of voting cards by voting delegates. A roll call vote may be called for by delegates of ten percent or more of the General Assembly.

2024 Resolution

1. Resolution on Fair and Equal Treatment of All Governmental Officials at All Levels submitted by City of Glendora
 - Letters of concurrence submitted by:
 - i. April A. Verlato, Mayor, City of Arcadia
 - ii. Robert Gonzales, Mayor, City of Azusa
 - iii. Tim Hepburn, Mayor, City of La Verne
 - iv. Bill Uphoff, Mayor, City of Lomita
 - v. John M. Cruikshank, Mayor, City of Rancho Palos Verdes
 - Referred to Governance, Transparency, and Labor Relations Policy Committee
 - Policy Committee Recommendation:
 - Resolutions Committee Recommendation:

**Resolution No. 1: Fair and Equal
Treatment of All Governmental
Officials at All Levels submitted by
City of Glendora**

1. A RESOLUTION OF THE GENERAL ASSEMBLY OF THE LEAGUE OF CALIFORNIA CITIES CALLING FOR THE CALIFORNIA LEGISLATURE TO ENACT LAWS THAT ENSURE THAT “WHAT APPLIES TO ONE, APPLIES TO ALL” IN THE FAIR AND EQUAL TREATMENT OF ALL GOVERNMENTAL OFFICIALS AT ALL LEVELS IN THE STATE OF CALIFORNIA

Source: City of Glendora

Concurrence of five or more cities/city officials

City Officials: April A. Verlato, Mayor, City of Arcadia; Robert Gonzales, Mayor, City of Azusa; Tim Hepburn, Mayor, City of La Verne; Bill Uphoff, Mayor, City of Lomita; John M. Cruikshank, Mayor, City of Rancho Palos Verdes

Referred to: Governance, Transparency and Labor Relations Policy Committee

WHEREAS, the General Assembly of the League of California Cities objects to the practice of the California Legislature of imposing rules limiting authority or regulating the conduct of local municipal officials that do not also apply to elected officials of the State of California; and

WHEREAS, examples of such rules or regulations that apply to local city elected officials that do not otherwise apply to the elected officials of the State of California include, but are not limited to:

California’s open meeting rules, codified in the Ralph M. Brown Act, Government Code, Chapter 9, §§ 54950 *et seq.*, which purport to “declare[] that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people’s business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly,” but which limits its application to “local agencies,” but not including elected officials of the State of California;

Creating “one-off” exemptions, in the form of Senate Bill No. 174, from the California Environmental Quality Act (“CEQA”) which purportedly requires all government agencies to consider the environmental consequences of their actions before approving plans and policies or committing to a course of action on a project in order to demolish and then rebuild State offices for the Governor and other State officials;

Adopting rules, in the form of Senate Bill No. 1439, amending the Political Reform Act (the "Act"), by removing the exception for local elected officers from contribution limits requiring disqualification on development project decisions," but not including elected officials of the State of California;

Adopting rules, in the form of Assembly Bill No. 571, that apply to city and county candidates for local elected office, but not to candidates for state-wide office, including, but not limited to: prohibiting the making a contribution over the AB 571 limit to another candidate in jurisdictions subject to the AB 571; requiring a candidate that has qualified as a committee to establish a separate controlled committee and campaign bank account for each specific office; prohibiting a candidate from redesignating a committee for one election for another election.

WHEREAS, the General Assembly of the League of California Cities now calls upon the Governor and the California Legislature to adopt a policy, practice, and procedure requiring, in their legislative activities, that "what applies to one applies to all."

NOW, THEREFORE, BE IT RESOLVED at the League General Assembly, assembled at the League Annual Conference on October 18, 2024 in Long Beach, California, that the League calls upon the Governor of the State of California and the elected members of the California Legislature, including all members of the Senate and Assembly to adopt the following policy:

"The California State Legislature shall not enact, and the Governor shall not sign into law, any law or regulation that applies solely to elected officials of California cities and counties, unless such law or regulation also applies equally to members of the California State Assembly and Senate. This prohibition shall not apply to laws or regulations affecting the inherent powers of the legislative branch under the California Constitution."

Resolution No. 1: Letters of Concurrence



July 10, 2024

The City Council of Glendora
is proposing the following resolution for consideration at the
California League of Cities annual conference
on
October 18, 2024

Proposed Resolution: ("To ensure fairness and equal treatment for all government officials in California")

"The California State Legislature shall not enact, and the Governor shall not approve, any law or regulation that applies solely to elected officials of California cities and counties, unless such law or regulation also applies equally to members of the California State Assembly and Senate. This prohibition shall not apply to laws or regulations affecting the inherent powers of the legislative branch under the California Constitution."

The following five city council members are in concurrence with their letters of support (attached):

- ✓ Mayor John Cruikshank, City of Rancho Palos Verdes
- ✓ Mayor Bill Uphoff, City of Lomita
- ✓ Mayor Robert Gonzales, City of Azusa
- ✓ Mayor April Verlato, City of Arcadia
- ✓ Mayor Tim Hepburn, City of La Verne

Please confirm receipt of this request.

Sincerely,

Michael Allawos
Council Member
City of Glendora



April A. Veriato
Mayor

July 9, 2024

Honorary Mike Allawos
Glendora City Councilmember
116 E. Foothill Blvd.
Glendora, CA 91741

RE: Support for "Glendora CalCities Resolution"

Dear Councilmember Allawos:

I would like to be a voice of support for Glendora's timely and needed resolution below for the upcoming CalCities annual conference this coming October 18, 2024.

"The California State Legislature shall not enact, and the Governor shall not approve, any law or regulation that applies solely to elected officials of California cities and counties, unless such law or regulation also applies equally to members of the California State Assembly and Senate. This prohibition shall not apply to laws or regulations affecting the inherent powers of the legislative branch under the California Constitution."

I am an elected representative for our respective city, county, and state governance to do the people's work and be their collective voices. We should all have the same rules to be governed by.

Sincerely,

April A. Veriato
City of Arcadia Mayor

240 West Huntington Drive
Post Office Box 60021
Arcadia, CA 91066-6021
(626) 574-5403 City Hall
averialto@ArcadiaCA.gov
www.ArcadiaCA.gov

July 8, 2024

Hon. Michael Allawos
Glendora City Councilmember
116 E. Foothill Blvd.
Glendora, CA 91741

Re: Support for "Glendora's CalCities Resolution"

Councilmember Allawos:

I would like to support Glendora's timely and needed resolution below for the upcoming CalCities annual conference this coming October 18, 2024:

"The California State Legislature shall not enact, and the Governor shall not approve, any law or regulation that applies solely to elected officials of California cities and counties, unless such law or regulation also applies equally to members of the California State Assembly and Senate. This prohibition shall not apply to laws or regulations affecting the inherent powers of the legislative branch under the California Constitution "

I am an elected representative for the City of Azusa . We should all have the same rules to be governed by.

Sincerely,



Mayor Robert Gonzales

*The views or opinions expressed in this letter are intended to be interpreted as the individual work product of the author They do not necessarily reflect an official position of the City Council, staff or other entities



CITY OF LAVERNE CITY HALL

3660 "D" Street, La Verne, California 91750-3599
www.cityoflaverne.org

July 8, 2024

Ms. Kathleen Sessman
Glendora City Clerk
116 E. Foothill Blvd.
Glendora, California 91741

Re: Item 14 – Cal Cities Annual Conference Resolution

Dear Ms. Sessman:

As the Mayor of the City of La Verne, I would like to voice support for Glendora's timely and needed resolution, within agenda item #14, for the upcoming League of California Cities (Cal Cities) annual conference this coming October 18, 2024.

In its simplistic form, the proposed Resolution states what we all believe should be true for each and every elected official: We should all have the same rules to be governed by. No matter what level of government an official is elected to, we are here to do the people's work and be their collective voices. The Resolution simply states:

"The California State Legislature shall not enact, and the Governor shall not approve, any law or regulation that applies solely to elected officials of California cities and counties, unless such law or regulation also applies equally to members of the California State Assembly and Senate. This prohibition shall not apply to laws or regulations affecting the inherent powers of the legislative branch under the California Constitution."

Whether the State Legislature or Governor heed our collective voices, we at the local level, through our Cal Cities membership, will have demonstrated our resolve that the basic leadership characteristic of leadership by example is the best approach to holding elective office.

Sincerely,

Tim Hepburn
Mayor

General Administration 909/596-8725 • Water Customer Service 909/596-8744 • Community Services 909/596-8700
Public Works 909/596-8741 • Finance 909/596-8715 • Community Development 909/596-8706 • Building 909/596-8713
Police Department 909/596-1913 • Fire Department 909/596-5991 • General Fax 909/596-8737

Bill Uphoff
Lomita, CA

July 8, 2024

Hon. Mike Allawos
Glendora City Councilmember
116 E. Foothill Blvd.
Glendora, CA 91741

Re: Support for “Glendora’s CalCities Resolution”

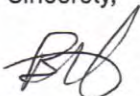
Dear Councilmember Allawos:

I would like to be a voice of support for Glendora’s timely and needed resolution below for the upcoming CalCities annual conference this coming October 18, 2024.

“The California State Legislature shall not enact, and the Governor shall not approve, any law or regulation that applies solely to elected officials of California cities and counties, unless such law or regulation also applies equally to members of the California State Assembly and Senate. This prohibition shall not apply to laws or regulations affecting the inherent powers of the legislative branch under the California Constitution.”

I am an elected representative for our respective city, county, and state governance to do the people’s work and be their collective voices. We should all have the same rules to be governed by.

Sincerely,



Bill Uphoff, Mayor
City of Lomita

The views or opinions expressed in this letter are intended to be interpreted as the individual work product of the author. They do not necessarily reflect an official position of the City Council, staff or other entities.

John M. Cruikshank
Rancho Palos Verdes, CA

July 6, 2024

Hon. Mike Allawos
Glendora City Councilmember
116 E. Foothill Blvd.
Glendora, CA 91741

Re: Support for “Glendora’s CalCities Resolution”

Dear Councilmember Allawos:

I would like to be a voice of support for Glendora’s timely and needed resolution below for the upcoming CalCities annual conference this coming October 18, 2024.

“The California State Legislature shall not enact, and the Governor shall not approve, any law or regulation that applies solely to elected officials of California cities and counties, unless such law or regulation also applies equally to members of the California State Assembly and Senate. This prohibition shall not apply to laws or regulations affecting the inherent powers of the legislative branch under the California Constitution.”

I am an elected representative for our respective city, county, and state governance to do the people’s work and be their collective voices. We should all have the same rules to be governed by.

Sincerely,



John M. Cruikshank, Mayor
City of Rancho Palos Verdes

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Resolution No. 1: Staff Analysis

League of California Cities Staff Analysis on Resolution No. 1

Staff: Johnnie Pina, Legislative Affairs, Lobbyist
Committee: Governance, Transparency, and Labor Relations

Summary:

This Resolution states that the League of California Cities shall call upon the Governor of the State of California and the elected members of the California Legislature, including all members of the Senate and Assembly to adopt the following policy:

“The California State Legislature shall not enact, and the Governor shall not sign into law, any law or regulation that applies solely to elected officials of California cities and counties, unless such law or regulation also applies equally to members of the California State Assembly and Senate. This prohibition shall not apply to laws or regulations affecting the inherent powers of the legislative branch under the California Constitution.”

Background:

This resolution states that examples of the California Legislature imposing rules limiting authority or regulating the conduct of local municipal officials that do not also apply to elected officials of the State of California include, but are not limited to:

- California’s open meeting rules, codified in the **Ralph M. Brown Act**, Government Code, Chapter 9, §§ 54950 *et seq.*;
- “One-off” exemptions, in the form of Senate Bill No. 174, from the **California Environmental Quality Act (“CEQA”)**;
- Rules, in the form of **Senate Bill No. 1439**, amending the **Political Reform Act** (the “Act”); and
- Rules, in the form of **Assembly Bill No. 571**, that apply to city and county candidates for local elected office, but not to candidates for state-wide office.

Ralph M. Brown Act

[The California Attorney General’s \(AG\) Office](#) defines [The Ralph M. Brown Act](#) (Brown Act) as what governs meetings conducted by local legislative bodies, such as boards of supervisors, city councils and school boards. The AG’s office states the Act represents the Legislature’s determination of how the balance should be struck between public access to meetings of multi-member public bodies on the one hand and the need for confidential candor, debate, and information gathering on the other.

[The Ralph M. Brown Act](#) governs local agencies, the [Bagley-Keene Open Meeting Act](#) covers all state boards and commissions, and [Government code](#)

[9027](#) governs the state Legislature. The California Constitution also mandates open meetings for state agencies, boards, and commissions. Specifically, the Constitution requires that each local agency comply with the Brown Act (Article I, section 3(b)(7)): and that the proceedings of each house of the Legislature be open and public (with exceptions for employment matters; matters affecting security; confer with legal counsel; and to meet as a caucus (Article IV, section 7)).

Although fairly detailed requirements apply to state agencies and other state bodies, they do not apply to the Legislature. The Legislature has Constitutional authority to adopt rules for its proceedings that are consistent with the requirement that the proceedings of each house and the committees be open and public.

Another notable difference between the Legislature and a city council is the ability for Legislators to have a caucus to discuss a bill, express how they will vote, and to count votes. This is not allowed under the Brown Act. One other difference is that the laws governing teleconferencing for members of the state Legislature is far less flexible than it is for local bodies. However, state agencies have more flexibility than locals in that regard.

California Environmental Quality Act (“CEQA”)

The Resolution cites the Legislature's action in exempting from CEQA the reconstruction of the State Capitol Annex building. The State Legislature enacted the [California Environmental Quality Act \(CEQA\)](#) in 1970, establishing it as a public disclosure law for the environmental review of discretionary projects and a process for mitigating or avoiding potential environmental impacts.

[SB 174 \(Committee on Budget and Fiscal Review\)](#) Chaptered by Secretary of State. Chapter 74, Statutes of 2024 was signed into law July 2, 2024. This bill exempts the work performed under the State Capitol Building Annex Act of 2016 from the California Environmental Quality Act (CEQA). In this example the Legislature exempted themselves as not being considered a “public agency,” “state agency,” or “lead agency” under CEQA. A lead agency under CEQA is the public agency that has the principal responsibility for carrying out or approving a project that is subject to CEQA.

Over the years, the Legislature has also created many CEQA exceptions and exemptions for local projects involving local agencies as well.

The Political Reform Act (PRA) - Senate Bill No. 1439

[SB 1439 \(Glazer\)](#) Chaptered by Secretary of State. Chapter 848, Statutes of 2022 amends section 84308 and is aimed at preventing “pay-to-play” practices, in part by prohibiting parties, participants, and their respective agents in a

proceeding involving a license, permit, or other entitlement for use from contributing more than \$250 to an officer of an agency during a 12 month period. When the Levine Act was first enacted in 1982, Section 84308 applied to appointed members of boards and commissions who were running for elective office. SB 1439 expended this law to now apply to local elected officials. Since it is focused on permits and licenses, it now applies to State agencies and local agencies that approve permits and licenses. Section 84308 does not apply to the Legislature or the Courts. It is important to note that unlike local governments, neither issue permits and licenses.

The Political Reform Act (PRA) - Assembly Bill No. 571

[AB 571 \(Mullin\)](#) Chaptered by Secretary of State. Chapter 556, Statutes of 2019 established default campaign contribution limits for county and city office at the same level as the limit on contributions from individuals to candidates for Senate and Assembly, effective January 1, 2021. This bill permitted a county or city to establish its own contribution limits, which would prevail over these default limits.

The Resolution cites AB 571 as an example of treating cities differently than the State. The Fair Political Practices Commission clarifies in their [AB 571 fact sheet](#) that under AB 571 a city may elect to have "no" contribution limit in which case the state contribution limit will not apply as a default for that jurisdiction. A city or county can set contribution limits higher than the default state limit, AB 571 sets a default in line with contributions Assembly Members and Senators if a city or county is silent on contribution limits.

Fiscal Impact:

Unknown.

Existing Cal Cities Policy:

Mission Statement

To expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

We Believe:

- Local self-governance is the cornerstone of democracy.
- In the involvement of all stakeholders in establishing goals and in solving problems.
- In conducting the business of government with transparency, openness, respect, and civility. The spirit of honest public service is what builds communities.
- Open decision-making that is of the highest ethical standards honors the public trust.
- The vitality of cities is dependent upon their fiscal stability and local autonomy. The active participation of all city officials increases Cal Cities' effectiveness.

- Partnerships and collaborations are essential elements of focused advocacy and lobbying.
- Ethical and well-informed city officials are essential for responsive, visionary leadership and effective and efficient city operations.

Comments:

Additional Examples

The Legislature has passed and the Governor has signed many laws that apply to local governments and do not apply to the state or the state Legislature. This year [AB 2561 \(McKinnor\)](#) was introduced, which requires local governments to present in a public meeting a detailed report about their vacancy rates and detailed information about their hiring practices. This is an attempt to address public sector vacancy rates. This bill does not apply to the state in a time when they are also dealing with high vacancy rates.

Additionally, there were several bills that aim to amend the Levine Act, which now applies to local elected officials, to make changes to SB 1439, referenced previously in the analysis. None of the bills would amend the law to be applicable to Assembly Members or Senators.

[AB 817 \(Pacheco\)](#), co-sponsored by Cal Cities tried to bring parity to the Brown Act by making the teleconference rules for state advisory bodies the same for local advisory bodies but the Legislature struck the bill down.

Applying to elected officials or to the legislative body? Legislature or the State?

The resolution also states, "... applies solely to elected officials of California cities and counties, unless such law or regulation also applies equally to members of the California State Assembly and Senate."

This portion of the resolve clause is specifically speaking to local elected officials and State Assembly Members and Senators. However, many of the "where as" clauses are in reference to laws that apply to cities, the state and the Legislature as government agencies and not specifically to the elected officials on the governing bodies. For example, the Brown Act applies rules to the Legislative body and not the individual council member. Additionally, the city council as a whole is the lead agency under CEQA and not the individual council members.

Inherent Powers of the Legislative Branch

The resolution also states, "This prohibition shall not apply to laws or regulations affecting the inherent powers of the legislative branch under the California Constitution."

It is unclear what inherent powers of the legislative branch under the California Constitution means in this context. The legislative branch does have the power

of preemption over cities and can state that a change in law is a matter of state wide concern. This allows the legislative branch to apply new laws or amend existing laws to apply to general law and charter cities. It seems like the last sentence of the resolve clause could negate the rest of the resolve clause if not clarified.

Support:

The following letters of concurrence were received:

April A. Verlato, Mayor, City of Arcadia

Robert Gonzales, Mayor, City of Azusa

Tim Hepburn, Mayor, City of La Verne

Bill Uphoff, Mayor, City of Lomita

John M. Cruikshank, Mayor, City of Rancho Palos Verdes

Agenda Item 3.E

RECOMMENDATION

Staff recommends that the City Council adopt a resolution:

(1) determining that strict compliance with the bidding process is not in the best interest of the City pursuant to Tracy Municipal Code 2.20.180(b)(4) and dispensing such requirements for actions herein; and

(2) approving a Master Service Agreement with Flock Group, Inc. for the purchase, installation, operation, and maintenance of new and existing equipment and technology for a five-year term and for a total not-to-exceed amount of \$1,092,850.

EXECUTIVE SUMMARY

This agenda item seeks adoption of a resolution by the City Council determining that strict compliance with the bidding process is not in the best interest of the City for purchase, installation, operation and maintenance of specific equipment and technology used by the Tracy Police Department, pursuant to Tracy Municipal Code 2.20.180(b)(4) and dispensing such requirements. The agenda items also seeks approval of a Master Service Agreement (MSA) with Flock Group, Inc. (Flock) for the purchase of such equipment and related services. The Tracy Police Department has contracted with Flock Group Inc. since September 2022 for the purchase, installation, and maintenance of its existing Automated License Plate Reader (ALPR) program. The agreement expires on September 14, 2024.

As discussed below, staff recommends that the City enter into a new agreement, in the form of the proposed MSA. The MSA will include retaining all existing Flock ALPRs, expanding the program with more ALPRs, and adding new camera technology to support the Police Department's upcoming Real Time Information Center.

BACKGROUND AND LEGISLATIVE HISTORY

Cameras and ALPR technology have been used by police agencies to help solve crimes. ALPR technology has continued to evolve and has become less cost prohibitive. Traditional ALPR systems included expensive fixed camera locations or mobile devices mounted in patrol cars. The Tracy Police Department currently uses mobile ALPRs and is now looking to maintain its existing program of 46 cameras and expand this beneficial tool to additional fixed locations in high crime areas.

The City of Tracy, through various departments, already uses technology programs such as mobile and fixed License Plate Reader (LPR) programs (Police Department), the parks camera program (Parks & Recreation) and the traffic camera infrastructure (Engineering) to enhance traffic monitoring and safety in strategic locations within the City. To increase efficiency and effectiveness, as well as introduce additional technology, staff has worked with Flock to develop a plan to maintain the City's current 46 ALPR cameras, expand the

ALPR camera program by adding 14 more ALPRs throughout the City, and add new camera technology through the use of the “11 Flock Condor” to provide broad video coverage for real-time surveillance and monitoring of the City.

The additional locations are as follows:

Flock Safety Condor PTZ w/Service

Tracy @ Larch
Tracy @ Clover
Holly @ Clover
MacArthur @ Pescadero
Grant Line @ MacArthur
Grant Line @ Tracy
Grant Line @ Corral Hollow
Grant Line @ Naglee
Grant Line @ Byron
Naglee @ Pavilion
Naglee @ Auto Plaza

Flock Safety Falcon

Hansen @ Capital Pkwy SB
Hanson @ Capital Pkwy NB
Schulte Rd @ Central Ave NB
Tracy Blvd @ W Schulte Rd NB
Tracy Blvd @ W Schulte Rd SB
Schulte Rd @ Lammers Rd NB
Schulte Rd @ Hansen EB
Pavilion Pkwy @ WB 205 On Ramp
Holly Dr @ Arbor Ave SB
East St @ E 11th St NB
East St @ Grant Line Rd SB
Sycamore Pkwy @ W Schulte Rd SB
Sycamore Pkwy @ Valpico Rd NB
Central Ave @ 4th St NB

The Tracy Police Department has contracted with Flock Inc. since September 2022 for the purchase, installation, and maintenance of its existing ALPR program. The current agreement, which expires this month, is a 2-year agreement for a total of \$255,000 and was funded fully by a 2021 Bureau of Justice Byrne Discretionary Grant.

ANALYSIS

Flock’s ALPR System - deploys - cameras throughout an area to provide greater coverage and more detailed information for law enforcement. Flock’s cameras capture date, time, location, license plate (state, partial, paper, and no plate), vehicle details (type and color), as well as objects (bicycle, animals, and people). The system alerts police of wanted vehicles which are identified by the system. Flock is already present in our community through the Police Department’s 46 existing ALPRs, and private contracts in neighborhoods supported by Homeowners’ Associations, such as Ellis Town and Hidden Lake.

Flock provides a desirable approach to deploying ALPR cameras throughout the community. Unlike other fixed or mobile ALPR devices, the Flock system provides the ability to cover more area of the City with system maintenance provided by the vendor rather than City staff. The Flock program is an all-inclusive model for deploying the ALPR cameras. Flock is the sole manufacturer and developer of the Flock Safety camera.

The key benefits of Flock are that they charge an annual flat lease rate per camera of \$3,000, which is wireless, free of infrastructure setup, and has the option for solar or direct power. They also include a warranty, Criminal Justice Information Services (CJIS) compliant cloud-based hosting, unlimited user licenses, ongoing software enhancements, camera setup, mounting, shipping, handling, and a cellular connection. The Flock lease program prevents the City from being burdened with maintaining costly equipment at the end of the agreement, which could require replacement.

The outcome of maintaining and expanding this project would be increased investigative capabilities for the Police Department, directly contributing to the level of safety and quality of life in the community. In addition, new information related to flow of traffic would provide crucial metrics for the Traffic Enforcement Unit in the Police Department, allowing staff to be more responsive to changing traffic conditions or concerns coming from the community.

The partnership with Flock gives the Tracy Police Department access to their network of over 500,000,000 license plate reads per month through Northern California Regional Intelligence Center (NCRIC). Since beginning the ALPR program in 2022, the City has experienced many success stories:

In December 2023, officers responded to a Flock ALPR alert for a stolen minivan. Upon further investigation, officers observed two subjects enter the stolen vehicle; a traffic stop was conducted, and officers located a concealed firearm loaded with a 31-round magazine. The two subjects were arrested.

In February 2024, officers responded to a Flock ALPR alert for a stolen vehicle. Upon further investigation, officers were able to locate the vehicle, initiate brief pursuit of the driver, and ultimately arrest 3 subjects.

In March 2024, officers responded to a Flock ALPR alert regarding a vehicle wanted in connection to an attempted murder investigation by San Joaquin County Sheriff's Office. Officers located the vehicle and detained four subjects until the Sheriff's Office arrived and took over the investigation.

In May 2024, officers responded to a Flock ALPR alert for a Ford Mustang that had reportedly been involved in an armed robbery in the City of Stockton. Tracy Police Department located the vehicle and stopped the driver and passenger. Stockton Police Department responded to take over the investigation.

As Flock is the exclusive vendor of Flock Safety ALPR cameras and significant Flock Safety infrastructure was installed within the City just two-years ago, staff is

recommending that the City Council make an exception to the procurement procedure requiring a competitive process pursuant to Tracy Municipal Code 2.20.180(b)(4). The provision allows the City Council to waive a procurement process when it determines that, compliance with the procedure is not in the best interest of the City for those commodities, equipment or general services the costs of which equal or exceed Fifty Thousand and no/100ths (\$50,000.00) Dollars.

The previous agreement was a 2-year agreement for the total of \$255,000 which was funded fully by the 2021 Bureau of Justice Byrne Discretionary Grant. That grant has ended now.

To address concerns regarding the collection of data through ALPRs, Tracy Police Department's Lexipol Policy 439, attached as Attachment B, establishes administration, confidentiality, accountability, measures regarding the collection, dissemination, and retention of all data collected by the use of ALPRs. The proposed MSA also contains confidentiality clauses which outlines measures to protect data collection. These measures ensure that the City is complying with SB 34 non-disclosure requirements related to any data collected through the ALPRs.

FISCAL IMPACT

Funding for the General Services Agreement with Flock will be funded through the Police Department's annual adopted operating budget. The five-year agreement will not exceed \$1,092,850. The annual cost is as follows:

Year 1: \$ 226,850
Year 2: \$ 216,500
Year 3: \$ 216,500
Year 4: \$ 216,500
Year 5: \$ 216,500
Total: \$1,092,850

PUBLIC OUTREACH/INTEREST

Through many community engagement activities and proactive policing, residents have many opportunities to meet, interact with department personnel, and discuss issues impacting the community. The community supports the Police Department's initiatives and goals to promote officer safety and community safety, improve efficiency, and advance department technology.

COORDINATION

The Police Department has coordinated with the City's Innovation and Technology Department, Engineering Department, and Parks and Recreations on various aspects of this project including purchasing quotes, infrastructure, camera locations, and computer technology.

CEQA DETERMINATION

The proposed action is not a “project” under the California Environmental Quality Act. Pursuant to CEQA Guidelines Section 15061(b)(3), there is no possibility that this action will have an effect on the physical environment.

STRATEGIC PLAN

This agenda item relates to Council’s Strategic Priorities for Public Safety, specifically to continue to strengthen community safety through crime prevention reduction activities and continuing to enhance and implement the use of technology to generate evidence-based intelligence to enhance enforcement efforts.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution:

- (1) determining that strict compliance with the bidding process is not in the best interest of the City pursuant to Tracy Municipal Code 2.20.180(b)(4) and dispensing such requirements for actions herein; and
- (2) approving a Master Service Agreement with Flock Group, Inc. for the purchase, installation, operation, and maintenance of new and existing equipment and technology for a five-year term and for a total not-to-exceed amount of \$1,092,850.

Prepared by: Beth Lyons-McCarthy, Support Operations Manager

Reviewed by: Sekou Millington, Chief of Police
Sara Castro, Finance Director
Karin Schnaider, Assistant City Manager
Bijal Patel, City Attorney

Approved by: Midori Lichtwardt, City Manager

Attachments

- Attachment A: Proposed Master Service Agreement, Flock Group, Inc.
Attachment B: Tracy Police Department Lexipol Policy 439

Flock Safety + CA - Tracy CA PD

Flock Group Inc.
1170 Howell Mill Rd, Suite 210
Atlanta, GA 30318

MAIN CONTACT:
Libby Landers
libby.landerson@flocksafety.com
4047774113



EXHIBIT A
ORDER FORM

Customer: CA - Tracy CA PD
 Legal Entity Name: CA - Tracy CA PD
 Accounts Payable Email:
 Address: 1000 Civic Center Tracy, California 95376

Initial Term: 60 Months
 Renewal Term: 24 Months
 Payment Terms: Net 30
 Billing Frequency: Annual
 Retention Period: 30 Days

Hardware and Software Products

Annual recurring amounts over subscription term

Item	Cost	Quantity	Total
Flock Safety Platform			\$216,500.00
Flock Safety Flock OS			
FlockOS™ - Essentials	Included	1	Included
Flock Safety LPR Products			
Flock Safety Falcon®	Included	60	Included
Flock Safety Video Products			
Flock Safety Condor™ PTZ w/ LTE Service	Included	11	Included
Flock Safety FlockOS Add Ons			
Flock Safety Advanced Search	Included	1	Included

Professional Services and One Time Purchases

Item	Cost	Quantity	Total
One Time Fees			
Flock Safety Professional Services			
Professional Services - Existing Infrastructure Implementation Fee	\$150.00	14	\$2,100.00
Condor Professional Services - Standard Implementation Fee	\$750.00	11	\$8,250.00
Subtotal Year 1:			\$226,850.00
Annual Recurring Subtotal:			\$216,500.00
Discounts:			\$7,500.00
Estimated Tax:			\$0.00
Contract Total:			\$1,092,850.00

Taxes shown above are provided as an estimate. Actual taxes are the responsibility of the Customer. This Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a "Renewal Term") unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

Item	Cost	Quantity	Total
Additional Products			
Flock Safety Platform			
Flock Safety Falcon ®	\$3,000.00	14	\$42,00.00
Flock Safety Condor™ PTZ w/ LTE Service	\$3,000.00	11	\$33,00.00
Existing Products (Renewal)			
Flock Safety Falcon ®	\$3,000.00	46	\$138,000.00
Flock Safety Advanced Search	\$3,500.00	1	\$3,500.00
Recurring (Additional + Existing)			
Flock Safety Falcon ®	\$3,000.00	60	\$180,000.00
Flock Safety Condor™ PTZ w/ LTE Service	\$3,000.00	11	\$33,000.00
Flock Safety Advanced Search	\$3,500.00	1	\$3,500.00
One Time Fees			
	Cost	Qty	Total
Condor Professional Services - Standard Implementation Fee	\$750.00	11	\$8,250.00
Professional Services - Existing Infrastructure Implementation Fee	\$150.00	14	\$2,100.00

Billing Schedule

Billing Schedule	Amount (USD)
Year 1	
At Contract Signing	\$226,850.00
Annual Recurring after Year 1	\$216,500.00
Contract Total	\$1,092,850.00

*Tax not included

Discounts

Discounts Applied	Amount (USD)
Flock Safety Platform	\$0.00
Flock Safety Add-ons	\$7,500.00
Flock Safety Professional Services	\$0.00

Product and Services Description

Flock Safety Platform Items	Product Description	Terms
FlockOST™	Flock Safety’s situational awareness operating system.	
Flock Safety Falcon ®	An infrastructure-free license plate reader camera that utilizes Vehicle Fingerprint® technology to capture vehicular attributes.	The Term shall commence upon first installation and validation of Flock Hardware.
Flock Safety Condor™	Flock’s pan, tilt, zoom (PTZ) or fixed cameras which capture video footage with the option to stream live video, capture and view video recordings, and upload videos.	The Term shall commence upon first installation and validation of Flock Hardware.

One-Time Fees	Service Description
Installation on existing infrastructure	One-time Professional Services engagement. Includes site & safety assessment, camera setup & testing, and shipping & handling in accordance with the Flock Safety Advanced Implementation Service Brief.
Professional Services - Standard Implementation Fee	One-time Professional Services engagement. Includes site and safety assessment, camera setup and testing, and shipping and handling in accordance with the Flock Safety Standard Implementation Service Brief.
Professional Services - Advanced Implementation Fee	One-time Professional Services engagement. Includes site & safety assessment, camera setup & testing, and shipping & handling in accordance with the Flock Safety Advanced Implementation Service Brief.

FlockOS Features & Description

FlockOS Features	Description
Community Network Access	The ability to request direct access to feeds from privately owned Flock Safety Falcon® LPR cameras located in neighborhoods, schools, and businesses in your community, significantly increasing actionable evidence that clears cases.
Unlimited Users	Unlimited users for FlockOS
State Network (License Plate Lookup Only)	Allows agencies to look up license plates on all cameras opted into the Flock Safety network within your state.
Nationwide Network (License Plate Lookup Only)	With the vast Flock Safety sharing network, law enforcement agencies no longer have to rely on just their devices alone. Agencies can leverage a nationwide system boasting 10 billion additional plate reads per month to amplify the potential to collect vital evidence in otherwise dead-end investigations.
Law Enforcement Network Access	The ability to request direct access to evidence detection devices from Law Enforcement agencies outside of your jurisdiction.
Time & Location Based Search	Search full, partial, and temporary plates by time at particular device locations
License Plate Lookup	Look up specific license plate location history captured on Flock devices
Vehicle Fingerprint Search	Search footage using Vehicle Fingerprint™ technology. Access vehicle type, make, color, license plate state, missing / covered plates, and other unique features like bumper stickers, decals, and roof racks.
Insights & Analytics	Reporting tool to help administrators manage their LPR program with device performance data, user and network audits, plate read reports, hot list alert reports, event logs, and outcome reports.
ESRI Based Map Interface	Map-based interface that consolidates all data streams and the locations of each connected asset, enabling greater situational awareness and a common operating picture.
Real-Time NCIC Alerts on Flock ALPR Cameras	Receive automated alerts when vehicles entered into established databases for missing and wanted persons are detected, including the FBI’s National Crime Information Center (NCIC) and National Center for Missing & Exploited Children (NCMEC) databases.
Unlimited Custom Hot Lists	Ability to add a suspect’s license plate to a custom list and get alerted when it passes by a Flock camera

By executing this Order Form, Customer represents that is has read and agrees to all of the terms and conditions in the Master Services Agreement attached.

The Parties have executed this Agreement as of the dates set forth below.

FLOCK GROUP, INC.

Customer: CA - Tracy CA PD

Signed by:

By: _____
AC5C931454C24E3...
Name: Mark Smith
Title: General Counsel
Date: 9/11/2024

By: _____
Name: _____
Title: _____
Date: _____

Signed by:

Garrett Langley
7BAB51933ED3438...

PO Number: _____

CEO

9/11/2024

Master Services Agreement

This Master Services Agreement (this “**Agreement**”) is entered into by and between Flock Group, Inc. with a place of business at 1170 Howell Mill Road NW Suite 210, Atlanta, GA 30318 (“**Flock**”) and the entity identified in the signature block (“**Customer**”) (each a “**Party**,” and together, the “**Parties**”). This Agreement is effective on the date of mutual execution (“**Effective Date**”). Parties will sign an Order Form (“**Order Form**”) which will describe the Flock Services to be performed and the period for performance, attached hereto as **Exhibit A**.

RECITALS

WHEREAS, Flock offers a software and hardware situational awareness solution through Flock’s technology platform that upon detection is capable of capturing audio, video, image, and recording data and provide notifications to Customer (“**Notifications**”);

WHEREAS, Customer desires access to the Flock Services (defined below) on additional (14 Flock Safety Falcons and 11 Flock Safety Condor PTZ w/Service) at locations (Exhibit C) and existing devices, provided by Customer, or Flock provided Flock Hardware (as defined below) in order to create, view, search and archive Footage and receive Notifications, via the Flock Services;

WHEREAS, Customer shall have access to the Footage in Flock Services. Pursuant to Flock’s standard Retention Period (defined below) Flock deletes all Footage on a rolling thirty (30) day basis, except as otherwise stated on the **Order Form**. Customer shall be responsible for extracting, downloading and archiving Footage from the Flock Services on its own storage devices; and

1. DEFINITIONS

Certain capitalized terms, not otherwise defined herein, have the meanings set forth or cross-referenced in this Section 1.

1.1 “**Agreement**” means the order form (to be provided as Exhibit A, “Order Form”), these terms and conditions, and any document therein incorporated by reference in section 11.4.

1.2 “**Anonymized Data**” means Customer Data permanently stripped of identifying details and any potential personally identifiable information, by commercially available standards which irreversibly alters data in such a way that a data subject (i.e., individual person or entity) can no longer be identified directly or indirectly.

1.3 “**Authorized End User(s)**” means any individual employees, agents, or contractors of Customer accessing or using the Services, under the rights granted to Customer pursuant to this Agreement.

1.4 “**Customer Data**” means the data, media, and content provided by Customer through the Services. For the avoidance of doubt, the Customer Data will include the Footage.

1.5. “**Customer Hardware**” means the third-party camera owned or provided by Customer and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Services.

1.6 “**Effective Date**” means the date this Agreement is mutually executed (valid and enforceable) by both Parties.

1.7 “**Embedded Software**” means the Flock proprietary software and/or firmware integrated with or installed on the Flock Hardware or Customer Hardware.

1.8 “**Flock Hardware**” means the Flock device(s), which may include the pole, clamps, solar panel, installation components, and any other physical elements that interact with the Embedded Software and the Web Interface, to provide the Flock Services as specifically set forth in the applicable Order Form.

1.9 “**Flock IP**” means the Services, the Embedded Software, and any intellectual property or proprietary information therein or otherwise provided to Customer and/or its Authorized End Users. Flock IP does not include Footage (as defined below).

1.10 “**Flock Services**” means the provision of Flock’s software and hardware situational awareness solution, via the Web Interface, for automatic license plate detection, alerts, audio detection, searching image records, video and sharing Footage.

1.11 “**Footage**” means still images, video, audio, and other data captured by the Flock Hardware or Customer Hardware in the course of and provided via the Flock Services.

1.12 “**Installation Services**” means the services provided by Flock for installation of Flock Services.

1.13 “**Permitted Purpose**” means for legitimate public safety and/or business purpose, including but not limited to the awareness, prevention, and prosecution of crime; investigations; and prevention of commercial harm, to the extent permitted by law.

1.14 “**Retention Period**” means the time period that the Customer Data is stored within the cloud storage, as specified in the applicable Order Form. Flock deletes all Footage on a rolling thirty (30) day basis, except as otherwise stated on the Order Form. Customer shall be responsible for extracting, downloading and archiving Footage from the Flock Services on its own storage devices.

1.15 “**Term**” means the date, unless otherwise stated in the Order Form, upon which the cameras are validated by both Parties as operational.

1.16 “**Web Interface**” means the website(s) or application(s) through which Customer and its Authorized End Users can access the Services.

2. SERVICES AND SUPPORT

2.1 Provision of Access. Flock hereby grants to Customer a non-exclusive, non-transferable right to access the features and functions of the Flock Services via the Web Interface during the Term, solely for the Authorized End Users. The Footage will be available for Authorized End Users to access and download via the Web Interface for the Retention Period. Authorized End Users will be required to sign up for an account and select a password and username (“*User ID*”). Customer shall be responsible for all acts and omissions of Authorized End Users. Customer shall undertake reasonable efforts to make all Authorized End Users aware of all applicable provisions of this Agreement and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Flock Services, (such as using a third party to host the Web Interface for cloud storage or a cell phone provider for wireless cellular coverage).

2.2 Embedded Software License. Flock grants Customer a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Embedded Software as it pertains to Flock Services, solely as necessary for Customer to use the Flock Services.

2.3 Support Services. Flock shall monitor the Flock Services, and any applicable device health, in order to improve performance and functionality. Flock will use commercially reasonable efforts to respond to requests for support within seventy-two (72) hours. Flock will provide Customer with reasonable technical and on-site support and maintenance services in-person, via phone or by email at support@flocksafety.com (such services collectively referred to as “*Support Services*”).

2.4 Updates to Platform. Flock may make any updates to system or platform that it deems necessary or useful to (i) maintain or enhance the quality or delivery of Flock’s products or services to its agencies, the competitive strength of, or market for, Flock’s products or services, such platform or system’s cost efficiency or performance, or (ii) to comply with applicable law. Parties understand that such updates are necessary from time to time and will not diminish the quality of the services or materially change any terms or conditions within this Agreement.

2.5 Service Interruption. Services may be interrupted in the event that: (a) Flock’s provision of the Services to Customer or any Authorized End User is prohibited by applicable law; (b) any third-party services required for Services are interrupted; (c) if Services are being used for

malicious, unlawful, or otherwise unauthorized use; (d) there is a threat or attack on any of the Flock IP by a third party; or (e) scheduled or emergency maintenance (“***Service Interruption***”). Flock will make commercially reasonable efforts to provide written notice of any Service Interruption to Customer, to provide updates, and to resume providing access to Flock Services as soon as reasonably possible after the event giving rise to the Service Interruption is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized End User may incur as a result of a Service Interruption. To the extent that the Service Interruption is not caused by Customer’s direct actions or by the actions of parties associated with the Customer, the time will be tolled by the duration of the Service Interruption (for any continuous suspension lasting at least one full day). For example, in the event of a Service Interruption lasting five (5) continuous days, Customer will receive a credit for five (5) free days at the end of the Term.

2.6 Service Suspension. Flock may temporarily suspend Customer’s and any Authorized End User’s access to any portion or all of the Flock IP or Flock Service if (a) there is a threat or attack on any of the Flock IP by Customer; (b) Customer’s or any Authorized End User’s use of the Flock IP disrupts or poses a security risk to the Flock IP or any other customer or vendor of Flock; (c) Customer or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Customer has violated any term of this provision, including, but not limited to, utilizing Flock Services for anything other than the Permitted Purpose; or (e) any unauthorized access to Flock Services through Customer’s account (“***Service Suspension***”). Customer shall not be entitled to any remedy for the Service Suspension period, including any reimbursement, tolling, or credit. If the Service Suspension was not caused by Customer, the Term will be tolled by the duration of the Service Suspension.

2.7 Hazardous Conditions. Flock Services do not contemplate hazardous materials, or other hazardous conditions, including, without limit, asbestos, lead, or toxic or flammable substances. In the event any such hazardous materials are discovered in the designated locations in which Flock is to perform services under this Agreement, Flock shall have the right to cease work immediately.

3. CUSTOMER OBLIGATIONS

3.1 Customer Obligations. Flock will assist Customer Authorized End Users in the creation of a User ID. Authorized End Users agree to provide Flock with accurate, complete, and updated registration information. Authorized End Users may not select as their User ID, a name that they do not have the right to use, or any other name with the intent of impersonation. Customer and Authorized End Users may not transfer their account to anyone else without prior written permission of Flock. Authorized End Users shall not share their account username or password information and must protect the security of the username and password. Unless otherwise stated and defined in this Agreement, Customer shall not designate Authorized End Users for persons who are not officers, employees, or agents of Customer. Authorized End Users shall only use Customer-issued email addresses for the creation of their User ID. Customer is responsible for any Authorized End User activity associated with its account. Customer shall ensure that Customer provides Flock with up-to-date contact information at all times during the Term of this agreement. Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Flock Services (e.g., laptops, internet connection, mobile devices, etc.). Customer shall (at its own expense) provide Flock with reasonable access and use of Customer facilities and Customer personnel in order to enable Flock to perform Services (such obligations of Customer are collectively defined as “*Customer Obligations*”).

3.2 Customer Representations and Warranties. Customer represents, covenants, and warrants that Customer shall use Flock Services only in compliance with this Agreement and all applicable laws and regulations, including but not limited to any laws relating to the recording or sharing of data, video, photo, or audio content.

4. DATA USE AND LICENSING

4.1 Customer Data. As between Flock and Customer, all right, title and interest in the Customer Data, belong to and are retained solely by Customer. Customer hereby grants to Flock a limited, non-exclusive, royalty-free, irrevocable, worldwide license to use the Customer Data and perform all acts as may be necessary for Flock to provide the Flock Services to Customer. Flock does not own and shall not sell Customer Data.

4.2 Customer Generated Data. Flock may provide Customer with the opportunity to post, upload, display, publish, distribute, transmit, broadcast, or otherwise make available, messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information,

content, ratings, reviews, data, questions, suggestions, or other information or materials produced by Customer (“**Customer Generated Data**”). Customer shall retain whatever legally cognizable right, title, and interest in Customer Generated Data. Customer understands and acknowledges that Flock has no obligation to monitor or enforce Customer’s intellectual property rights of Customer Generated Data. Customer grants Flock a non-exclusive, irrevocable, worldwide, royalty-free, license to use the Customer Generated Data for the purpose of providing Flock Services. Flock does not own and shall not sell Customer Generated Data.

4.3 Anonymized Data. Flock shall have the right to collect, analyze, and anonymize Customer Data and Customer Generated Data to the extent such anonymization renders the data non-identifiable to create Anonymized Data to use and perform the Services and related systems and technologies, including the training of machine learning algorithms. Customer hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right to use and distribute such Anonymized Data to improve and enhance the Services and for other development, diagnostic and corrective purposes, and other Flock offerings. Parties understand that the aforementioned license is required for continuity of Services. Flock does not own and shall not sell Anonymized Data.

5. CONFIDENTIALITY; DISCLOSURES

5.1 Confidentiality. To the extent required by any applicable public records requests, each Party (the “**Receiving Party**”) understands that the other Party (the “**Disclosing Party**”) has disclosed or may disclose business, technical or financial information relating to the Disclosing Party’s business (hereinafter referred to as “**Proprietary Information**” of the Disclosing Party). Proprietary Information of Flock includes non-public information regarding features, functionality and performance of the Services. Proprietary Information of Customer includes non-public data provided by Customer to Flock or collected by Flock via Flock Services, which includes but is not limited to geolocation information and environmental data collected by sensors. The Receiving Party agrees: (i) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the Party takes with its own proprietary information, but in no event less than commercially reasonable precautions, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the

foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public; or (b) was in its possession or known by it prior to receipt from the Disclosing Party; or (c) was rightfully disclosed to it without restriction by a third party; or (d) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to contest such order. At the termination of this Agreement, all Proprietary Information will be returned to the Disclosing Party, destroyed or erased (if recorded on an erasable storage medium), together with any copies thereof, when no longer needed for the purposes above, or upon request from the Disclosing Party, and in any case upon termination of the Agreement. Notwithstanding any termination, all confidentiality obligations of Proprietary Information that is trade secret shall continue in perpetuity or until such information is no longer trade secret.

5.2 Usage Restrictions on Flock IP. Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Customer acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Customer further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock's sole discretion. Customer and Authorized End Users shall not: (i) copy or duplicate any of the Flock IP; (ii) decompile, disassemble, reverse engineer, or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Flock IP; (iii) attempt to modify, alter, tamper with or repair any of the Flock IP, or attempt to create any derivative product from any of the foregoing; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock IP; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within the Flock Services or Flock IP; (vi) use the Flock Services for anything other than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent, or otherwise transfer, convey, pledge as security, or otherwise encumber, Customer's rights. There are no implied rights.

5.3 Disclosure of Footage. Subject to and during the Retention Period, Flock may access, use, preserve and/or disclose the Footage to law enforcement authorities, government officials, and/or

third parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to comply with a legal process, enforce this Agreement, or detect, prevent or otherwise address security, privacy, fraud or technical issues, or emergency situations.

6. PAYMENT OF FEES

6.1 Billing and Payment of Fees. Customer shall pay the fees set forth in the applicable Order Form based on the billing structure and payment terms as indicated in the Order Form. To the extent the Order Form is silent, Customer shall pay all invoices net thirty (30) days from the date of receipt. If Customer believes that Flock has billed Customer incorrectly, Customer must contact Flock no later than thirty (30) days after the closing date on the first invoice in which the error or problem appeared to receive an adjustment or credit. Customer acknowledges and agrees that a failure to contact Flock within this period will serve as a waiver of any claim. If any undisputed fee is more than thirty (30) days overdue, Flock may, without limiting its other rights and remedies, suspend delivery of its service until such undisputed invoice is paid in full. Flock shall provide at least thirty (30) days' prior written notice to Customer of the payment delinquency before exercising any suspension right.

6.2 Notice of Changes to Fees. In the event of any changes to fees, Flock shall provide Customer with sixty (60) days' notice (email sufficient) prior to the end of the Initial Term or Renewal Term (as applicable). Any such changes to fees shall only impact subsequent Renewal Terms.

6.3 Taxes. To the extent Customer is not a tax exempt entity, Customer is responsible for all taxes, levies, or duties, excluding only taxes based on Flock's net income, imposed by taxing authorities associated with the order. If Flock has the legal obligation to pay or collect taxes, including amount subsequently assessed by a taxing authority, for which Customer is responsible, the appropriate amount shall be invoice to and paid by Customer unless Customer provides Flock a legally sufficient tax exemption certificate and Flock shall not charge Customer any taxes from which it is exempt. If any deduction or withholding is required by law, Customer shall notify Flock and shall pay Flock any additional amounts necessary to ensure that the net amount that Flock receives, after any deduction and withholding, equals the amount Flock would have received if no deduction or withholding had been required.

7. TERM AND TERMINATION

7.1 **Term.** The initial term of this Agreement shall be for the period of time set forth on the Order Form (the “**Term**”). Unless otherwise indicated on the Order Form, the Term shall commence upon first installation of Flock Hardware, as applicable. Following the Term, unless otherwise indicated on the Order Form, this Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a “**Renewal Term**”) unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

7.2 **Termination.** Upon termination or expiration of this Agreement, Flock will remove any applicable Flock Hardware at a commercially reasonable time period. In the event of any material breach of this Agreement, the non-breaching Party may terminate this Agreement prior to the end of the Term by giving thirty (30) days prior written notice to the breaching Party; provided, however, that this Agreement will not terminate if the breaching Party has cured the breach prior to the expiration of such thirty (30) day period (“**Cure Period**”). Either Party may terminate this Agreement (i) upon the institution by or against the other Party of insolvency, receivership or bankruptcy proceedings, (ii) upon the other Party's making an assignment for the benefit of creditors, or (iii) upon the other Party's dissolution or ceasing to do business. In the event of a material breach by Flock, and Flock is unable to cure within the **Cure Period**, Flock will refund Customer a pro-rata portion of the pre-paid fees for Services not received due to such termination.

7.3 **Survival.** The following Sections will survive termination: 1, 3, 5, 6, 7, 8.3, 8.4, 9, 11.1 and 11.6.

8. REMEDY FOR DEFECT; WARRANTY AND DISCLAIMER

8.1 Manufacturer Defect. Upon a malfunction or failure of Flock Hardware or Embedded Software (a “*Defect*”), Customer must notify Flock’s technical support team. In the event of a Defect, Flock shall make a commercially reasonable attempt to repair or replace the defective Flock Hardware at no additional cost to the Customer. Flock reserves the right, in its sole discretion, to repair or replace such Defect, provided that Flock shall conduct inspection or testing within a commercially reasonable time, but no longer than seven (7) business days after Customer gives notice to Flock.

8.2 Replacements. In the event that Flock Hardware is lost, stolen, or damaged, Customer may request a replacement of Flock Hardware at a fee according to the reinstall fee schedule (<https://www.flocksafety.com/reinstall-fee-schedule>). In the event that Customer chooses not to replace lost, damaged, or stolen Flock Hardware, Customer understands and agrees that Flock is not liable for any resulting impact to Flock service, nor shall Customer receive a refund for the lost, damaged, or stolen Flock Hardware.

8.3 Warranty. Flock shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Installation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Flock or by third-party providers, or because of other causes beyond Flock’s reasonable control, but Flock shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

8.4 Disclaimer. THE REMEDY DESCRIBED IN SECTION 8.1 ABOVE IS CUSTOMER’S SOLE REMEDY, AND FLOCK’S SOLE LIABILITY, WITH RESPECT TO DEFECTS. FLOCK DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED “AS IS” AND FLOCK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A

PARTICULAR PURPOSE. THIS DISCLAIMER ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 11.6.

8.5 **Insurance.** Flock will maintain commercial general liability policies as stated in Exhibit B.

8.6 **Force Majeure.** Parties are not responsible or liable for any delays or failures in performance from any cause beyond their control, including, but not limited to acts of God, changes to law or regulations, embargoes, war, terrorist acts, pandemics (including the spread of variants), issues of national security, acts or omissions of third-party technology providers, riots, fires, earthquakes, floods, power blackouts, strikes, supply chain shortages of equipment or supplies, financial institution crisis, weather conditions or acts of hackers, internet service providers or any other third party acts or omissions.

9. LIMITATION OF LIABILITY; INDEMNITY

9.1 **Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, FLOCK, ITS OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR LOSS OF REVENUE, BUSINESS OR BUSINESS INTERRUPTION; (B) INCOMPLETE, CORRUPT, OR INACCURATE DATA; (C) COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; (D) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (E) FOR ANY MATTER BEYOND FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE; OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID AND/OR PAYABLE BY CUSTOMER TO FLOCK FOR THE SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY OF SECTION ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE REFERENCED IN SECTION

11.6. NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE FOREGOING LIMITATIONS OF LIABILITY SHALL NOT APPLY (I) IN THE EVENT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OR (II) INDEMNIFICATION OBLIGATIONS.

9.2 **Responsibility.** Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, officers, or agents, in connection with the performance of their official duties under this Agreement. Each Party to this Agreement shall be liable for the torts of its own officers, agents, or employees.

9.3 **Flock Indemnity.** Flock shall indemnify and hold harmless Customer, its agents and employees, from liability of any kind, including claims, costs (including defense) and expenses, on account of: (i) any copyrighted material, patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this Agreement; or (ii) any damage or injury to property or person directly caused by Flock's installation of Flock Hardware, except for where such damage or injury was caused solely by the negligence of the Customer or its agents, officers or employees. Flock's performance of this indemnity obligation shall not exceed the fees paid and/or payable for the services rendered under this Agreement in the preceding twelve (12) months.

10. INSTALLATION SERVICES AND OBLIGATIONS

10.1 **Ownership of Hardware.** Flock Hardware is owned and shall remain the exclusive property of Flock. Title to any Flock Hardware shall not pass to Customer upon execution of this Agreement, except as otherwise specifically set forth in this Agreement. Except as otherwise expressly stated in this Agreement, Customer is not permitted to remove, reposition, re-install, tamper with, alter, adjust or otherwise take possession or control of Flock Hardware. Customer agrees and understands that in the event Customer is found to engage in any of the foregoing restricted actions, all warranties herein shall be null and void, and this Agreement shall be subject to immediate termination for material breach by Customer. Customer shall not perform any acts which would interfere with the retention of title of the Flock Hardware by Flock. Should Customer default on any payment of the Flock Services, Flock may remove Flock Hardware at Flock's discretion. Such removal, if made by Flock, shall not be deemed a waiver of Flock's

rights to any damages Flock may sustain as a result of Customer's default and Flock shall have the right to enforce any other legal remedy or right.

10.2 Deployment Plan. Flock shall advise Customer on the location and positioning of the Flock Hardware for optimal product functionality, as conditions and locations allow. Flock will collaborate with Customer to design the strategic geographic mapping of the location(s) and implementation of Flock Hardware to create a deployment plan ("***Deployment Plan***"). In the event that Flock determines that Flock Hardware will not achieve optimal functionality at a designated location, Flock shall have final discretion to veto a specific location, and will provide alternative options to Customer.

10.3 Changes to Deployment Plan. After installation of Flock Hardware, any subsequent requested changes to the Deployment Plan, including, but not limited to, relocating, re-positioning, adjusting of the mounting, removing foliage, replacement, changes to heights of poles will incur a fee according to the reinstall fee schedule located at (<https://www.flocksafety.com/reinstall-fee-schedule>). Customer will receive prior notice and confirm approval of any such fees.

10.4 Customer Installation Obligations. Customer is responsible for any applicable supplementary cost as described in the Customer Implementation Guide, attached hereto as Exhibit C. Customer represents and warrants that it has, or shall lawfully obtain, all necessary right title and authority and hereby authorizes Flock to install the Flock Hardware at the designated locations and to make any necessary inspections or maintenance in connection with such installation.

10.5 Flock's Obligations. Installation of any Flock Hardware shall be installed in a professional manner within a commercially reasonable time from the Effective Date of this Agreement. Upon removal of Flock Hardware, Flock shall restore the location to its original condition, ordinary wear and tear excepted. Flock will continue to monitor the performance of Flock Hardware for the length of the Term. Flock may use a subcontractor or third party to perform certain obligations under this Agreement, provided that Flock's use of such subcontractor or third party shall not release Flock from any duty or liability to fulfill Flock's obligations under this Agreement.

11. MISCELLANEOUS

11.1 Compliance With Laws. Parties shall comply with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules, including responding to any subpoena request(s).

11.2 Severability. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect.

11.3 Assignment. This Agreement is not assignable, transferable or sublicensable by either Party, without prior consent. Notwithstanding the foregoing, either Party may assign this Agreement, without the other Party's consent, (i) to any parent, subsidiary, or affiliate entity, or (ii) to any purchaser of all or substantially all of such Party's assets or to any successor by way of merger, consolidation or similar transaction.

11.4 Entire Agreement. This Agreement, together with the Order Form(s), the reinstall fee schedule (<https://www.flocksafety.com/reinstall-fee-schedule>), and any attached exhibits are the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous or contemporaneous negotiations, discussions or agreements, whether written and oral, communications and other understandings relating to the subject matter of this Agreement. All waivers and modifications must be in a writing signed by both Parties, except as otherwise provided herein. None of Customer's purchase orders, authorizations or similar documents will alter the terms of this Agreement, and any such conflicting terms are expressly rejected. Any mutually agreed upon future purchase order is subject to these legal terms and does not alter the rights and obligations under this Agreement, except that future purchase orders may outline additional products, services, quantities and billing terms to be mutually accepted by Parties. In the event of any conflict of terms found in this Agreement or any other terms and conditions, the terms of this Agreement shall prevail. Customer agrees that Customer's purchase is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written comments made by Flock with respect to future functionality or feature.

11.5 Relationship. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Parties do not have any authority of any kind to bind each other in any respect whatsoever. Flock shall at all times be and act as an independent contractor to Customer.

11.6 Governing Law; Venue. This Agreement shall be governed by the laws of the state in which the Customer is located. The Parties hereto agree that venue would be proper in the

chosen courts of the State of which the Customer is located. The Parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement.

11.7 **Special Terms.** Flock may offer certain special terms which are indicated in the Order Form and will become part of this Agreement, upon Customer's prior written consent and the mutual execution by authorized representatives ("**Special Terms**"). To the extent that any terms of this Agreement are inconsistent or conflict with the Special Terms, the Special Terms shall control.

11.8 **Publicity.** Upon prior written consent, Flock has the right to reference and use Customer's name and disclose the nature of the Services in business and development and marketing efforts. Nothing contained in this Agreement shall be construed as conferring on any Party, any right to use the other Party's name as an endorsement of product/service.

11.9 **Feedback.** If Customer or Authorized End User provides any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the subject matter hereunder, Agency or Authorized End User hereby assigns to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

11.10 **Export.** Customer may not remove or export from the United States or allow the export or re-export of the Flock IP or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign Customer or authority. As defined in Federal Acquisition Regulation ("FAR"), section 2.101, the Services, the Flock Hardware and Documentation are "commercial items" and according to the Department of Defense Federal Acquisition Regulation ("DFAR") section 252.2277014(a)(1) and are deemed to be "commercial computer software" and "commercial computer software documentation." Flock is compliant with FAR Section 889 and does not contract or do business with, use any equipment, system, or service that uses the enumerated banned Chinese telecommunication companies, equipment or services as a substantial or essential component of any system, or as critical technology as part of any Flock system. Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, or disclosure of such commercial software or

commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

11.11 **Headings.** The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated sections.

11.12 **Authority.** Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the Parties they are representing upon the Effective Date.

11.13 **Conflict.** In the event there is a conflict between this Agreement and any applicable statement of work, or Customer purchase order, this Agreement controls unless explicitly stated otherwise.

11.14 **Notices.** All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt to the address listed on the Order Form (or, if different, below), if sent by certified or registered mail, return receipt requested.

11.15 **Non-Appropriation.** Notwithstanding any other provision of this Agreement, all obligations of the Customer under this Agreement which require the expenditure of public funds are conditioned on the availability of said funds appropriated for that purpose. To the extent applicable, Customer shall have the right to terminate this Agreement for non appropriation with thirty (30) days written notice without penalty or other cost.

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FLOCK NOTICES ADDRESS:

1170 HOWELL MILL ROAD, NW SUITE 210

ATLANTA, GA 30318

ATTN: LEGAL DEPARTMENT

EMAIL: legal@flocksafety.com

Customer NOTICES ADDRESS:

ADDRESS:

ATTN:

EMAIL:

EXHIBIT B
INSURANCE

Required Coverage. Flock shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the services under this Agreement and the results of that work by Flock or its agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A. M. Best rating of no less than “A” and “VII”. Flock shall obtain and, during the term of this Agreement, shall maintain policies of professional liability (errors and omissions), automobile liability, and general liability insurance for insurable amounts of not less than the limits listed herein. The insurance policies shall provide that the policies shall remain in full force during the life of the Agreement. Flock shall procure and shall maintain during the life of this Agreement Worker's Compensation insurance as required by applicable State law for all Flock employees. For the avoidance of doubt, all required insurance limits by Customer can be met through a combination of primary and excess/umbrella coverage.

Types and Amounts Required. Flock shall maintain, at minimum, the following insurance coverage for the duration of this Agreement:

- (i) **Commercial General Liability** insurance written on an occurrence basis with minimum limits of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate for bodily injury, death, and property damage, including personal injury, contractual liability, independent contractors, broad-form property damage, and product and completed operations coverage;
- (ii) **Umbrella or Excess Liability** insurance written on an occurrence basis with minimum limits of Ten Million Dollars (\$10,000,000) per occurrence and Ten Million Dollars (\$10,000,000) in the aggregate;
- (iii) **Professional Liability/Errors and Omissions** insurance with minimum limits of Five Million Dollars (\$5,000,000) per occurrence and Five Million Dollars (\$5,000,000) in the aggregate;
- (iv) **Commercial Automobile Liability** insurance with a minimum combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury, death, and property coverage, including owned and non-owned and hired automobile coverage; and

(v) **Cyber Liability** insurance written on an occurrence basis with minimum limits of Five Million Dollars (\$5,000,000).

EXHIBIT C
LOCATIONS

Flock Safety Condor PTZ w/Service

Tracy @ Larch
Tracy @ Clover
Holly @ Clover
MacArthur @ Pescadero
Grant Line @ MacArthur
Grant Line @ Tracy
Grant Line @ Corral Hollow
Grant Line @ Naglee
Grant Line @ Byron
Naglee @ Pavilion
Naglee @ Auto Plaza

Flock Safety Falcon

Hansen @ Capital Pkwy SB
Hanson/Capital Pkwy NB
Schulte Rd @ Central Ave NB
Tracy Blvd @ W Schulte Rd NB
Tracy Blvd @ W Schulte Rd SB
Schulte Rd @ Lammers Rd NB
Schulte Rd Hansen EB
Pavilion Pkwy @ WB 205 On Ramp
Holly Dr @ Arbor Ave SB
East St @ E 11th St NB
East St @ Grant Line Rd SB
Sycamore Pkwy @ W Schulte Rd SB
Sycamore Pkwy @ Valpico Rd NB
Central Ave @ 4th St NB

Customer Implementation Guide
Law Enforcement



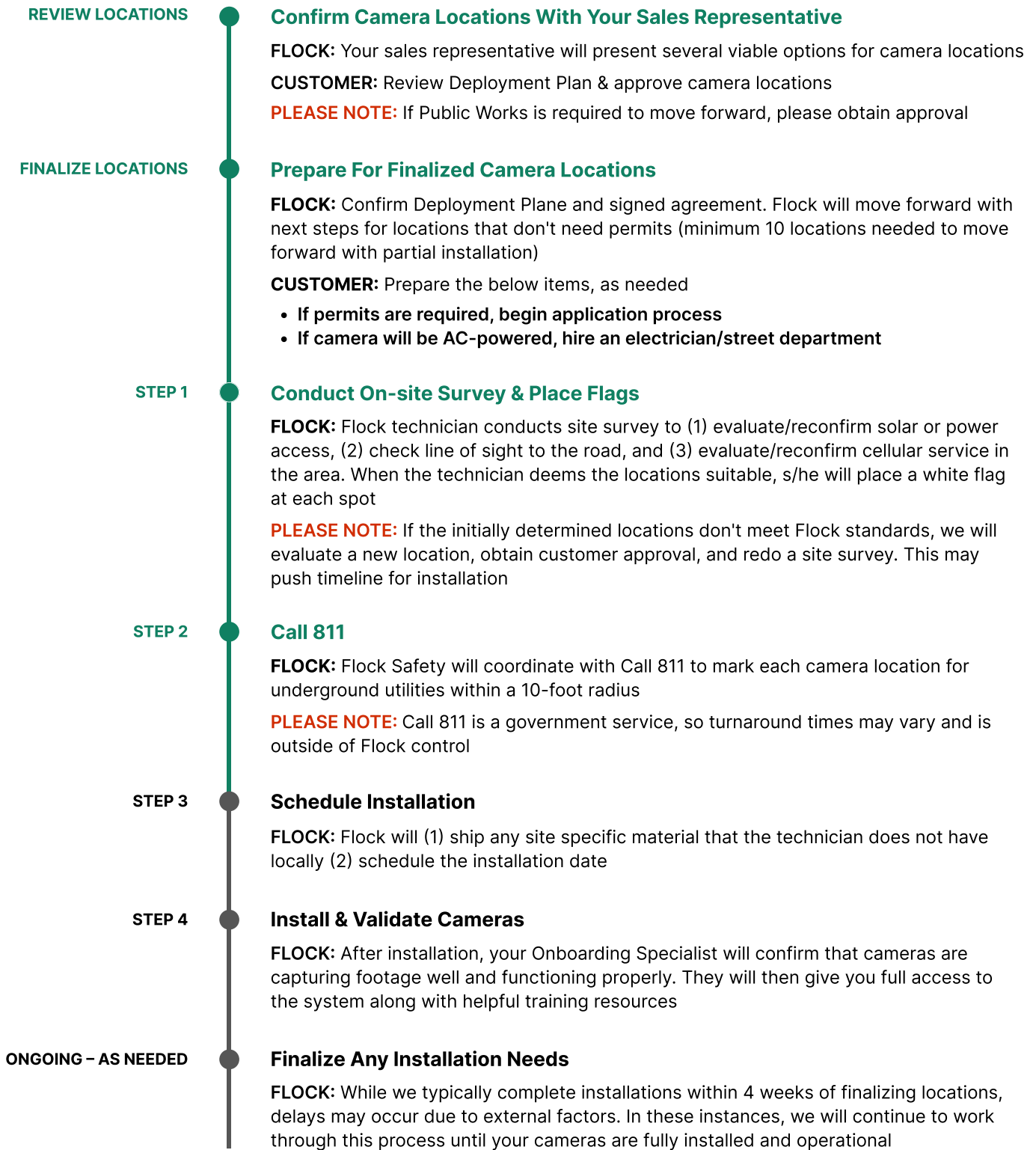
flock safety

Table of Contents



Implementation Timeline	2
Flock Safety Team	3
Implementation Service briefs: Existing Infrastructure	6
vs Standard vs Advanced	
• Existing Infrastructure Implementation	
• Standard Implementation	
• Advanced Implementation	
Things to Consider When Selecting Locations	12
Customer Responsibilities: AC-Powered Cams	14
Electrician Handout	15
• Electrician Installation Steps	
• FAQs about AC-Powered Flock Cameras	
Installation Service Brief Summary	18
Permitting: Pre-Install Questionnaire	19
1. Timeline	
2. Right of Way	
3. AC Power vs. Solar	
4. Traffic Control & Installation Methods	
5. Paperwork & Required Forms	
6. Contacts	
*Fee Schedule	21
Help Center	22
Customer Support	22



Implementation Timeline

This timeline provides general guidance and understanding of your installation process. While we typically complete installations 6-8 weeks after locations have been finalized, delays can occur as noted in the timeline below:



Flock Safety Team

Implementation Team	How They Will Support You
 <p data-bbox="217 688 495 730">Project Manager</p>	<p data-bbox="607 380 1349 464">Your Project Manager is your primary contact during camera installation.</p> <p data-bbox="607 499 1414 825">Your project manager will guide you through the entire installation process, keeping you apprised of all implementation updates as well as answering any questions you have during this time. They will ensure that all the cameras are on the ground and operating for at least 48 hours before transitioning you to your Customer Success Manager.</p>
 <p data-bbox="217 1318 495 1402">Field Operations Team</p>	<ul data-bbox="630 1010 1422 1812" style="list-style-type: none"> • The Field Operations team is responsible for the physical installation and maintenance of cameras and associated equipment provided by Flock. This includes a large team of technicians, schedulers, and many others involved in ensuring the delivery of the product. • They take the technical plan you finalized with Product Implementation and work closely with other teams at Flock to make sure that the cameras are installed quickly and safely and in a way that maximizes the opportunity to solve crime at a specific location. • *Note*: For all Installation questions or concerns, please always direct them to your Customer Success Manager and not the technician.

Relationship Team	How They Will Support You
 <p data-bbox="201 674 513 758">Customer Success Manager</p>	<p data-bbox="609 373 1403 457">Your Customer Success Manager is your strategic partner for your lifetime as a Flock customer.</p> <p data-bbox="609 495 1403 625">While the cameras are getting installed, your CSM will help get your account set up and get all key users trained on the system.</p> <p data-bbox="609 663 1403 793">Post-Camera-Installation, your CSM will be your go-to for most account-related needs: You should reach out to them to:</p> <ul data-bbox="630 814 1403 1180" style="list-style-type: none"> • Set up Account Training • Understand benefits of features • Learning best practices for getting relevant data • Identifying opportunities to expand the security network in your area • Provide feedback on your partnership with Flock
 <p data-bbox="253 1646 459 1730">Flock Safety Support</p>	<p data-bbox="609 1339 1403 1570">The Flock Safety Support team is committed to answering all your day-to-day questions as quickly as possible. To get in touch with support, simply email support@flocksafety.com or call 866-901-1781 Mon-Fri 8am-8pm EST.</p> <p data-bbox="609 1579 959 1621">Support can help you:</p> <ul data-bbox="630 1642 1403 1915" style="list-style-type: none"> • Request camera maintenance • Troubleshoot online platform • Contract / Billing questions • Update account information • Camera Sharing questions • Quick “How to” questions in your Flock Account

Outside Party	When They May Be Involved
Electrician/Street Department	If the Flock cameras need to be AC powered, you (customer) are responsible for providing an electrician to ensure power connectivity
Public Works (LE)	To weigh in on the use of public Rights of Way or property
Department of Transportation (DOT), City, or County agencies	If installation in your area requires permitting

PLEASE NOTE: On some occasions, third parties outside of Flock Safety may be (or need to be) involved in your implementation.

Implementation Service Briefs: Existing Infrastructure vs Standard vs Advanced

	Existing Infrastructure Install	Standard Install	Advanced Install
Pole	None	Flock	NCHRP 350 / MASH
Timeline	Short	Medium	Longest
Cost	Lowest	Mid	Highest

Existing Infrastructure Implementation

COST: \$150 per camera (one time cost)

Included In Scope:

Once designated locations are approved by the customer, as part of the **Existing Infrastructure Implementation Service** Flock will perform the following:

- An in-person site survey to confirm the installation feasibility of a location (location assessment, solar assessment, visibility review, etc.)
 - Cameras need sufficient power. Since a solar panel is required per camera, it can prevent adequate solar power if two cameras and two solar panels are on a single pole (blocking visibility). Therefore if relying on solar power, only one camera can be installed per pole.
- Confirm that a location is safe for work by following State utility locating procedures.
- Each installation may include the following:
 - Installation of camera and solar panel or AC adapter box on a suitable existing pole

- Types of existing infrastructure such as existing utility, light, and traffic signal poles.
- Pole no higher than 8'-12' (approval at Flock Safety's discretion)
- Flock will provide and mount an AC adapter unit that a qualified electrician can connect to AC power following our [electrical wiring requirements](#). Flock is unable to make any AC connections or boreholes in any material other than dirt, grass, loose gravel (or other non-diggable material). Electrical work requiring a licensed electrician and associated costs, not included in the scope.
 - Access requiring up to a 14' using an A-frame ladder
 - Standard MUTCD traffic control procedures performed by a Flock technician
- Obtain a business license to operate in the city and state of camera location

Out Of Scope:

By default, Flock does **not** include the following as part of the **Existing Infrastructure Implementation Service** but can provide a quote for sourcing at an additional cost:

- Mounting on mast arms (always require bucket truck and traffic control)
- Call 811 'Call-before-you-Dig' system
- Installation of any poles including but not limited to
 - Standard, 12' above grade [Flock breakaway pole](#)
 - NCHRP 350 or MASH approved pole (as may be required for locations in DOT right of way)
- A Bucket Truck for accessing horizontal/cross-beams and/or height above 14'
- Special equipment rentals for site access
- Site-specific engineered traffic plans
- Third-party provided traffic control
- State or city-specific specialty contractor licenses or unique attachment/connection requirements
- Custom engineered drawings
- Electrical work requires a licensed electrician.

- Flock will provide and mount an AC adapter that a qualified electrician can connect to AC power but cannot make any AC connections or boreholes in any material other than dirt, grass, loose gravel (or other non-diggable material).
- Concrete cutting
- Private utility search for privately owned items not included in standard 811 procedures (communication, networking, sprinklers, etc.)
- Upgrades to power sources to ready them for Flock power (additional fuses, switches, breakers, etc.)
- Any fees or costs associated with filing for required city, county, or state permits
- Licensing or attachment agreements with asset / infrastructure owners
- Utility contracts and billing
- Customer requested relocations (see fee schedule)

Standard Implementation

COST: \$650 per camera (one time cost)

Included In Scope:

Once designated locations are approved by the customer, as part of the **Standard Implementation Service** Flock will perform the following:

- An in-person site survey to confirm the installation feasibility of a location (location assessment, solar assessment, visibility review, etc.)
- Confirm that a location is safe for work by following state utility locating procedures. Work with local utilities to prevent service interruptions during the installation
 - Engage 811 'Call-before-you-Dig' system to receive legal dig date
 - Apply approved markings Coordinate with 811 regarding any necessary high-risk dig clearances or required vendor meets
- Each installation may include the following:
 - Installation of camera and solar panel with **standard, 12' above grade Flock breakaway pole**

- Installation of camera and AC adapter that a qualified electrician can connect to AC power on a suitable existing pole, no higher than 8-12' (approval at Flock Safety's discretion)
 - Flock will provide and mount an AC adapter that a qualified electrician can connect to AC power following our [electrical wiring requirements](#). Flock is unable to make any AC connections or boreholes in any material other than dirt, grass, loose gravel (or other non-diggable material). Electrical work requiring a licensed electrician and associated costs, not included in the scope.
- Access requiring up to a 14' A-frame ladder
- Standard MUTCD traffic control procedures performed by a Flock technician
- Obtain a business license to operate in the City and State of camera location

Out Of Scope:

By default, Flock does **not** include the following as part of the Standard Implementation Service but can provide a quote for sourcing at an additional cost:

- Use and/or mounting to existing infrastructure.
- NCHRP 350 or MASH approved pole (as may be required for locations in DOT right of way)
- A Bucket Truck for accessing horizontal/cross-beams and/or height above 14'
- Special equipment rentals for site access
- Site-specific engineered traffic plans
- Third-party provided traffic control
- State or city-specific specialty contractor licenses
- Custom engineered drawings
- Electrical work requires a licensed electrician.
 - Flock will provide and mount an AC adapter that a qualified electrician can connect to AC power but cannot make any AC connections or boreholes in any material other than dirt, grass, loose gravel (or other non-diggable material).
- Concrete cutting
- Private utility search for privately owned items not included in standard 811 procedures (communication, networking, sprinklers, etc.)

- Upgrades to power sources to ready them for Flock power (additional fuses, switches, breakers, etc.)
- Any fees or costs associated with filing for required city, county, or state permits
- Licensing or attachment agreements with asset / infrastructure owners
- Utility contracts and billing
- Customer requested relocations (see fee schedule)

Advanced Implementation

COST: \$1,900 per camera (one time cost)

Included In Scope:

Once Designated Locations are confirmed, as part of the **Advanced Implementation Service**, Flock will perform the following:

- An in-person site survey to confirm the installation feasibility of a location (location assessment, solar assessment, visibility review, etc.)
- Confirm that a location is safe for work by following State utility locating procedures. Work with local utilities to prevent service interruptions during the installation
 - Engage 811 'Call-before-you-Dig' system to receive legal dig date
 - Apply approved markings Coordinate with 811 regarding any necessary high-risk dig clearances or required vendor meets
- Each installation may include the following:
 - Installation of camera and solar panel on a suitable **NCHRP 350 or MASH** approved pole.
 - Installation of camera and AC adapter that a qualified electrician can connect to AC power.
 - Flock will provide and mount an AC adapter that a qualified electrician can connect to AC power following our [electrical wiring requirements](#). Flock cannot make any AC connections or boreholes in any material other than dirt, grass, loose gravel (or other non-diggable material).

Electrical work requiring a licensed electrician and associated costs, not included in the scope.

- Access requiring up to a 14' A-frame ladder
- Standard MUTCD traffic control procedures performed by a Flock technician
- Obtain a business license to operate in the City and State of camera location

Out Of Scope:

By default, Flock does not include the following as part of the **Advanced Implementation Service** but can optionally provide a quote for sourcing (additional cost):

- Installation on **Standard, 12' above grade Flock breakaway pole** or existing infrastructure.
- A Bucket Truck for accessing horizontal/cross-beams and/or height above 14'
- Special equipment rentals for site access
- Site-specific engineered traffic plans
- Third-party provided traffic control
- State or City-specific specialty contractor licenses
- Custom engineered drawings
- Electrical work requires a licensed electrician. Flock will provide and mount an AC adapter that a qualified electrician can connect to AC power but cannot make any AC connections or boreholes in any material other than dirt, grass, loose gravel (or other non-diggable material).
- Concrete cutting
- Private utility search for privately owned items not included in standard 811 procedures (communication, networking, sprinklers, etc.)
- Upgrades to power sources to ready them for Flock power (additional fuses, switches, breakers, etc.)
- Fees or costs associated with filing for required City, County, or State permits

Things to Consider When Selecting Locations

Falcon Cameras



- Use Cases
 - Flock LPRs are designed to capture images of rear license plates aimed in the direction of traffic.
 - Flock LPRs are not designed to capture pedestrians, sidewalks, dumpsters, gates, other areas of non-vehicle traffic, intersections.
- Placement
 - They capture vehicles driving away from an intersection.
 - They cannot point into the middle of an intersection.
 - They should be placed after the intersection to prevent stop and go motion activation or “stop and go” traffic.
- Mounting
 - They can be mounted on existing utility, light, traffic signal poles, or 12 foot Flock poles.*
 - They should be mounted one per pole.** If using AC power, they can be mounted 2 per pole.
- They can be powered with solar panels or direct wire-in AC Power (no outlets).***
- They will require adequate cellular service using AT&T or T-Mobile to be able to process & send images.

* Permitting (or permission from pole owner) may be required to use existing infrastructure or install in specific areas, depending on local regulations & policies.

** Cameras need sufficient power. Since a solar panel is required per camera, it can prevent adequate solar power if two cameras and two solar panels are on a single pole (blocking visibility). Therefore if relying on solar power, only one camera can be installed per pole.

*** Flock does not provide Electrical services. Once installed, the agency or community must work with an electrician to wire the cameras. Electrician services should be completed within two days of installation to prevent the camera from dying.

Solar Panels

Solar panels need unobstructed southern-facing views.



Pole

If a location requires a "DOT Pole" (i.e., Advanced Pole, **not** Flock standard pole), the implementation cost will be \$5,000/camera.



Customer Responsibilities: AC-Powered Cams

If the Flock cameras need to be AC-powered, the **customer is responsible** for acquiring an electrician and ensuring they connect the camera to power. **See steps 2 and 6 below.**

How to Get Started with a Powered Install



1. Create a Deployment Plan

Work with us to select the best location(s) for Flock Safety cameras and power sources



2. Acquire an Electric Quote

Contact an electrician to receive a quote to run 120volt AC power to the camera



3. Sign Flock Safety Agreement

Sign the Flock Safety purchase order to begin the installation of cameras



4. Conduct Site Survey

Flock will mark camera locations, locate underground utilities and mark if present



5. Install Camera

Flock will install the camera and AC power kit at the specified camera location



6. Connect Camera to Power

Notify the electrician that the camera is ready for the power connection installation

Electrician Handout

Electrician Installation Steps

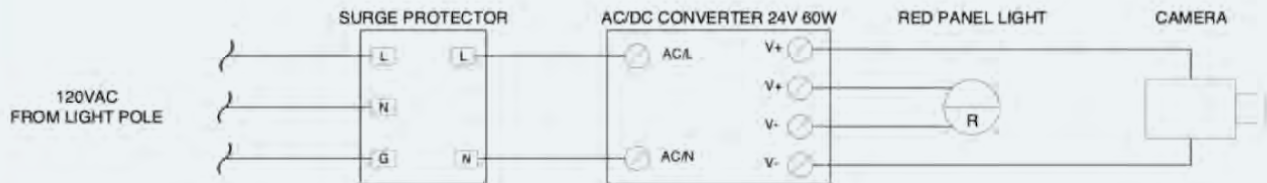


1. Run AC cable and conduit to the box according to NEC Article 300 and any applicable local codes. The gland accepts 1/2" conduit.
2. Open the box using hinges.
3. Connect AC Mains per wiring diagram below:
 - a. Connect AC Neutral wire to the Surge Protector white Neutral wire using the open position on the lever nut.
 - b. Connect AC Line wire to the Surge Protector black Line wire using the open position on the lever nut.
 - c. Connect AC Ground wire to the Surge Protector green ground wire using the open position on the lever nut.
4. Verify that both the RED LED is lit on the front of the box
5. Close box and zip tie the box shut with the provided zip tie
6. While still on-site, call Flock, who will remotely verify that power is working correctly:

Southeast Region - (678) 562-8766

West-Region - (804) 607-9213

Central & NE Region - (470) 868-4027



FAQs about AC-Powered Flock Cameras

What voltage is supported?

The AC kit is designed to work with 120VAC Infrastructure by default. A 240VAC version is available on request.

How much power does this consume?

Peak current draw is 1.5 A at 120VAC. The average power draw is roughly 30W in high traffic conditions but maybe lower when fewer vehicles are present.

Who is responsible for contracting the electrician?

The customer is responsible for contracting an electrician. We can help answer questions, but the customer is responsible for identifying and contracting an electrician.

Who is responsible for maintenance?

Flock will handle all maintenance related to Flock's camera and power equipment. However, any problems with the electrical supply are the customer's responsibility. The AC junction box has two lights to indicate the presence of power and make it easy for quick diagnosis if there is a problem related to the AC power source.

- If the camera indicates to Flock that there is a power supply problem, Flock will notify the customer and request that the customer verifies the lights on the AC junction box. If the AC Source light is illuminated, Flock will send a technician to investigate. If the AC source light is not illuminated, the customer should check any GFCI's or breakers in the supply circuit or call the electrician who installed the power supply.

How much does it cost?

Work required to bring AC power to each location will be different, so exact pricing is unavailable. Primary cost drivers include arrow boards and the distance from the camera location to the AC power source.

What information do I need to provide my electrician?

The Flock deployment plan and these work instructions should be sufficient to secure a quote. It will be helpful if you know the location of the existing power infrastructure before creating the deployment plan.

Can you plug it into my existing power outlet? The Flock AC power adapter does not use a standard outlet plug but must be directly wired into the power mains. While using outlet plugs may be convenient, they can easily be unplugged, presenting a tampering risk to this critical safety infrastructure. The electrician can route power directly to the camera with a direct wire-in connection if an outlet is close to the camera.

How long does this process typically take?

The installation process typically takes 6-8 weeks. To accelerate the process, be sure to have the electrician perform his work shortly after the Flock technician finishes installing the camera.

What kind of electrician should I look for?

Any licensed electrician should perform this work, though we have found that those who advertise working with landscape lighting are most suited for this work.

What happens if the electrician damages the equipment?

The customer is responsible for contracting the electrician. Any liability associated with this work would be assumed by the customer. If any future work is required at this site due to the electrical infrastructure or the work performed by the electrician would be the responsibility of the customer.

When should the electrician perform his work?

Once Flock installs the camera, you will receive an email alert letting you know that this has been completed. After this, you will need to schedule the electrician to route power to the pole.

What if my electrician has questions about Flock's AC Kit?

You should share the [AC-Power Kit Details](#) packet with the electrician if they have questions.

What if the AC power is on a timer?

Sometimes the AC power will be on a timer (like used for exterior lighting). Flock requires that the AC power provided to the camera be constant. The source that the electrician uses must not be on a timing circuit.

Installation Service Brief Summary

Below outlines the statement of work for the Flock Camera Installation:

What Is Covered By Flock	What Is NOT Covered By Flock	Special Note
Flock Cameras & Online Platform	Traffic Control And Any Associated Costs	
Mounting Poles	*DOT Approved Pole Cost Electrician & Ongoing Electrical Costs	
AC Power Kit (As Needed)	Engineering Drawings	
Solar Panels (As Needed)	Relocation Fees	<i>Excluding Changes During Initial Installation</i>
Site Surveys And Call 811 Scheduling	Contractor Licensing Fees	
Installation Labor Costs	Permit Application Processing Fees	
Customer Support / Training	Specialist Mounting Equipment	<i>Including, But Not Limited To, **MASH Poles Or Adapters</i>
Cellular Data Coverage	Bucket Trucks	
Maintenance Fees (Review Fees Sheet For More Details)	Loss, Theft, Damage To Flock Equipment	
Data Storage For 30 Days	Camera Downtime Due To Power Outage	<i>Only Applicable For AC-Powered Cameras</i>
	***Field Technician Maintenance For Falcon™ Flex	

*If a location requires a "DOT pole" (i.e., not our standard), the implementation cost will be \$5,000/camera; This cost is applicable for installations in GA, IL, SC, TN, and CA.

**MASH poles: Manual for Assessing Safety Hardware (MASH) presents uniform guidelines for crash testing permanent and temporary highway safety features and recommends evaluation criteria to assess test results

***If a camera is lost, stolen, or damaged, a replacement device can be purchased at a discounted price of \$800

Permitting: Pre-Install Questionnaire

1. Timeline

- In Flock Safety's experience, in-depth permitting requirements can **add 2+ months to the installation timeline**.
- The SLA for permit document submission is within 15 days from contract signature date (contract Closed-Won)

2. Right of Way

- Will any Flock Safety cameras be installed on the city, state, or power company-owned poles or in the city, county, or state Right of Way (RoW)?
 - What is the RoW buffer?
 - Will additional permits or written permission be required from third-party entities (such as DOT, power companies, public works, etc.)?
- Will any cameras be installed on city-owned traffic signal poles (vertical mass)?
 - If yes, please provide heights/photos to determine if a bucket truck is needed for the installation.
 - Note: A bucket truck is required if the height exceeds 15 feet tall.

3. AC Power vs. Solar

- If AC powered, is there a 120V power source available, and is there access to an electrician who can connect the existing wire to the Flock Safety powered **installation kit**?
- If solar-powered, consider the size of the solar panel and potential to impact the visibility of DOT signs/signals:
 - Single Panel: 21.25" x 14" x 2" (Length x Width x Depth)
 - Double Panel: 21.25" x 28" x 2" (LxWxD)

4. Traffic Control & Installation Methods

- **If a bucket truck is required**, this typically necessitates an entire lane to be blocked in the direction of travel. **Can you provide a patrol car escort, or will full traffic control be required?***

PLEASE NOTE: If traffic control is required, you may incur additional costs due to city/state requirements; Fees will be determined by quotes received.

- **If full traffic control is required (cones, arrow boards, etc.):**
 - Will standard plans suffice, or are custom plans needed? Custom plans can double the cost, while standard plans can be pulled from the Manual of Uniform Traffic Control Devices (**MUTCD**).
 - Will a non-sealed copy of the traffic plan suffice? Or does the traffic plan need to be sealed and/or submitted by a professional engineer?
 - Are there state-specific special versions/variances that must be followed?
- **If a bucket truck is not required**, the shoulder or sidewalk should suffice and enable Flock Safety to proceed without traffic control systems in place.
 - Note: In some states (i.e., arrow boards), sidewalks may require signage. If signage is mandatory, Will your Public Works department be able to assist?

5. Paperwork & Required Forms

- Flock Safety will need copies of paperwork to complete before proceeding (ex., business license applications, encroachment permit applications). We can save critical time by gathering these documents upfront. We appreciate your assistance in procuring these.

6. Contacts

- If Flock Safety needs to interface directly with the departments, please share the contact information of the following departments:
 - Permitting
 - Public Works
 - Traffic Department

*Fee Schedule

After a deployment plan with Designated Locations and equipment has been agreed upon by both Flock and the Customer, any subsequent changes to the deployment plan (“Reinstalls”) driven by a Customer’s request will incur a fee per the table below.

What Services Incur Fees:

- Requested relocations post-approval by customer
- Relocations due to poor performance will be the responsibility of Flock
 - If a customer requests a location against the advisement of Flock, performance issues and any requested relocations will be the responsibility of the customer.
- Per the contract and absent a defect, in the event that Flock Hardware is lost, stolen, or damaged, Customer may request that Flock replace the Flock Hardware at a fee according to the then-current Reinstall policy
<https://www.flocksafety.com/reinstall-fee-schedule>
- Misc billables for out of scope items for each implementation

Incurred Fees:

- Camera relocation
 - Existing infrastructure (non-AC powered)..... **\$350**
 - Flock pole (non-AC powered)..... **\$750**
 - Advanced pole (non-AC powered)..... **\$5000**
- Replacements
 - Camera only as a result of vandalism, theft, or damage **\$800**
 - Pole replacement only as a result of vandalism, theft, or damage
 - Flock pole **\$500**
 - Advanced pole **\$5000**
 - Full replacement as a result of vandalism, theft, or damage
 - Flock pole, camera, and solar (non-AC Powered)..... **\$1300**
 - Advanced pole, camera, and solar (non-AC Powered)..... **\$5800**

- Trip charge **\$350**
 - Examples:
 - Angle adjustment (elective)
 - Install additional Flock signage

All fees are per reinstall or required visit (in the case that a reinstall is attempted but not completed) and include labor and materials. If you have any questions, please email support@flocksafety.com.

Help Center

Our Help Center is filled with many resources to help you navigate through the online platform. Below you will find some common questions and their relevant help article:

[How do I search camera footage?](#)

[How do I add a user?](#)

[How do I add a vehicle to my own Hot List?](#)

[How do I enable browser notifications for Hot List alerts?](#)

[How do I get text alerts for Hot List?](#)

[How do I request camera access from other nearby agencies?](#)

[How do I use the National Lookup to search for a plate?](#)

(National Lookup - network of law enforcement agencies that have opted to allow their network of Flock cameras to be used for searches)

[How do I reset my / another user's password?](#)

Customer Support

You can reach our customer support team anytime by emailing support@flocksafety.com. They can help answer any “How-To” questions you may have.

Automated License Plate Readers (ALPRs)

439.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

439.2 POLICY

The policy of the Tracy Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

439.3 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Tracy Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to assist officers in a criminal investigation.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Bureau of Operations Commander. The Bureau of Operations Commander will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

439.3.1 ALPR ADMINISTRATOR

The Bureau of Investigations Commander shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Bureau of Support Services Manager on the retention and destruction of ALPR data.

Tracy Police Department

Tracy PD Policy Manual

Automated License Plate Readers (ALPRs)

- (g) Ensuring this policy and related procedures are conspicuously posted on the department's website.

439.4 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access department, state or federal data unless otherwise authorized to do so.
- (f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

439.5 DATA COLLECTION AND RETENTION

The Bureau of Investigations Commander is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

439.6 ACCOUNTABILITY

All data will be closely safeguarded and protected by both procedural and technological means. The Tracy Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

Tracy Police Department

Tracy PD Policy Manual

Automated License Plate Readers (ALPRs)

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or administrative action.
- (c) ALPR system audits should be conducted on a regular basis by the Bureau of Investigations Commander or his/her designee.

For security or data breaches, see the Records Release and Maintenance Policy.

439.7 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a request through official channels (e.g. verified email, confirmed phone contact) for the ALPR data that includes:
 - 1. The name of the agency.
 - 2. The name of the person requesting.
 - 3. The intended purpose of obtaining the information.
- (b) The request is reviewed by the Watch Commander or the authorized designee and approved before the request is fulfilled.
- (c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

439.8 TRAINING

The Training Manager should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

TRACY CITY COUNCIL

RESOLUTION NO. _____

(1) DETERMINING THAT STRICT COMPLIANCE WITH THE BIDDING PROCESS IS NOT IN THE BEST INTEREST OF THE CITY PURSUANT TO TRACY MUNICIPAL CODE 2.20.180(B)(4) AND DISPENSING SUCH REQUIREMENTS FOR ACTIONS HEREIN; AND

(2) APPROVING A MASTER SERVICE AGREEMENT WITH FLOCK GROUP, INC. FOR THE PURCHASE, INSTALLATION, OPERATION, AND MAINTENANCE OF NEW AND EXISTING EQUIPMENT AND TECHNOLOGY FOR A FIVE-YEAR TERM, AND FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$1,092,850.

WHEREAS, cameras and Automated License Plate Reader (ALPR) technology have been used by Police agencies to help solve crimes and ALPR technology has continued to evolve and has become less cost prohibitive; and

WHEREAS, the Tracy Police Department (TPD) currently uses mobile ALPRs and is now looking to maintain its existing program of 46 cameras and expand this beneficial tool to additional fixed locations in high crime areas; and

WHEREAS, the TPD currently has Flock Falcon Automated License plate readers; and

WHEREAS, the Flock ALPR system deploys cameras throughout an area to provide greater coverage and more detailed information for law enforcement and capture date, time, location, license plate (state, partial, paper, and no plate), vehicle details (type and color), as well as objects (bicycle, animals, and people); and

WHEREAS, the City has been using Flock Group, Inc. (Flock) automated license plate readers since 2022; and

WHEREAS, the previous agreement with Flock is set to renew;

WHEREAS, the staff has done due diligence and confirmed that Flock is still the exclusive supplier who can meet the City's requirements; and

WHEREAS, pursuant to the agreement with Flock Group, Inc. is attached hereto as Exhibit 1, Flock will provide the purchase, installation, operation, and maintenance of new and existing equipment and technology including automated license plate readers and condor cameras; and

WHEREAS, the locations for the new 14 Falcon Safety ALPRs and 11 Condor Flock Safety Condor, identify as follows:

Flock Safety Condor PTZ w/Service

Tracy @ Larch
Tracy @ Clover
Holly @ Clover
MacArthur @ Pescadero
Grant Line @ MacArthur
Grant Line @ Tracy
Grant Line @ Corral Hollow
Grant Line @ Naglee
Grant Line @ Byron
Naglee @ Pavilion
Naglee @ Auto Plaza

Flock Safety Falcon

Hansen @ Capital Pkwy SB
Hanson @ Capital Pkwy NB
Schulte Rd @ Central Ave NB
Tracy Blvd @ W Schulte Rd NB
Tracy Blvd @ W Schulte Rd SB
Schulte Rd @ Lammers Rd NB
Schulte Rd @ Hansen EB
Pavilion Pkwy @ WB 205 On Ramp
Holly Dr @ Arbor Ave SB
East St @ E 11th St NB
East St @ Grant Line Rd SB
Sycamore Pkwy @ W Schulte Rd SB
Sycamore Pkwy @ Valpico Rd NB
Central Ave @ 4th St NB

WHEREAS, as per Flock’s requirements, the City is using the agreement template provided by Flock, which agreement has a heading of “Master Services Agreement” (MSA); and

WHEREAS, Flock Safety provides a desirable approach to deploying ALPR cameras throughout the community. Unlike other fixed or mobile ALPR devices, the Flock system provides the ability to cover more area of the City with system maintenance provided by the vendor rather than City staff. The Flock program is an all-inclusive model for deploying the ALPR cameras. Flock Safety is the sole manufacturer and developer of the Flock Safety camera; and

WHEREAS, Tracy Municipal Code Section 2.20.180(b)(4) authorizes the City Council to approve an exception to the contracting procedure for MSAs where the City Council finds compliance is not in the best interest of the City for the subject services; and

WHEREAS, the City seeks to enter into a five-year agreement with Flock Group, Inc. for a total cost not to exceed \$1,092,850 to be funded through TPD’s operating budget.

NOW, THEREFORE, be it resolved as follows:

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

RESOLVED: That the City Council for the City of Tracy finds, pursuant to Tracy Municipal Code Section 2.20.180(b)(4), compliance with the procedure is not in the best interest of the City for the commodities, equipment or general services set forth herein; and be it further

RESOLVED: That City Council does hereby approve a General Services Agreement with Flock Group, Inc., attached hereto as Exhibit 1, for the purchase, installation, operation, and maintenance of new and existing equipment and technology including automated license plate readers and condor cameras, for a term of five years and for a total not-to-exceed amount of \$1,092,850 and be it further

RESOLVED: That City Council finds that the proposed action is not a “project” under the California Environmental Quality Act (CEQA) and that pursuant to CEQA Guidelines Section 15061(b)(3), there is no possibility that this action will have an effect on the physical environment.

* * * * *

The foregoing Resolution 2024-_____ was adopted by the Tracy City Council on September 17, 2024 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

EXHIBITS:

- (1) Master Service Agreement with Flock Group, Inc.

Flock Safety + CA - Tracy CA PD

Flock Group Inc.
1170 Howell Mill Rd, Suite 210
Atlanta, GA 30318

MAIN CONTACT:
Libby Landers
libby.landerson@flocksafety.com
4047774113



EXHIBIT A
ORDER FORM

Customer: CA - Tracy CA PD
 Legal Entity Name: CA - Tracy CA PD
 Accounts Payable Email:
 Address: 1000 Civic Center Tracy, California 95376

Initial Term: 60 Months
 Renewal Term: 24 Months
 Payment Terms: Net 30
 Billing Frequency: Annual
 Retention Period: 30 Days

Hardware and Software Products

Annual recurring amounts over subscription term

Item	Cost	Quantity	Total
Flock Safety Platform			\$216,500.00
Flock Safety Flock OS			
FlockOS™ - Essentials	Included	1	Included
Flock Safety LPR Products			
Flock Safety Falcon®	Included	60	Included
Flock Safety Video Products			
Flock Safety Condor™ PTZ w/ LTE Service	Included	11	Included
Flock Safety FlockOS Add Ons			
Flock Safety Advanced Search	Included	1	Included

Professional Services and One Time Purchases

Item	Cost	Quantity	Total
One Time Fees			
Flock Safety Professional Services			
Professional Services - Existing Infrastructure Implementation Fee	\$150.00	14	\$2,100.00
Condor Professional Services - Standard Implementation Fee	\$750.00	11	\$8,250.00
Subtotal Year 1:			\$226,850.00
Annual Recurring Subtotal:			\$216,500.00
Discounts:			\$7,500.00
Estimated Tax:			\$0.00
Contract Total:			\$1,092,850.00

Taxes shown above are provided as an estimate. Actual taxes are the responsibility of the Customer. This Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a "Renewal Term") unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

Item	Cost	Quantity	Total
Additional Products			
Flock Safety Platform			
Flock Safety Falcon ®	\$3,000.00	14	\$42,00.00
Flock Safety Condor™ PTZ w/ LTE Service	\$3,000.00	11	\$33,00.00
Existing Products (Renewal)			
Flock Safety Falcon ®	\$3,000.00	46	\$138,000.00
Flock Safety Advanced Search	\$3,500.00	1	\$3,500.00
Recurring (Additional + Existing)			
Flock Safety Falcon ®	\$3,000.00	60	\$180,000.00
Flock Safety Condor™ PTZ w/ LTE Service	\$3,000.00	11	\$33,000.00
Flock Safety Advanced Search	\$3,500.00	1	\$3,500.00
One Time Fees			
	Cost	Qty	Total
Condor Professional Services - Standard Implementation Fee	\$750.00	11	\$8,250.00
Professional Services - Existing Infrastructure Implementation Fee	\$150.00	14	\$2,100.00

Billing Schedule

Billing Schedule	Amount (USD)
Year 1	
At Contract Signing	\$226,850.00
Annual Recurring after Year 1	\$216,500.00
Contract Total	\$1,092,850.00

*Tax not included

Discounts

Discounts Applied	Amount (USD)
Flock Safety Platform	\$0.00
Flock Safety Add-ons	\$7,500.00
Flock Safety Professional Services	\$0.00

Product and Services Description

Flock Safety Platform Items	Product Description	Terms
FlockOST™	Flock Safety's situational awareness operating system.	
Flock Safety Falcon ®	An infrastructure-free license plate reader camera that utilizes Vehicle Fingerprint® technology to capture vehicular attributes.	The Term shall commence upon first installation and validation of Flock Hardware.
Flock Safety Condor™	Flock's pan, tilt, zoom (PTZ) or fixed cameras which capture video footage with the option to stream live video, capture and view video recordings, and upload videos.	The Term shall commence upon first installation and validation of Flock Hardware.

One-Time Fees	Service Description
Installation on existing infrastructure	One-time Professional Services engagement. Includes site & safety assessment, camera setup & testing, and shipping & handling in accordance with the Flock Safety Advanced Implementation Service Brief.
Professional Services - Standard Implementation Fee	One-time Professional Services engagement. Includes site and safety assessment, camera setup and testing, and shipping and handling in accordance with the Flock Safety Standard Implementation Service Brief.
Professional Services - Advanced Implementation Fee	One-time Professional Services engagement. Includes site & safety assessment, camera setup & testing, and shipping & handling in accordance with the Flock Safety Advanced Implementation Service Brief.

FlockOS Features & Description

FlockOS Features	Description
Community Network Access	The ability to request direct access to feeds from privately owned Flock Safety Falcon® LPR cameras located in neighborhoods, schools, and businesses in your community, significantly increasing actionable evidence that clears cases.
Unlimited Users	Unlimited users for FlockOS
State Network (License Plate Lookup Only)	Allows agencies to look up license plates on all cameras opted into the Flock Safety network within your state.
Nationwide Network (License Plate Lookup Only)	With the vast Flock Safety sharing network, law enforcement agencies no longer have to rely on just their devices alone. Agencies can leverage a nationwide system boasting 10 billion additional plate reads per month to amplify the potential to collect vital evidence in otherwise dead-end investigations.
Law Enforcement Network Access	The ability to request direct access to evidence detection devices from Law Enforcement agencies outside of your jurisdiction.
Time & Location Based Search	Search full, partial, and temporary plates by time at particular device locations
License Plate Lookup	Look up specific license plate location history captured on Flock devices
Vehicle Fingerprint Search	Search footage using Vehicle Fingerprint™ technology. Access vehicle type, make, color, license plate state, missing / covered plates, and other unique features like bumper stickers, decals, and roof racks.
Insights & Analytics	Reporting tool to help administrators manage their LPR program with device performance data, user and network audits, plate read reports, hot list alert reports, event logs, and outcome reports.
ESRI Based Map Interface	Map-based interface that consolidates all data streams and the locations of each connected asset, enabling greater situational awareness and a common operating picture.
Real-Time NCIC Alerts on Flock ALPR Cameras	Receive automated alerts when vehicles entered into established databases for missing and wanted persons are detected, including the FBI's National Crime Information Center (NCIC) and National Center for Missing & Exploited Children (NCMEC) databases.
Unlimited Custom Hot Lists	Ability to add a suspect's license plate to a custom list and get alerted when it passes by a Flock camera

By executing this Order Form, Customer represents that is has read and agrees to all of the terms and conditions in the Master Services Agreement attached.

The Parties have executed this Agreement as of the dates set forth below.

FLOCK GROUP, INC.

Customer: CA - Tracy CA PD

Signed by:

By: _____
AC5C931454C24E3...
Name: Mark Smith
Title: General Counsel
Date: 9/11/2024

By: _____
Name: _____
Title: _____
Date: _____

Signed by:

Garrett Langley
7BAB51933ED3438...

PO Number: _____

CEO

9/11/2024

Master Services Agreement

This Master Services Agreement (this “**Agreement**”) is entered into by and between Flock Group, Inc. with a place of business at 1170 Howell Mill Road NW Suite 210, Atlanta, GA 30318 (“**Flock**”) and the entity identified in the signature block (“**Customer**”) (each a “**Party**,” and together, the “**Parties**”). This Agreement is effective on the date of mutual execution (“**Effective Date**”). Parties will sign an Order Form (“**Order Form**”) which will describe the Flock Services to be performed and the period for performance, attached hereto as **Exhibit A**.

RECITALS

WHEREAS, Flock offers a software and hardware situational awareness solution through Flock’s technology platform that upon detection is capable of capturing audio, video, image, and recording data and provide notifications to Customer (“**Notifications**”);

WHEREAS, Customer desires access to the Flock Services (defined below) on additional (14 Flock Safety Falcons and 11 Flock Safety Condor PTZ w/Service) at locations (Exhibit C) and existing devices, provided by Customer, or Flock provided Flock Hardware (as defined below) in order to create, view, search and archive Footage and receive Notifications, via the Flock Services;

WHEREAS, Customer shall have access to the Footage in Flock Services. Pursuant to Flock’s standard Retention Period (defined below) Flock deletes all Footage on a rolling thirty (30) day basis, except as otherwise stated on the **Order Form**. Customer shall be responsible for extracting, downloading and archiving Footage from the Flock Services on its own storage devices; and

1. DEFINITIONS

Certain capitalized terms, not otherwise defined herein, have the meanings set forth or cross-referenced in this Section 1.

1.1 “**Agreement**” means the order form (to be provided as Exhibit A, “Order Form”), these terms and conditions, and any document therein incorporated by reference in section 11.4.

1.2 “**Anonymized Data**” means Customer Data permanently stripped of identifying details and any potential personally identifiable information, by commercially available standards which irreversibly alters data in such a way that a data subject (i.e., individual person or entity) can no longer be identified directly or indirectly.

1.3 “**Authorized End User(s)**” means any individual employees, agents, or contractors of Customer accessing or using the Services, under the rights granted to Customer pursuant to this Agreement.

1.4 “**Customer Data**” means the data, media, and content provided by Customer through the Services. For the avoidance of doubt, the Customer Data will include the Footage.

1.5. “**Customer Hardware**” means the third-party camera owned or provided by Customer and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Services.

1.6 “**Effective Date**” means the date this Agreement is mutually executed (valid and enforceable) by both Parties.

1.7 “**Embedded Software**” means the Flock proprietary software and/or firmware integrated with or installed on the Flock Hardware or Customer Hardware.

1.8 “**Flock Hardware**” means the Flock device(s), which may include the pole, clamps, solar panel, installation components, and any other physical elements that interact with the Embedded Software and the Web Interface, to provide the Flock Services as specifically set forth in the applicable Order Form.

1.9 “**Flock IP**” means the Services, the Embedded Software, and any intellectual property or proprietary information therein or otherwise provided to Customer and/or its Authorized End Users. Flock IP does not include Footage (as defined below).

1.10 “**Flock Services**” means the provision of Flock’s software and hardware situational awareness solution, via the Web Interface, for automatic license plate detection, alerts, audio detection, searching image records, video and sharing Footage.

1.11 “**Footage**” means still images, video, audio, and other data captured by the Flock Hardware or Customer Hardware in the course of and provided via the Flock Services.

1.12 “**Installation Services**” means the services provided by Flock for installation of Flock Services.

1.13 “**Permitted Purpose**” means for legitimate public safety and/or business purpose, including but not limited to the awareness, prevention, and prosecution of crime; investigations; and prevention of commercial harm, to the extent permitted by law.

1.14 “**Retention Period**” means the time period that the Customer Data is stored within the cloud storage, as specified in the applicable Order Form. Flock deletes all Footage on a rolling thirty (30) day basis, except as otherwise stated on the Order Form. Customer shall be responsible for extracting, downloading and archiving Footage from the Flock Services on its own storage devices.

1.15 “**Term**” means the date, unless otherwise stated in the Order Form, upon which the cameras are validated by both Parties as operational.

1.16 “**Web Interface**” means the website(s) or application(s) through which Customer and its Authorized End Users can access the Services.

2. SERVICES AND SUPPORT

2.1 Provision of Access. Flock hereby grants to Customer a non-exclusive, non-transferable right to access the features and functions of the Flock Services via the Web Interface during the Term, solely for the Authorized End Users. The Footage will be available for Authorized End Users to access and download via the Web Interface for the Retention Period. Authorized End Users will be required to sign up for an account and select a password and username (“*User ID*”). Customer shall be responsible for all acts and omissions of Authorized End Users. Customer shall undertake reasonable efforts to make all Authorized End Users aware of all applicable provisions of this Agreement and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Flock Services, (such as using a third party to host the Web Interface for cloud storage or a cell phone provider for wireless cellular coverage).

2.2 Embedded Software License. Flock grants Customer a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Embedded Software as it pertains to Flock Services, solely as necessary for Customer to use the Flock Services.

2.3 Support Services. Flock shall monitor the Flock Services, and any applicable device health, in order to improve performance and functionality. Flock will use commercially reasonable efforts to respond to requests for support within seventy-two (72) hours. Flock will provide Customer with reasonable technical and on-site support and maintenance services in-person, via phone or by email at support@flocksafety.com (such services collectively referred to as “*Support Services*”).

2.4 Updates to Platform. Flock may make any updates to system or platform that it deems necessary or useful to (i) maintain or enhance the quality or delivery of Flock’s products or services to its agencies, the competitive strength of, or market for, Flock’s products or services, such platform or system’s cost efficiency or performance, or (ii) to comply with applicable law. Parties understand that such updates are necessary from time to time and will not diminish the quality of the services or materially change any terms or conditions within this Agreement.

2.5 Service Interruption. Services may be interrupted in the event that: (a) Flock’s provision of the Services to Customer or any Authorized End User is prohibited by applicable law; (b) any third-party services required for Services are interrupted; (c) if Services are being used for

malicious, unlawful, or otherwise unauthorized use; (d) there is a threat or attack on any of the Flock IP by a third party; or (e) scheduled or emergency maintenance (“***Service Interruption***”). Flock will make commercially reasonable efforts to provide written notice of any Service Interruption to Customer, to provide updates, and to resume providing access to Flock Services as soon as reasonably possible after the event giving rise to the Service Interruption is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized End User may incur as a result of a Service Interruption. To the extent that the Service Interruption is not caused by Customer’s direct actions or by the actions of parties associated with the Customer, the time will be tolled by the duration of the Service Interruption (for any continuous suspension lasting at least one full day). For example, in the event of a Service Interruption lasting five (5) continuous days, Customer will receive a credit for five (5) free days at the end of the Term.

2.6 Service Suspension. Flock may temporarily suspend Customer’s and any Authorized End User’s access to any portion or all of the Flock IP or Flock Service if (a) there is a threat or attack on any of the Flock IP by Customer; (b) Customer’s or any Authorized End User’s use of the Flock IP disrupts or poses a security risk to the Flock IP or any other customer or vendor of Flock; (c) Customer or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Customer has violated any term of this provision, including, but not limited to, utilizing Flock Services for anything other than the Permitted Purpose; or (e) any unauthorized access to Flock Services through Customer’s account (“***Service Suspension***”). Customer shall not be entitled to any remedy for the Service Suspension period, including any reimbursement, tolling, or credit. If the Service Suspension was not caused by Customer, the Term will be tolled by the duration of the Service Suspension.

2.7 Hazardous Conditions. Flock Services do not contemplate hazardous materials, or other hazardous conditions, including, without limit, asbestos, lead, or toxic or flammable substances. In the event any such hazardous materials are discovered in the designated locations in which Flock is to perform services under this Agreement, Flock shall have the right to cease work immediately.

3. CUSTOMER OBLIGATIONS

3.1 Customer Obligations. Flock will assist Customer Authorized End Users in the creation of a User ID. Authorized End Users agree to provide Flock with accurate, complete, and updated registration information. Authorized End Users may not select as their User ID, a name that they do not have the right to use, or any other name with the intent of impersonation. Customer and Authorized End Users may not transfer their account to anyone else without prior written permission of Flock. Authorized End Users shall not share their account username or password information and must protect the security of the username and password. Unless otherwise stated and defined in this Agreement, Customer shall not designate Authorized End Users for persons who are not officers, employees, or agents of Customer. Authorized End Users shall only use Customer-issued email addresses for the creation of their User ID. Customer is responsible for any Authorized End User activity associated with its account. Customer shall ensure that Customer provides Flock with up-to-date contact information at all times during the Term of this agreement. Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Flock Services (e.g., laptops, internet connection, mobile devices, etc.). Customer shall (at its own expense) provide Flock with reasonable access and use of Customer facilities and Customer personnel in order to enable Flock to perform Services (such obligations of Customer are collectively defined as “*Customer Obligations*”).

3.2 Customer Representations and Warranties. Customer represents, covenants, and warrants that Customer shall use Flock Services only in compliance with this Agreement and all applicable laws and regulations, including but not limited to any laws relating to the recording or sharing of data, video, photo, or audio content.

4. DATA USE AND LICENSING

4.1 Customer Data. As between Flock and Customer, all right, title and interest in the Customer Data, belong to and are retained solely by Customer. Customer hereby grants to Flock a limited, non-exclusive, royalty-free, irrevocable, worldwide license to use the Customer Data and perform all acts as may be necessary for Flock to provide the Flock Services to Customer. Flock does not own and shall not sell Customer Data.

4.2 Customer Generated Data. Flock may provide Customer with the opportunity to post, upload, display, publish, distribute, transmit, broadcast, or otherwise make available, messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information,

content, ratings, reviews, data, questions, suggestions, or other information or materials produced by Customer (“**Customer Generated Data**”). Customer shall retain whatever legally cognizable right, title, and interest in Customer Generated Data. Customer understands and acknowledges that Flock has no obligation to monitor or enforce Customer’s intellectual property rights of Customer Generated Data. Customer grants Flock a non-exclusive, irrevocable, worldwide, royalty-free, license to use the Customer Generated Data for the purpose of providing Flock Services. Flock does not own and shall not sell Customer Generated Data.

4.3 Anonymized Data. Flock shall have the right to collect, analyze, and anonymize Customer Data and Customer Generated Data to the extent such anonymization renders the data non-identifiable to create Anonymized Data to use and perform the Services and related systems and technologies, including the training of machine learning algorithms. Customer hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right to use and distribute such Anonymized Data to improve and enhance the Services and for other development, diagnostic and corrective purposes, and other Flock offerings. Parties understand that the aforementioned license is required for continuity of Services. Flock does not own and shall not sell Anonymized Data.

5. CONFIDENTIALITY; DISCLOSURES

5.1 Confidentiality. To the extent required by any applicable public records requests, each Party (the “**Receiving Party**”) understands that the other Party (the “**Disclosing Party**”) has disclosed or may disclose business, technical or financial information relating to the Disclosing Party’s business (hereinafter referred to as “**Proprietary Information**” of the Disclosing Party). Proprietary Information of Flock includes non-public information regarding features, functionality and performance of the Services. Proprietary Information of Customer includes non-public data provided by Customer to Flock or collected by Flock via Flock Services, which includes but is not limited to geolocation information and environmental data collected by sensors. The Receiving Party agrees: (i) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the Party takes with its own proprietary information, but in no event less than commercially reasonable precautions, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the

foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public; or (b) was in its possession or known by it prior to receipt from the Disclosing Party; or (c) was rightfully disclosed to it without restriction by a third party; or (d) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to contest such order. At the termination of this Agreement, all Proprietary Information will be returned to the Disclosing Party, destroyed or erased (if recorded on an erasable storage medium), together with any copies thereof, when no longer needed for the purposes above, or upon request from the Disclosing Party, and in any case upon termination of the Agreement. Notwithstanding any termination, all confidentiality obligations of Proprietary Information that is trade secret shall continue in perpetuity or until such information is no longer trade secret.

5.2 Usage Restrictions on Flock IP. Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Customer acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Customer further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock's sole discretion. Customer and Authorized End Users shall not: (i) copy or duplicate any of the Flock IP; (ii) decompile, disassemble, reverse engineer, or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Flock IP; (iii) attempt to modify, alter, tamper with or repair any of the Flock IP, or attempt to create any derivative product from any of the foregoing; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock IP; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within the Flock Services or Flock IP; (vi) use the Flock Services for anything other than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent, or otherwise transfer, convey, pledge as security, or otherwise encumber, Customer's rights. There are no implied rights.

5.3 Disclosure of Footage. Subject to and during the Retention Period, Flock may access, use, preserve and/or disclose the Footage to law enforcement authorities, government officials, and/or

third parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to comply with a legal process, enforce this Agreement, or detect, prevent or otherwise address security, privacy, fraud or technical issues, or emergency situations.

6. PAYMENT OF FEES

6.1 Billing and Payment of Fees. Customer shall pay the fees set forth in the applicable Order Form based on the billing structure and payment terms as indicated in the Order Form. To the extent the Order Form is silent, Customer shall pay all invoices net thirty (30) days from the date of receipt. If Customer believes that Flock has billed Customer incorrectly, Customer must contact Flock no later than thirty (30) days after the closing date on the first invoice in which the error or problem appeared to receive an adjustment or credit. Customer acknowledges and agrees that a failure to contact Flock within this period will serve as a waiver of any claim. If any undisputed fee is more than thirty (30) days overdue, Flock may, without limiting its other rights and remedies, suspend delivery of its service until such undisputed invoice is paid in full. Flock shall provide at least thirty (30) days' prior written notice to Customer of the payment delinquency before exercising any suspension right.

6.2 Notice of Changes to Fees. In the event of any changes to fees, Flock shall provide Customer with sixty (60) days' notice (email sufficient) prior to the end of the Initial Term or Renewal Term (as applicable). Any such changes to fees shall only impact subsequent Renewal Terms.

6.3 Taxes. To the extent Customer is not a tax exempt entity, Customer is responsible for all taxes, levies, or duties, excluding only taxes based on Flock's net income, imposed by taxing authorities associated with the order. If Flock has the legal obligation to pay or collect taxes, including amount subsequently assessed by a taxing authority, for which Customer is responsible, the appropriate amount shall be invoice to and paid by Customer unless Customer provides Flock a legally sufficient tax exemption certificate and Flock shall not charge Customer any taxes from which it is exempt. If any deduction or withholding is required by law, Customer shall notify Flock and shall pay Flock any additional amounts necessary to ensure that the net amount that Flock receives, after any deduction and withholding, equals the amount Flock would have received if no deduction or withholding had been required.

7. TERM AND TERMINATION

7.1 **Term.** The initial term of this Agreement shall be for the period of time set forth on the Order Form (the “**Term**”). Unless otherwise indicated on the Order Form, the Term shall commence upon first installation of Flock Hardware, as applicable. Following the Term, unless otherwise indicated on the Order Form, this Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a “**Renewal Term**”) unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

7.2 **Termination.** Upon termination or expiration of this Agreement, Flock will remove any applicable Flock Hardware at a commercially reasonable time period. In the event of any material breach of this Agreement, the non-breaching Party may terminate this Agreement prior to the end of the Term by giving thirty (30) days prior written notice to the breaching Party; provided, however, that this Agreement will not terminate if the breaching Party has cured the breach prior to the expiration of such thirty (30) day period (“**Cure Period**”). Either Party may terminate this Agreement (i) upon the institution by or against the other Party of insolvency, receivership or bankruptcy proceedings, (ii) upon the other Party's making an assignment for the benefit of creditors, or (iii) upon the other Party's dissolution or ceasing to do business. In the event of a material breach by Flock, and Flock is unable to cure within the **Cure Period**, Flock will refund Customer a pro-rata portion of the pre-paid fees for Services not received due to such termination.

7.3 **Survival.** The following Sections will survive termination: 1, 3, 5, 6, 7, 8.3, 8.4, 9, 11.1 and 11.6.

8. REMEDY FOR DEFECT; WARRANTY AND DISCLAIMER

8.1 Manufacturer Defect. Upon a malfunction or failure of Flock Hardware or Embedded Software (a “*Defect*”), Customer must notify Flock’s technical support team. In the event of a Defect, Flock shall make a commercially reasonable attempt to repair or replace the defective Flock Hardware at no additional cost to the Customer. Flock reserves the right, in its sole discretion, to repair or replace such Defect, provided that Flock shall conduct inspection or testing within a commercially reasonable time, but no longer than seven (7) business days after Customer gives notice to Flock.

8.2 Replacements. In the event that Flock Hardware is lost, stolen, or damaged, Customer may request a replacement of Flock Hardware at a fee according to the reinstall fee schedule (<https://www.flocksafety.com/reinstall-fee-schedule>). In the event that Customer chooses not to replace lost, damaged, or stolen Flock Hardware, Customer understands and agrees that Flock is not liable for any resulting impact to Flock service, nor shall Customer receive a refund for the lost, damaged, or stolen Flock Hardware.

8.3 Warranty. Flock shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Installation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Flock or by third-party providers, or because of other causes beyond Flock’s reasonable control, but Flock shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

8.4 Disclaimer. THE REMEDY DESCRIBED IN SECTION 8.1 ABOVE IS CUSTOMER’S SOLE REMEDY, AND FLOCK’S SOLE LIABILITY, WITH RESPECT TO DEFECTS. FLOCK DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED “AS IS” AND FLOCK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A

PARTICULAR PURPOSE. THIS DISCLAIMER ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 11.6.

8.5 **Insurance.** Flock will maintain commercial general liability policies as stated in Exhibit B.

8.6 **Force Majeure.** Parties are not responsible or liable for any delays or failures in performance from any cause beyond their control, including, but not limited to acts of God, changes to law or regulations, embargoes, war, terrorist acts, pandemics (including the spread of variants), issues of national security, acts or omissions of third-party technology providers, riots, fires, earthquakes, floods, power blackouts, strikes, supply chain shortages of equipment or supplies, financial institution crisis, weather conditions or acts of hackers, internet service providers or any other third party acts or omissions.

9. LIMITATION OF LIABILITY; INDEMNITY

9.1 **Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, FLOCK, ITS OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR LOSS OF REVENUE, BUSINESS OR BUSINESS INTERRUPTION; (B) INCOMPLETE, CORRUPT, OR INACCURATE DATA; (C) COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; (D) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (E) FOR ANY MATTER BEYOND FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE; OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID AND/OR PAYABLE BY CUSTOMER TO FLOCK FOR THE SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY OF SECTION ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE REFERENCED IN SECTION

11.6. NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE FOREGOING LIMITATIONS OF LIABILITY SHALL NOT APPLY (I) IN THE EVENT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OR (II) INDEMNIFICATION OBLIGATIONS.

9.2 **Responsibility.** Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, officers, or agents, in connection with the performance of their official duties under this Agreement. Each Party to this Agreement shall be liable for the torts of its own officers, agents, or employees.

9.3 **Flock Indemnity.** Flock shall indemnify and hold harmless Customer, its agents and employees, from liability of any kind, including claims, costs (including defense) and expenses, on account of: (i) any copyrighted material, patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this Agreement; or (ii) any damage or injury to property or person directly caused by Flock's installation of Flock Hardware, except for where such damage or injury was caused solely by the negligence of the Customer or its agents, officers or employees. Flock's performance of this indemnity obligation shall not exceed the fees paid and/or payable for the services rendered under this Agreement in the preceding twelve (12) months.

10. INSTALLATION SERVICES AND OBLIGATIONS

10.1 **Ownership of Hardware.** Flock Hardware is owned and shall remain the exclusive property of Flock. Title to any Flock Hardware shall not pass to Customer upon execution of this Agreement, except as otherwise specifically set forth in this Agreement. Except as otherwise expressly stated in this Agreement, Customer is not permitted to remove, reposition, re-install, tamper with, alter, adjust or otherwise take possession or control of Flock Hardware. Customer agrees and understands that in the event Customer is found to engage in any of the foregoing restricted actions, all warranties herein shall be null and void, and this Agreement shall be subject to immediate termination for material breach by Customer. Customer shall not perform any acts which would interfere with the retention of title of the Flock Hardware by Flock. Should Customer default on any payment of the Flock Services, Flock may remove Flock Hardware at Flock's discretion. Such removal, if made by Flock, shall not be deemed a waiver of Flock's

rights to any damages Flock may sustain as a result of Customer's default and Flock shall have the right to enforce any other legal remedy or right.

10.2 Deployment Plan. Flock shall advise Customer on the location and positioning of the Flock Hardware for optimal product functionality, as conditions and locations allow. Flock will collaborate with Customer to design the strategic geographic mapping of the location(s) and implementation of Flock Hardware to create a deployment plan ("***Deployment Plan***"). In the event that Flock determines that Flock Hardware will not achieve optimal functionality at a designated location, Flock shall have final discretion to veto a specific location, and will provide alternative options to Customer.

10.3 Changes to Deployment Plan. After installation of Flock Hardware, any subsequent requested changes to the Deployment Plan, including, but not limited to, relocating, re-positioning, adjusting of the mounting, removing foliage, replacement, changes to heights of poles will incur a fee according to the reinstall fee schedule located at (<https://www.flocksafety.com/reinstall-fee-schedule>). Customer will receive prior notice and confirm approval of any such fees.

10.4 Customer Installation Obligations. Customer is responsible for any applicable supplementary cost as described in the Customer Implementation Guide, attached hereto as Exhibit C. Customer represents and warrants that it has, or shall lawfully obtain, all necessary right title and authority and hereby authorizes Flock to install the Flock Hardware at the designated locations and to make any necessary inspections or maintenance in connection with such installation.

10.5 Flock's Obligations. Installation of any Flock Hardware shall be installed in a professional manner within a commercially reasonable time from the Effective Date of this Agreement. Upon removal of Flock Hardware, Flock shall restore the location to its original condition, ordinary wear and tear excepted. Flock will continue to monitor the performance of Flock Hardware for the length of the Term. Flock may use a subcontractor or third party to perform certain obligations under this Agreement, provided that Flock's use of such subcontractor or third party shall not release Flock from any duty or liability to fulfill Flock's obligations under this Agreement.

11. MISCELLANEOUS

11.1 Compliance With Laws. Parties shall comply with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules, including responding to any subpoena request(s).

11.2 Severability. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect.

11.3 Assignment. This Agreement is not assignable, transferable or sublicensable by either Party, without prior consent. Notwithstanding the foregoing, either Party may assign this Agreement, without the other Party's consent, (i) to any parent, subsidiary, or affiliate entity, or (ii) to any purchaser of all or substantially all of such Party's assets or to any successor by way of merger, consolidation or similar transaction.

11.4 Entire Agreement. This Agreement, together with the Order Form(s), the reinstall fee schedule (<https://www.flocksafety.com/reinstall-fee-schedule>), and any attached exhibits are the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous or contemporaneous negotiations, discussions or agreements, whether written and oral, communications and other understandings relating to the subject matter of this Agreement. All waivers and modifications must be in a writing signed by both Parties, except as otherwise provided herein. None of Customer's purchase orders, authorizations or similar documents will alter the terms of this Agreement, and any such conflicting terms are expressly rejected. Any mutually agreed upon future purchase order is subject to these legal terms and does not alter the rights and obligations under this Agreement, except that future purchase orders may outline additional products, services, quantities and billing terms to be mutually accepted by Parties. In the event of any conflict of terms found in this Agreement or any other terms and conditions, the terms of this Agreement shall prevail. Customer agrees that Customer's purchase is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written comments made by Flock with respect to future functionality or feature.

11.5 Relationship. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Parties do not have any authority of any kind to bind each other in any respect whatsoever. Flock shall at all times be and act as an independent contractor to Customer.

11.6 Governing Law; Venue. This Agreement shall be governed by the laws of the state in which the Customer is located. The Parties hereto agree that venue would be proper in the

chosen courts of the State of which the Customer is located. The Parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement.

11.7 **Special Terms.** Flock may offer certain special terms which are indicated in the Order Form and will become part of this Agreement, upon Customer's prior written consent and the mutual execution by authorized representatives ("**Special Terms**"). To the extent that any terms of this Agreement are inconsistent or conflict with the Special Terms, the Special Terms shall control.

11.8 **Publicity.** Upon prior written consent, Flock has the right to reference and use Customer's name and disclose the nature of the Services in business and development and marketing efforts. Nothing contained in this Agreement shall be construed as conferring on any Party, any right to use the other Party's name as an endorsement of product/service.

11.9 **Feedback.** If Customer or Authorized End User provides any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the subject matter hereunder, Agency or Authorized End User hereby assigns to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

11.10 **Export.** Customer may not remove or export from the United States or allow the export or re-export of the Flock IP or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign Customer or authority. As defined in Federal Acquisition Regulation ("FAR"), section 2.101, the Services, the Flock Hardware and Documentation are "commercial items" and according to the Department of Defense Federal Acquisition Regulation ("DFAR") section 252.2277014(a)(1) and are deemed to be "commercial computer software" and "commercial computer software documentation." Flock is compliant with FAR Section 889 and does not contract or do business with, use any equipment, system, or service that uses the enumerated banned Chinese telecommunication companies, equipment or services as a substantial or essential component of any system, or as critical technology as part of any Flock system. Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, or disclosure of such commercial software or

commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

11.11 **Headings.** The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated sections.

11.12 **Authority.** Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the Parties they are representing upon the Effective Date.

11.13 **Conflict.** In the event there is a conflict between this Agreement and any applicable statement of work, or Customer purchase order, this Agreement controls unless explicitly stated otherwise.

11.14 **Notices.** All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt to the address listed on the Order Form (or, if different, below), if sent by certified or registered mail, return receipt requested.

11.15 **Non-Appropriation.** Notwithstanding any other provision of this Agreement, all obligations of the Customer under this Agreement which require the expenditure of public funds are conditioned on the availability of said funds appropriated for that purpose. To the extent applicable, Customer shall have the right to terminate this Agreement for non appropriation with thirty (30) days written notice without penalty or other cost.

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FLOCK NOTICES ADDRESS:

1170 HOWELL MILL ROAD, NW SUITE 210

ATLANTA, GA 30318

ATTN: LEGAL DEPARTMENT

EMAIL: legal@flocksafety.com

Customer NOTICES ADDRESS:

ADDRESS:

ATTN:

EMAIL:

EXHIBIT B
INSURANCE

Required Coverage. Flock shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the services under this Agreement and the results of that work by Flock or its agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A. M. Best rating of no less than “A” and “VII”. Flock shall obtain and, during the term of this Agreement, shall maintain policies of professional liability (errors and omissions), automobile liability, and general liability insurance for insurable amounts of not less than the limits listed herein. The insurance policies shall provide that the policies shall remain in full force during the life of the Agreement. Flock shall procure and shall maintain during the life of this Agreement Worker's Compensation insurance as required by applicable State law for all Flock employees. For the avoidance of doubt, all required insurance limits by Customer can be met through a combination of primary and excess/umbrella coverage.

Types and Amounts Required. Flock shall maintain, at minimum, the following insurance coverage for the duration of this Agreement:

- (i) **Commercial General Liability** insurance written on an occurrence basis with minimum limits of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate for bodily injury, death, and property damage, including personal injury, contractual liability, independent contractors, broad-form property damage, and product and completed operations coverage;
- (ii) **Umbrella or Excess Liability** insurance written on an occurrence basis with minimum limits of Ten Million Dollars (\$10,000,000) per occurrence and Ten Million Dollars (\$10,000,000) in the aggregate;
- (iii) **Professional Liability/Errors and Omissions** insurance with minimum limits of Five Million Dollars (\$5,000,000) per occurrence and Five Million Dollars (\$5,000,000) in the aggregate;
- (iv) **Commercial Automobile Liability** insurance with a minimum combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury, death, and property coverage, including owned and non-owned and hired automobile coverage; and

(v) **Cyber Liability** insurance written on an occurrence basis with minimum limits of Five Million Dollars (\$5,000,000).

EXHIBIT C
LOCATIONS

Flock Safety Condor PTZ w/Service

Tracy @ Larch
Tracy @ Clover
Holly @ Clover
MacArthur @ Pescadero
Grant Line @ MacArthur
Grant Line @ Tracy
Grant Line @ Corral Hollow
Grant Line @ Naglee
Grant Line @ Byron
Naglee @ Pavilion
Naglee @ Auto Plaza

Flock Safety Falcon

Hansen @ Capital Pkwy SB
Hanson/Capital Pkwy NB
Schulte Rd @ Central Ave NB
Tracy Blvd @ W Schulte Rd NB
Tracy Blvd @ W Schulte Rd SB
Schulte Rd @ Lammers Rd NB
Schulte Rd Hansen EB
Pavilion Pkwy @ WB 205 On Ramp
Holly Dr @ Arbor Ave SB
East St @ E 11th St NB
East St @ Grant Line Rd SB
Sycamore Pkwy @ W Schulte Rd SB
Sycamore Pkwy @ Valpico Rd NB
Central Ave @ 4th St NB

Customer Implementation Guide
Law Enforcement



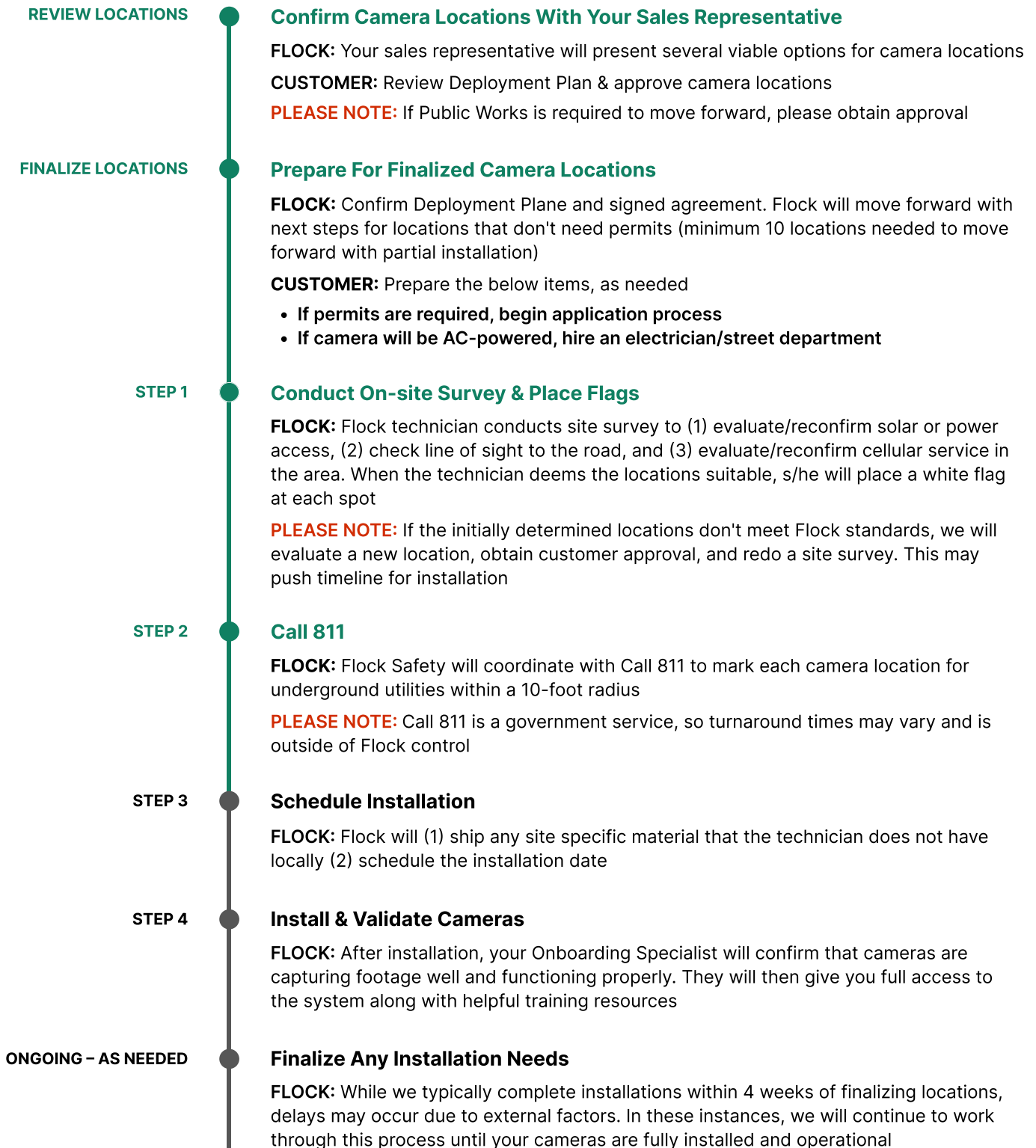
flock safety

Table of Contents



Implementation Timeline	2
Flock Safety Team	3
Implementation Service briefs: Existing Infrastructure	6
vs Standard vs Advanced	
• Existing Infrastructure Implementation	
• Standard Implementation	
• Advanced Implementation	
Things to Consider When Selecting Locations	12
Customer Responsibilities: AC-Powered Cams	14
Electrician Handout	15
• Electrician Installation Steps	
• FAQs about AC-Powered Flock Cameras	
Installation Service Brief Summary	18
Permitting: Pre-Install Questionnaire	19
1. Timeline	
2. Right of Way	
3. AC Power vs. Solar	
4. Traffic Control & Installation Methods	
5. Paperwork & Required Forms	
6. Contacts	
*Fee Schedule	21
Help Center	22
Customer Support	22



Implementation Timeline

This timeline provides general guidance and understanding of your installation process. While we typically complete installations 6-8 weeks after locations have been finalized, delays can occur as noted in the timeline below:



Flock Safety Team

Implementation Team	How They Will Support You
 <p data-bbox="217 688 495 730">Project Manager</p>	<p data-bbox="607 380 1349 464">Your Project Manager is your primary contact during camera installation.</p> <p data-bbox="607 499 1414 825">Your project manager will guide you through the entire installation process, keeping you apprised of all implementation updates as well as answering any questions you have during this time. They will ensure that all the cameras are on the ground and operating for at least 48 hours before transitioning you to your Customer Success Manager.</p>
 <p data-bbox="224 1318 495 1402">Field Operations Team</p>	<ul data-bbox="630 1010 1422 1812" style="list-style-type: none"> • The Field Operations team is responsible for the physical installation and maintenance of cameras and associated equipment provided by Flock. This includes a large team of technicians, schedulers, and many others involved in ensuring the delivery of the product. • They take the technical plan you finalized with Product Implementation and work closely with other teams at Flock to make sure that the cameras are installed quickly and safely and in a way that maximizes the opportunity to solve crime at a specific location. • *Note*: For all Installation questions or concerns, please always direct them to your Customer Success Manager and not the technician.

Relationship Team	How They Will Support You
 <p data-bbox="199 674 513 758">Customer Success Manager</p>	<p data-bbox="607 373 1403 457">Your Customer Success Manager is your strategic partner for your lifetime as a Flock customer.</p> <p data-bbox="607 495 1403 625">While the cameras are getting installed, your CSM will help get your account set up and get all key users trained on the system.</p> <p data-bbox="607 663 1403 793">Post-Camera-Installation, your CSM will be your go-to for most account-related needs: You should reach out to them to:</p> <ul data-bbox="626 814 1414 1178" style="list-style-type: none"> • Set up Account Training • Understand benefits of features • Learning best practices for getting relevant data • Identifying opportunities to expand the security network in your area • Provide feedback on your partnership with Flock
 <p data-bbox="253 1644 459 1728">Flock Safety Support</p>	<p data-bbox="607 1339 1414 1566">The Flock Safety Support team is committed to answering all your day-to-day questions as quickly as possible. To get in touch with support, simply email support@flocksafety.com or call 866-901-1781 Mon-Fri 8am-8pm EST.</p> <p data-bbox="607 1581 959 1619">Support can help you:</p> <ul data-bbox="626 1640 1414 1913" style="list-style-type: none"> • Request camera maintenance • Troubleshoot online platform • Contract / Billing questions • Update account information • Camera Sharing questions • Quick “How to” questions in your Flock Account

Outside Party	When They May Be Involved
Electrician/Street Department	If the Flock cameras need to be AC powered, you (customer) are responsible for providing an electrician to ensure power connectivity
Public Works (LE)	To weigh in on the use of public Rights of Way or property
Department of Transportation (DOT), City, or County agencies	If installation in your area requires permitting

PLEASE NOTE: On some occasions, third parties outside of Flock Safety may be (or need to be) involved in your implementation.

Implementation Service Briefs: Existing Infrastructure vs Standard vs Advanced

	Existing Infrastructure Install	Standard Install	Advanced Install
Pole	None	Flock	NCHRP 350 / MASH
Timeline	Short	Medium	Longest
Cost	Lowest	Mid	Highest

Existing Infrastructure Implementation

COST: \$150 per camera (one time cost)

Included In Scope:

Once designated locations are approved by the customer, as part of the **Existing Infrastructure Implementation Service** Flock will perform the following:

- An in-person site survey to confirm the installation feasibility of a location (location assessment, solar assessment, visibility review, etc.)
 - Cameras need sufficient power. Since a solar panel is required per camera, it can prevent adequate solar power if two cameras and two solar panels are on a single pole (blocking visibility). Therefore if relying on solar power, only one camera can be installed per pole.
- Confirm that a location is safe for work by following State utility locating procedures.
- Each installation may include the following:
 - Installation of camera and solar panel or AC adapter box on a suitable existing pole

- Types of existing infrastructure such as existing utility, light, and traffic signal poles.
- Pole no higher than 8'-12' (approval at Flock Safety's discretion)
- Flock will provide and mount an AC adapter unit that a qualified electrician can connect to AC power following our [electrical wiring requirements](#). Flock is unable to make any AC connections or boreholes in any material other than dirt, grass, loose gravel (or other non-diggable material). Electrical work requiring a licensed electrician and associated costs, not included in the scope.
 - Access requiring up to a 14' using an A-frame ladder
 - Standard MUTCD traffic control procedures performed by a Flock technician
- Obtain a business license to operate in the city and state of camera location

Out Of Scope:

By default, Flock does **not** include the following as part of the **Existing Infrastructure Implementation Service** but can provide a quote for sourcing at an additional cost:

- Mounting on mast arms (always require bucket truck and traffic control)
- Call 811 'Call-before-you-Dig' system
- Installation of any poles including but not limited to
 - Standard, 12' above grade [Flock breakaway pole](#)
 - NCHRP 350 or MASH approved pole (as may be required for locations in DOT right of way)
- A Bucket Truck for accessing horizontal/cross-beams and/or height above 14'
- Special equipment rentals for site access
- Site-specific engineered traffic plans
- Third-party provided traffic control
- State or city-specific specialty contractor licenses or unique attachment/connection requirements
- Custom engineered drawings
- Electrical work requires a licensed electrician.

- Flock will provide and mount an AC adapter that a qualified electrician can connect to AC power but cannot make any AC connections or boreholes in any material other than dirt, grass, loose gravel (or other non-diggable material).
- Concrete cutting
- Private utility search for privately owned items not included in standard 811 procedures (communication, networking, sprinklers, etc.)
- Upgrades to power sources to ready them for Flock power (additional fuses, switches, breakers, etc.)
- Any fees or costs associated with filing for required city, county, or state permits
- Licensing or attachment agreements with asset / infrastructure owners
- Utility contracts and billing
- Customer requested relocations (see fee schedule)

Standard Implementation

COST: \$650 per camera (one time cost)

Included In Scope:

Once designated locations are approved by the customer, as part of the **Standard Implementation Service** Flock will perform the following:

- An in-person site survey to confirm the installation feasibility of a location (location assessment, solar assessment, visibility review, etc.)
- Confirm that a location is safe for work by following state utility locating procedures. Work with local utilities to prevent service interruptions during the installation
 - Engage 811 'Call-before-you-Dig' system to receive legal dig date
 - Apply approved markings Coordinate with 811 regarding any necessary high-risk dig clearances or required vendor meets
- Each installation may include the following:
 - Installation of camera and solar panel with **standard, 12' above grade Flock breakaway pole**

- Installation of camera and AC adapter that a qualified electrician can connect to AC power on a suitable existing pole, no higher than 8-12' (approval at Flock Safety's discretion)
 - Flock will provide and mount an AC adapter that a qualified electrician can connect to AC power following our [electrical wiring requirements](#). Flock is unable to make any AC connections or boreholes in any material other than dirt, grass, loose gravel (or other non-diggable material). Electrical work requiring a licensed electrician and associated costs, not included in the scope.
- Access requiring up to a 14' A-frame ladder
- Standard MUTCD traffic control procedures performed by a Flock technician
- Obtain a business license to operate in the City and State of camera location

Out Of Scope:

By default, Flock does **not** include the following as part of the Standard Implementation Service but can provide a quote for sourcing at an additional cost:

- Use and/or mounting to existing infrastructure.
- NCHRP 350 or MASH approved pole (as may be required for locations in DOT right of way)
- A Bucket Truck for accessing horizontal/cross-beams and/or height above 14'
- Special equipment rentals for site access
- Site-specific engineered traffic plans
- Third-party provided traffic control
- State or city-specific specialty contractor licenses
- Custom engineered drawings
- Electrical work requires a licensed electrician.
 - Flock will provide and mount an AC adapter that a qualified electrician can connect to AC power but cannot make any AC connections or boreholes in any material other than dirt, grass, loose gravel (or other non-diggable material).
- Concrete cutting
- Private utility search for privately owned items not included in standard 811 procedures (communication, networking, sprinklers, etc.)

- Upgrades to power sources to ready them for Flock power (additional fuses, switches, breakers, etc.)
- Any fees or costs associated with filing for required city, county, or state permits
- Licensing or attachment agreements with asset / infrastructure owners
- Utility contracts and billing
- Customer requested relocations (see fee schedule)

Advanced Implementation

COST: \$1,900 per camera (one time cost)

Included In Scope:

Once Designated Locations are confirmed, as part of the **Advanced Implementation Service**, Flock will perform the following:

- An in-person site survey to confirm the installation feasibility of a location (location assessment, solar assessment, visibility review, etc.)
- Confirm that a location is safe for work by following State utility locating procedures. Work with local utilities to prevent service interruptions during the installation
 - Engage 811 'Call-before-you-Dig' system to receive legal dig date
 - Apply approved markings Coordinate with 811 regarding any necessary high-risk dig clearances or required vendor meets
- Each installation may include the following:
 - Installation of camera and solar panel on a suitable **NCHRP 350 or MASH** approved pole.
 - Installation of camera and AC adapter that a qualified electrician can connect to AC power.
 - Flock will provide and mount an AC adapter that a qualified electrician can connect to AC power following our [electrical wiring requirements](#). Flock cannot make any AC connections or boreholes in any material other than dirt, grass, loose gravel (or other non-diggable material).

Electrical work requiring a licensed electrician and associated costs, not included in the scope.

- Access requiring up to a 14' A-frame ladder
- Standard MUTCD traffic control procedures performed by a Flock technician
- Obtain a business license to operate in the City and State of camera location

Out Of Scope:

By default, Flock does not include the following as part of the **Advanced Implementation Service** but can optionally provide a quote for sourcing (additional cost):

- Installation on **Standard, 12' above grade Flock breakaway pole** or existing infrastructure.
- A Bucket Truck for accessing horizontal/cross-beams and/or height above 14'
- Special equipment rentals for site access
- Site-specific engineered traffic plans
- Third-party provided traffic control
- State or City-specific specialty contractor licenses
- Custom engineered drawings
- Electrical work requires a licensed electrician. Flock will provide and mount an AC adapter that a qualified electrician can connect to AC power but cannot make any AC connections or boreholes in any material other than dirt, grass, loose gravel (or other non-diggable material).
- Concrete cutting
- Private utility search for privately owned items not included in standard 811 procedures (communication, networking, sprinklers, etc.)
- Upgrades to power sources to ready them for Flock power (additional fuses, switches, breakers, etc.)
- Fees or costs associated with filing for required City, County, or State permits

Things to Consider When Selecting Locations

Falcon Cameras



- Use Cases
 - Flock LPRs are designed to capture images of rear license plates aimed in the direction of traffic.
 - Flock LPRs are not designed to capture pedestrians, sidewalks, dumpsters, gates, other areas of non-vehicle traffic, intersections.
- Placement
 - They capture vehicles driving away from an intersection.
 - They cannot point into the middle of an intersection.
 - They should be placed after the intersection to prevent stop and go motion activation or “stop and go” traffic.
- Mounting
 - They can be mounted on existing utility, light, traffic signal poles, or 12 foot Flock poles.*
 - They should be mounted one per pole.** If using AC power, they can be mounted 2 per pole.
- They can be powered with solar panels or direct wire-in AC Power (no outlets).***
- They will require adequate cellular service using AT&T or T-Mobile to be able to process & send images.

* Permitting (or permission from pole owner) may be required to use existing infrastructure or install in specific areas, depending on local regulations & policies.

** Cameras need sufficient power. Since a solar panel is required per camera, it can prevent adequate solar power if two cameras and two solar panels are on a single pole (blocking visibility). Therefore if relying on solar power, only one camera can be installed per pole.

*** Flock does not provide Electrical services. Once installed, the agency or community must work with an electrician to wire the cameras. Electrician services should be completed within two days of installation to prevent the camera from dying.

Solar Panels

Solar panels need unobstructed southern-facing views.



Pole

If a location requires a "DOT Pole" (i.e., Advanced Pole, **not** Flock standard pole), the implementation cost will be \$5,000/camera.



Customer Responsibilities: AC-Powered Cams

If the Flock cameras need to be AC-powered, the **customer is responsible** for acquiring an electrician and ensuring they connect the camera to power. **See steps 2 and 6 below.**

How to Get Started with a Powered Install



1. Create a Deployment Plan

Work with us to select the best location(s) for Flock Safety cameras and power sources



2. Acquire an Electric Quote

Contact an electrician to receive a quote to run 120volt AC power to the camera



3. Sign Flock Safety Agreement

Sign the Flock Safety purchase order to begin the installation of cameras



4. Conduct Site Survey

Flock will mark camera locations, locate underground utilities and mark if present



5. Install Camera

Flock will install the camera and AC power kit at the specified camera location



6. Connect Camera to Power

Notify the electrician that the camera is ready for the power connection installation

Electrician Handout

Electrician Installation Steps

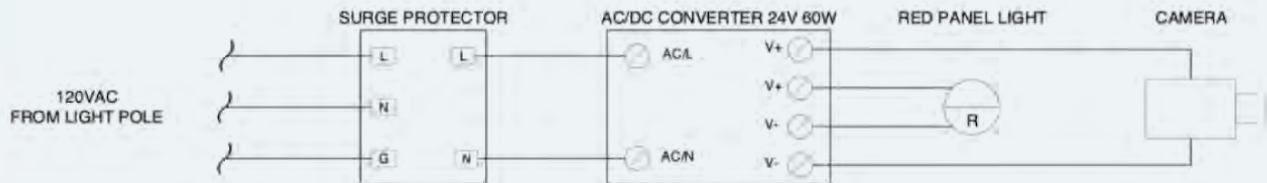


1. Run AC cable and conduit to the box according to NEC Article 300 and any applicable local codes. The gland accepts 1/2" conduit.
2. Open the box using hinges.
3. Connect AC Mains per wiring diagram below:
 - a. Connect AC Neutral wire to the Surge Protector white Neutral wire using the open position on the lever nut.
 - b. Connect AC Line wire to the Surge Protector black Line wire using the open position on the lever nut.
 - c. Connect AC Ground wire to the Surge Protector green ground wire using the open position on the lever nut.
4. Verify that both the RED LED is lit on the front of the box
5. Close box and zip tie the box shut with the provided zip tie
6. While still on-site, call Flock, who will remotely verify that power is working correctly:

Southeast Region - (678) 562-8766

West-Region - (804) 607-9213

Central & NE Region - (470) 868-4027



FAQs about AC-Powered Flock Cameras

What voltage is supported?

The AC kit is designed to work with 120VAC Infrastructure by default. A 240VAC version is available on request.

How much power does this consume?

Peak current draw is 1.5 A at 120VAC. The average power draw is roughly 30W in high traffic conditions but maybe lower when fewer vehicles are present.

Who is responsible for contracting the electrician?

The customer is responsible for contracting an electrician. We can help answer questions, but the customer is responsible for identifying and contracting an electrician.

Who is responsible for maintenance?

Flock will handle all maintenance related to Flock's camera and power equipment. However, any problems with the electrical supply are the customer's responsibility. The AC junction box has two lights to indicate the presence of power and make it easy for quick diagnosis if there is a problem related to the AC power source.

- If the camera indicates to Flock that there is a power supply problem, Flock will notify the customer and request that the customer verifies the lights on the AC junction box. If the AC Source light is illuminated, Flock will send a technician to investigate. If the AC source light is not illuminated, the customer should check any GFCI's or breakers in the supply circuit or call the electrician who installed the power supply.

How much does it cost?

Work required to bring AC power to each location will be different, so exact pricing is unavailable. Primary cost drivers include arrow boards and the distance from the camera location to the AC power source.

What information do I need to provide my electrician?

The Flock deployment plan and these work instructions should be sufficient to secure a quote. It will be helpful if you know the location of the existing power infrastructure before creating the deployment plan.

Can you plug it into my existing power outlet? The Flock AC power adapter does not use a standard outlet plug but must be directly wired into the power mains. While using outlet plugs may be convenient, they can easily be unplugged, presenting a tampering risk to this critical safety infrastructure. The electrician can route power directly to the camera with a direct wire-in connection if an outlet is close to the camera.

How long does this process typically take?

The installation process typically takes 6-8 weeks. To accelerate the process, be sure to have the electrician perform his work shortly after the Flock technician finishes installing the camera.

What kind of electrician should I look for?

Any licensed electrician should perform this work, though we have found that those who advertise working with landscape lighting are most suited for this work.

What happens if the electrician damages the equipment?

The customer is responsible for contracting the electrician. Any liability associated with this work would be assumed by the customer. If any future work is required at this site due to the electrical infrastructure or the work performed by the electrician would be the responsibility of the customer.

When should the electrician perform his work?

Once Flock installs the camera, you will receive an email alert letting you know that this has been completed. After this, you will need to schedule the electrician to route power to the pole.

What if my electrician has questions about Flock's AC Kit?

You should share the [AC-Power Kit Details](#) packet with the electrician if they have questions.

What if the AC power is on a timer?

Sometimes the AC power will be on a timer (like used for exterior lighting). Flock requires that the AC power provided to the camera be constant. The source that the electrician uses must not be on a timing circuit.

Installation Service Brief Summary

Below outlines the statement of work for the Flock Camera Installation:

What Is Covered By Flock	What Is NOT Covered By Flock	Special Note
Flock Cameras & Online Platform	Traffic Control And Any Associated Costs	
Mounting Poles	*DOT Approved Pole Cost Electrician & Ongoing Electrical Costs	
AC Power Kit (As Needed)	Engineering Drawings	
Solar Panels (As Needed)	Relocation Fees	<i>Excluding Changes During Initial Installation</i>
Site Surveys And Call 811 Scheduling	Contractor Licensing Fees	
Installation Labor Costs	Permit Application Processing Fees	
Customer Support / Training	Specialist Mounting Equipment	<i>Including, But Not Limited To, **MASH Poles Or Adapters</i>
Cellular Data Coverage	Bucket Trucks	
Maintenance Fees (Review Fees Sheet For More Details)	Loss, Theft, Damage To Flock Equipment	
Data Storage For 30 Days	Camera Downtime Due To Power Outage	<i>Only Applicable For AC-Powered Cameras</i>
	***Field Technician Maintenance For Falcon™ Flex	

*If a location requires a "DOT pole" (i.e., not our standard), the implementation cost will be \$5,000/camera; This cost is applicable for installations in GA, IL, SC, TN, and CA.

**MASH poles: Manual for Assessing Safety Hardware (MASH) presents uniform guidelines for crash testing permanent and temporary highway safety features and recommends evaluation criteria to assess test results

***If a camera is lost, stolen, or damaged, a replacement device can be purchased at a discounted price of \$800

Permitting: Pre-Install Questionnaire

1. Timeline

- In Flock Safety's experience, in-depth permitting requirements can **add 2+ months to the installation timeline**.
- The SLA for permit document submission is within 15 days from contract signature date (contract Closed-Won)

2. Right of Way

- Will any Flock Safety cameras be installed on the city, state, or power company-owned poles or in the city, county, or state Right of Way (RoW)?
 - What is the RoW buffer?
 - Will additional permits or written permission be required from third-party entities (such as DOT, power companies, public works, etc.)?
- Will any cameras be installed on city-owned traffic signal poles (vertical mass)?
 - If yes, please provide heights/photos to determine if a bucket truck is needed for the installation.
 - Note: A bucket truck is required if the height exceeds 15 feet tall.

3. AC Power vs. Solar

- If AC powered, is there a 120V power source available, and is there access to an electrician who can connect the existing wire to the Flock Safety powered **installation kit**?
- If solar-powered, consider the size of the solar panel and potential to impact the visibility of DOT signs/signals:
 - Single Panel: 21.25" x 14" x 2" (Length x Width x Depth)
 - Double Panel: 21.25" x 28" x 2" (LxWxD)

4. Traffic Control & Installation Methods

- **If a bucket truck is required**, this typically necessitates an entire lane to be blocked in the direction of travel. **Can you provide a patrol car escort, or will full traffic control be required?***

PLEASE NOTE: If traffic control is required, you may incur additional costs due to city/state requirements; Fees will be determined by quotes received.

- **If full traffic control is required (cones, arrow boards, etc.):**
 - Will standard plans suffice, or are custom plans needed? Custom plans can double the cost, while standard plans can be pulled from the Manual of Uniform Traffic Control Devices (**MUTCD**).
 - Will a non-sealed copy of the traffic plan suffice? Or does the traffic plan need to be sealed and/or submitted by a professional engineer?
 - Are there state-specific special versions/variances that must be followed?
- **If a bucket truck is not required**, the shoulder or sidewalk should suffice and enable Flock Safety to proceed without traffic control systems in place.
 - Note: In some states (i.e., arrow boards), sidewalks may require signage. If signage is mandatory, Will your Public Works department be able to assist?

5. Paperwork & Required Forms

- Flock Safety will need copies of paperwork to complete before proceeding (ex., business license applications, encroachment permit applications). We can save critical time by gathering these documents upfront. We appreciate your assistance in procuring these.

6. Contacts

- If Flock Safety needs to interface directly with the departments, please share the contact information of the following departments:
 - Permitting
 - Public Works
 - Traffic Department

*Fee Schedule

After a deployment plan with Designated Locations and equipment has been agreed upon by both Flock and the Customer, any subsequent changes to the deployment plan (“Reinstalls”) driven by a Customer’s request will incur a fee per the table below.

What Services Incur Fees:

- Requested relocations post-approval by customer
- Relocations due to poor performance will be the responsibility of Flock
 - If a customer requests a location against the advisement of Flock, performance issues and any requested relocations will be the responsibility of the customer.
- Per the contract and absent a defect, in the event that Flock Hardware is lost, stolen, or damaged, Customer may request that Flock replace the Flock Hardware at a fee according to the then-current Reinstall policy
<https://www.flocksafety.com/reinstall-fee-schedule>
- Misc billables for out of scope items for each implementation

Incurred Fees:

- Camera relocation
 - Existing infrastructure (non-AC powered)..... **\$350**
 - Flock pole (non-AC powered)..... **\$750**
 - Advanced pole (non-AC powered)..... **\$5000**
- Replacements
 - Camera only as a result of vandalism, theft, or damage **\$800**
 - Pole replacement only as a result of vandalism, theft, or damage
 - Flock pole **\$500**
 - Advanced pole **\$5000**
 - Full replacement as a result of vandalism, theft, or damage
 - Flock pole, camera, and solar (non-AC Powered)..... **\$1300**
 - Advanced pole, camera, and solar (non-AC Powered)..... **\$5800**

- Trip charge **\$350**
 - Examples:
 - Angle adjustment (elective)
 - Install additional Flock signage

All fees are per reinstall or required visit (in the case that a reinstall is attempted but not completed) and include labor and materials. If you have any questions, please email support@flocksafety.com.

Help Center

Our Help Center is filled with many resources to help you navigate through the online platform. Below you will find some common questions and their relevant help article:

[How do I search camera footage?](#)

[How do I add a user?](#)

[How do I add a vehicle to my own Hot List?](#)

[How do I enable browser notifications for Hot List alerts?](#)

[How do I get text alerts for Hot List?](#)

[How do I request camera access from other nearby agencies?](#)

[How do I use the National Lookup to search for a plate?](#)

(National Lookup - network of law enforcement agencies that have opted to allow their network of Flock cameras to be used for searches)

[How do I reset my / another user's password?](#)

Customer Support

You can reach our customer support team anytime by emailing support@flocksafety.com. They can help answer any “How-To” questions you may have.

Agenda Item 3.F

RECOMMENDATION

Staff recommends that the City Council adopt a Resolution approving a Professional Services Agreement with Group 4 Architecture, Research + Planning, Inc. for architectural, engineering, and associated design services related to the development of the City of Tracy Aquatic Center, Capital Improvement Project 78054, for a total not-to-exceed amount of \$5,665,261, and an initial term of 4 years with an administrative option to extend for up to another 2 years.

EXECUTIVE SUMMARY

This agenda item seeks approval of a resolution approving a Professional Service Agreement (PSA) with Group 4 Architecture, Research + Planning, Inc. (Consultant) for the architectural, engineering and other associated design services related to the development of the City of Tracy Aquatic Center, Capital Improvement Project (CIP) 78054, (Project) for a total not to exceed amount of \$5,665,261. The City staff reviewed all the seven proposals submitted in response to the Request for Proposals (RFP) issued on May 30, 2024, and has determined the Consultant was the most responsive and demonstrated the competence and professional qualifications necessary for the satisfactory performance of the required services.

BACKGROUND AND LEGISLATIVE HISTORY

The City of Tracy (City) and Surland Communities, LLC (Surland) have been parties to a longstanding Development Agreement (Original Agreement), dating as far back as December 6, 2008, with respect to Surland's development of real property located within the Ellis Specific Plan. The Original Agreement and the Ellis project approvals, including Environmental Impact Report (EIR) were challenged in a lawsuit filed by Tracy Alliance for a Quality Community (TRAQC). Surland and the City successfully appealed the Superior Court's ruling, and the City Council approved an Amended and Restated Development Agreement (Agreement) between the City and Surland by adopting Ordinance No. 1182 on March 5, 2013. As a part of this subsequent agreement, Surland is required to dedicate 16 acres of land within the Ellis Specific Plan through an irrevocable offer of dedication (IOD) to the City for the future home of an aquatics park (Aquatic Center) and to pay the City \$10 million towards the development, construction, operation, and maintenance of the facility. Of the \$10 million owed, Surland made an initial payment of \$2 million to the City on September 5, 2014.

Through various tolling agreements, the parties negotiated a different location for the land dedication and extended the dates by which Surland had to grant the IOD and pay the remaining \$8 million owed. The last extended dates are reflected in that certain Fourth Agreement To Toll And Extend The Dedication Acceptance Period And The 60-Day Cure Period For The Second Swim Center Payment Under The Amended And Restated Development Agreement By And Between The City Of Tracy And Surland Communities, LLC, dated April 3, 2018 (Fourth Tolling Agreement).

In addition to the tolling agreements, the parties also amended the 2013 Development Agreement twice. The most recent amendment occurred in 2018, pursuant to that certain Second Amendment to the Amended and Restated Development Agreement by and between the City of Tracy and Surland Communities, LLC, effectuated by the adoption of Ordinance 1253 by the City Council (2018 Second Amendment to Development Agreement). The 2018

Second Amendment to Development Agreement provided a process by which Surland could ask the City Council to exercise its legislative discretion to approve a further amendment to the 2013 Development Agreement to add additional property, which properties could be eligible for residential growth allotments under the 2013 Development Agreement. In addition, the 2018 Second Amendment to the Development Agreement revised the City's and Surland's respective responsibilities, rights, and obligations regarding the development of the Aquatic Center. A key revision the 2018 Second Amendment made was to allow Surland to assume, from the City, responsibility for the design and construction management of the Aquatic Center. The City was required to reimburse Surland for such services, from the initial \$2 million that had been paid to the City by Surland.

Mary Mitracos filed a lawsuit against the City and Surland challenging the legality of the 2018 Second Amendment to Development Agreement and the ordinance effectuating its approval by the City Council. In 2020, the San Joaquin County Superior Court entered Judgment in Ms. Mitracos' favor and issued a Peremptory Writ of Mandate (Writ) ordering the City (i) to rescind and set aside Ordinance 1253 and the 2018 Second Amendment to Development Agreement, (ii) not to take any action to implement the Second Amendment, and (iii) to rescind any actions that were taken to implement Ordinance 1253 and the Second Amendment. The City and Surland appealed. In May 2022, the Court of Appeal denied the appeal and affirmed the Superior Court, and in July 2022, remitted the case back to the Superior Court. In 2023 and early 2024, the City Council took various actions to implement the Writ and Judgment, as required by the court.

As part of this court-mandated process, an important action the City Council took was to rescind the Final Conceptual Plan for the Project (2020 Conceptual Plan) that was adopted by the City Council in 2020 (Resolution 2020-154). The Conceptual Plan was approved with a not-to-exceed total project cost of \$65 million, including contingency and soft costs. The committed funding for this Project is \$55 million from the City and \$10 million from Surland. Surland's contribution is pursuant to the terms of the 2013 Development Agreement.

Further, following the rescinding of the Second Developer Agreement, the City resumed control of project delivery of the Aquatic Center including design and construction.

On July 5, 2023, the City Council took action to further the Project by determining a project site through the adoption of a resolution accepting the IOD of fee interest for 16 acres of community park land from Ellis Village, LLC.

On September 5, 2023, the City Council approved a professional services agreement with Griffin Structures for project management services for the Project from an established short-list of on-call consultants approved by Resolution 2022-175.

On April 30, 2024, staff presented a plan to the City Council to move the Aquatic Center project forward. This plan included the procurement of an architectural and engineering team to lead the project. Staff also recommended that Surland's 334-page Design Development plans (Surland Plans) for the project be rejected, citing concerns over an estimated cost of \$165.1 million to construct the project as designed in those plans. A motion was made by Council Member Bedolla and seconded by Council Member Evans to authorize staff to plan the Project (ie. hiring an architectural and engineering team) with the elements of the 2020 Conceptual Plan and return to City Council with a concept for further discussion. Council Members Arriola, Bedolla, Evans and Mayor Young voted in favor of the motion. Mayor Pro Tem Davis recused herself from the action due to a conflict of interest resulting from the proximity of her home being

less than 500 feet of the Project boundaries. The motion did not include a formal rejection of the Surland Plans.

The rescinded 2020 Conceptual Plan included elements that that were developed through an extensive public outreach process (Aquatic Center Program Priorities) and will be used as a base program moving forward includes the following (in priority order):

1. 50-meter-long course competition pool
2. Recreation/warm-up pool
3. Lazy River
4. Waterslides
5. Toddler Area
6. Indoor Pool (Optional)
7. Fitness Center (Optional)

ANALYSIS

Based on the direction received from the City Council on April 30, 2024, staff has proceeded with the procurement of an architect/engineering firm to lead the design of the Project.

On May 30, 2024, staff issued an RFP to obtain a consultant team to provide professional services for architectural, engineering, and associated design services related to the development of the Project. The RFP was posted on the City's website and seven (7) proposals were submitted by the established deadline of July 2, 2024. The following firms submitted proposals:

- COAR Design Group
- Dahlin Group
- ELS Architecture and Urban Design
- Group 4 Architecture, Research + Planning, Inc.
- LPA Design Studios
- Noll & Tam Architects
- SVA Architects

Staff conducted a comprehensive review of all proposals and determined that Dahlin Group, ELS Architecture and Urban Design, and Group 4 Architecture, Research + Planning were the most responsive to the City's needs and a short-list was established. The three (3) firms that were short-listed were invited for an in-person interview. Interviews were an hour long and were conducted on July 30, 2024. Staff again utilized explicit criteria including qualifications of key personnel, related experience, quality of responses to pre-determined agenda items and City questions, and quality/delivery presentation. The composition of the interview panel consisted of staff from the Public Works Department (Assistant Director) and the Parks, Recreation, and Community Services Department (Parks Planning and Development Manager, Recreation Manager, and Management Analyst II).

At the completion of the interview process, the interview panel determined that the Consultant demonstrated the competence and professional qualifications necessary for the satisfactory performance of the required services and best met the City's needs. With over forty (40) years of experience supporting projects, with a strong emphasis on aquatic and community centers for public agencies, the Consultant demonstrated their technical expertise, overall

professionalism, and teamwork mindset which will be a great asset on this unique and complex Project. During the interview process, it became evident that the Consultant was best equipped with the necessary resources, qualifications, and relevant experience essential for the Project.

Staff has negotiated a Professional Services Agreement, in form shown in Attachment A (Agreement), with the Consultant, with a not-to-exceed amount of \$5,665,261 for the Project. The scope of work for this Project involves two (2) phases. Phase 1 includes pre-design services, site feasibility and design alternatives, conceptual design and financial analysis, a preliminary traffic study, community outreach and City Council direction. Phase 2 includes schematic design, design development, construction documents, bidding and construction administration, and project closeout and post-construction services. If the City enters into the Agreement, Consultant would be issued a Notice to Proceed per task, which allows the City to better control costs based on how the Project progresses.

The tentative timeline for the Project is as follows:

- | | |
|-----------------------------------------------|-----------------------|
| • Agreement Between City and A/E Firm: | September 2024 |
| • Project Kick-Off | September 2024 |
| • Program and Conceptual Design & Approval | October-December 2024 |
| • Community Outreach | January 2025 |
| • City Council Direction on Conceptual Design | February 2025 |
| • Schematic Design & Approval | March-May 2025 |
| • Design Development | June–September 2025 |
| • Construction Documentation | October-December 2025 |
| • Plan Check and Permits | January-June 2026 |
| • Bidding & Award | June-August 2026 |
| • Construction Begins | September 2026 |
| • Grand Opening | Summer 2028 |

A project website has also been developed to support the project including a project overview, design/construction updates, frequently asked questions, and the ability to subscribe to a project mailing list. The website can be found at www.cityoftracyaquaticcenter.com. Staff plans to publish this website if this agenda item is approved.

FISCAL IMPACT

This Project was previously approved by the City Council as CIP 78054 with an established budget of \$65,000,000, with \$55,000,000 from the City's Measure V funds and \$10,000,000 from the Developer. The Consultant's fee of \$5,665,261 (which is approximately 9% of the total project budget and within industry standard for design services) is covered by the current available funding of \$55,000,000.

In addition, as a cost control measure, staff has structured the Agreement with the Consultant in such a way that a Notice to Proceed be required to perform each Phase of work.

PUBLIC OUTREACH/INTEREST

Staff issued and posted an RFP on the City's website from May 30 – July 2, 2024, to obtain a consultant team to provide professional services for architectural, engineering, and associated design services related to the development of the Project.

COORDINATION

This report was prepared by the Parks, Recreation, and Community Services Department in coordination with the Finance Department.

CEQA DETERMINATION

This item is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and CEQA regulations (14 California Code of Regulations §§ 15000, et seq.; "CEQA Guidelines") as the action is for design work of a Project that has not been designed and approved and therefore constitutes "feasibility or planning studies" and not subject to CEQA pursuant to CEQA Guidelines §15262. Appropriate CEQA review will be done prior to any future discretionary actions related to the Project that may have a foreseeable impact on the environment.

STRATEGIC PLAN

This agenda item supports the City of Tracy's Quality of Life Strategic Priority, and specifically implements the following goals:

Goal 2: Facilitate the Completion of Measure V Amenities; Objective 2: Advance Measure V amenity planning; and Short-Term Priority 2.c Begin design of Aquatic Center.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a Resolution approving a Professional Services Agreement with Group 4 Architecture, Research + Planning, Inc. for architectural, engineering, and associated design services related to the development of the City of Tracy Aquatic Center, Capital Improvement Project 78054, for a total not-to-exceed amount of \$5,665,261 and an initial term of 4 years with an administrative option to extend for up to another 2 years.

Prepared by: Richard Joaquin, Acting Assistant Director of Parks, Recreation, and Community Services

Reviewed by: Brian MacDonald, Director of Parks, Recreation, and Community Services
Sara Castro, Director of Finance
Bijal Patel, City Attorney
Arturo Sanchez, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

Attachments:

Attachment A – Professional Services Agreement with Group 4 Architecture Research + Planning, Inc.
Attachment B - Powerpoint Presentation

CITY OF TRACY
PROFESSIONAL SERVICES AGREEMENT WITH
Group 4 Architecture, Research + Planning, Inc., California Corporation

This Professional Services Agreement (“Agreement”) is entered into between the City of Tracy, a municipal corporation (“City”), and *Group 4 Architecture, Research + Planning, Inc., a California Corporation* (“Consultant”). City and Consultant are referred to individually as “Party” and collectively as “Parties.”

Recitals

- A. City desires to retain the professional services of Consultant to program, design, and engineer the new Tracy Aquatic Center, CIP 78054, as further described herein and in Exhibit A.
- B. On May 30, 2024, the City issued a Request for Proposals (RFP) for Design Services for the Scope of Work defined below. On July 2, 2024, Consultant submitted its proposal for the Scope of Work to the City. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) and 2.20.130, the City has determined that Consultant demonstrated that it was the best qualified and most responsible proposer, and best fits the City’s needs for competence and professional qualifications necessary for the satisfactory performance of the Scope of Work defined below.
- C. After negotiations between the City and Consultant, the Parties have reached an agreement for Consultant’s professional services as set forth in this Agreement.
- D. This Agreement was approved on September 17, 2024, pursuant to Tracy Municipal Code Section 2.20.140(a)(3), and City Council Resolution No. _____.

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

1. **Scope of Work.** Consultant shall perform the professional services, tasks, and scope of work described in Exhibit A attached hereto and incorporated herein by this reference (“Scope of Work”). The Scope of Work shall be performed by, or under the direct supervision of, Consultant’s “Authorized Representative”: Dawn Merkes, President. 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 the City’s prior written consent. The City may terminate this Agreement if Consultant makes any such change or uses or replaces any such subcontractor or subconsultant. Unless otherwise stated on Exhibit A, Consultant shall furnish, at its own expense, the materials, equipment, supplies, and other resources necessary to perform the Scope of Work. The City reserves the right to contract with other firms and/or consultants during the term of this Agreement to provide the City with the same or similar Scope of Work as described in Exhibit A.
2. **Time of Performance.** Time is of the essence in the performance of the Scope of Work under this Agreement and the timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. If dates for performance are set out in Exhibit A, Consultant shall begin performance, and shall complete all required Scope of Work 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. If Exhibit A indicates that Scope of Work shall only be performed upon request, or if the City otherwise communicates the same to Consultant, Consultant shall not perform said Scope of Work until the City requests such performance. Consultant shall submit all requests for time extensions to the City in writing no later than ten (10) days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. The City may grant or deny such requests in its sole and absolute discretion.

2.1 Term. The term of this Agreement shall commence on September 18, 2024, and expire and terminate automatically on September 18, 2028, or earlier by termination pursuant to Section 6 of this Agreement (“Term”). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of two (2) years and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

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

3.1 Not to Exceed Amount. Consultant’s total compensation under this Agreement shall not exceed \$5,665,261.00 (five million six hundred sixty-five thousand two hundred sixty-one dollars) Dollars. Notwithstanding the foregoing, the payment of any funds under this Agreement shall be subject to the City of Tracy appropriation of funds for the Scope of Work. This Agreement shall automatically terminate in the event that such funds are not appropriated. Unless specifically stated otherwise or agreed to in writing and approved by City Council, the fees proposed by Consultant, as set forth in Exhibit B hereto, shall remain unchanged for the entire term of this Agreement and any extensions of this Agreement. It is understood and agreed that Consultant may not receive compensation up to the Not-to-Exceed Amount (or any other amount), and Consultant’s total compensation under this Agreement will depend on the Scope of Work requested and approved by the City. 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 “Not-to-Exceed Amount” provided in this section without the City’s prior written approval.

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

3.2 Invoices. Consultant shall submit monthly invoice(s) to the City that describe in detail satisfactory to the City: the services performed, the times and dates of performance, and the names of the person(s) performing the Scope of Work.

3.2.1 If Consultant is providing the Scope of Work 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 this Section may result in the City rejecting said invoice(s) and thereby delaying payment to Consultant.

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

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 and portions of Scope of Work described on the invoice(s) and approved by the City.

3.4 Final Payment. The acceptance by Consultant of the final payment made under this Agreement shall constitute a release of City from all claims and liabilities for compensation to Consultant for anything completed, finished or relating to Consultant's services or performance of the Scope of Work. Consultant agrees that payment by City shall not constitute nor be deemed a release of the responsibility and liability of Consultant or its employees, subcontractors, agents and subconsultants for the accuracy and competency of the information provided and/or services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Consultant, its employees, subcontractors, agents and subconsultants.

3.5 Books and Accounts. Consultant agrees to maintain books, accounts, payroll records and other information relating to the performance of Consultant's obligations under the Agreement, which shall adequately and correctly reflect the expenses incurred by the Consultant in the performance of Consultant's work under the Agreement. Such books and records shall be open to inspection and audit by the City during regular business hours for three years after expiration or termination of this Agreement.

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, and reimburse the City for, any and all liabilities, obligations, losses, damages, injunctions, suits, actions, fines, penalties, claims, demands, administrative and judicial proceedings and order, judgments, remedial action requirements, costs and expenses of every kind or nature, and all costs and expenses incurred in connection therewith, including, without limitation, reasonable attorneys' fees and court costs ("**Claims**") arising directly or indirectly from or out of (including any and all related costs and expenses), relating or pertaining to or resulting from, in whole or in part, this Agreement; any act, omission, or event relating in any way to Consultant's obligations under this Agreement; and/or Consultant's breach of this Agreement, except to the extent such Claim is caused solely by the active negligence or willful misconduct of the City. In this Section 4, "City" means the City, its officials, officers, agents, employees and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors.

In the event there is a finding and/or determination that Consultant is not an independent contractor and/or is an employee of City, including but not limited to any such finding and/or determination made by the California Public Employees' Retirement System (CalPERS), the Department of Industrial Relations (DIR), or the Internal Revenue Service (IRS), Consultant shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless the City from and against any and all Claims relating to or in connection with such a finding and/or determination.

(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 the expiration 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 the Scope of Work 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 ISO Form Number CA 00 01 covering any auto (code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no 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 in 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 and, in any event, within five (5) days of such request.

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 in its sole and absolute discretion, without cause, by giving ten (10) days' written notice to Consultant. Within five (5) days of such a termination, Consultant shall return and deliver to City all original documents relating to the Scope of Work in Consultant's possession or control, including, without limitation, preliminary drafts and supporting documents, and any other documents prepared by Consultant pursuant to this Agreement. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date the termination notice is given.

7. Ownership of Work. All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's Scope of Work, upon termination of this Agreement, or within five (5) days of any demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

8. Independent Contractor Status. Consultant is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Consultant is not City's employee and Consultant shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Consultant is free to work for other entities while under contract with the City. Consultant, and its agents or employees, are not entitled to City benefits. Consultant shall be solely responsible for, and shall save the City harmless from, all matters relating to the payment of Consultant's employees, agents, subcontractors and subconsultants, including compliance with social security requirements, federal and state income tax withholding and all other regulations governing employer-employee relations.

9. Conflicts of Interest. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest. The Consultant represents that it is familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Consultant represents and

warrants that the representations made by the Consultant concerning unfair competitive advantage and conflicts of interest in connection with its submissions in response to the City's procurement for this Agreement were true and accurate both when made and as of the date of this Agreement. Consultant represents and warrants that it has not and shall not offer or deliver any City officer, public official, or employee any gifts or donations in violation of Federal, State and/or local law.

10. Rebates, Kickbacks, or Other Unlawful Consideration. Consultant warrants that this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For any 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 the value of the rebate, kickback, or other unlawful consideration; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

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

To the City:
City of Tracy
Attn: Richard Joaquin, Acting Assistant Director
333 Civic Center Plaza
Tracy, CA 95376

To Consultant:
*Group 4 Architecture, Research
Planning, Inc.*
Attn: Dawn Merkes, President
211 Linden Avenue
South San Francisco, CA 94080

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

12. General Provisions.

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

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

12.3 Waivers. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement. No waiver shall be effective unless it is in writing and signed by the waiving party.

12.4 Assignment and Delegation. Consultant may not assign, transfer or delegate this Agreement or any portion of it without the City's advance written consent. Any attempt to

do so will be void. City's consent to one assignment, transfer or delegation shall not be deemed to be a consent to any subsequent assignment, transfer or delegation.

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

12.6 Compliance with the Law. Consultant shall comply with all applicable local, state, and federal laws, including, without limitation, those identified below, whether or not such laws are expressly stated in this Agreement.

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

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

12.7 Business Entity Status. Consultant is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Consultant. By entering into this Agreement, Consultant represents that it is authorized to do business in California, in good standing with the Secretary of State, and in good standing with all agencies having jurisdiction over Consultant (including any licensing agencies). If Consultant is a suspended entity at the time it enters into this Agreement, City may take steps to have this Agreement declared voidable.

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

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

12.10 Construction of Agreement. Each Party hereto has had an equivalent opportunity to participate in the drafting of this Agreement and/or to consult with legal counsel.

Therefore, the usual construction of an agreement against the drafting Party shall not apply hereto.

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

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

12.13 Entire Agreement. This Agreement and the attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed and the matters contemplated herein. This Agreement supersedes all prior negotiations, representations or agreements (in each case, whether oral or in writing). All exhibits attached hereto are incorporated by reference herein.

12.14 Counterparts. City and Consultant agree that this Agreement may be executed in two or more counterparts, each of which shall be deemed an original.

12.15 Expenses for Enforcement. Consultant and City agree that the prevailing party's reasonable costs, attorneys' fees and expenses, including investigation fees and expert witness fees, shall be paid by the non-prevailing party in any dispute involving the terms and conditions of this Agreement.

13. 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.

[Signature Page to Follow]

As of the date of last signature below, the undersigned Parties agree to the full performance of the terms set forth in this Agreement and have caused this Agreement to be duly executed.

City of Tracy, a Municipal Corporation

By: _____
Nancy D. Young
Title: Mayor
Date: _____

Attest:

Adrienne Richardson, City Clerk

Approved as to form:

Bijal M. Patel, City Attorney

Group 4 Architecture, Research + Planning, Inc., a California Corporation

By: Dawn Merkes
Dawn Merkes
Title: President
Date: 9/11/24

Federal Employer Tax ID No. 94-2376500

By: Andrea Gifford
Andrea Gifford
Title: Secretary
Date: 09/11/2024

Exhibits:

- A Scope of Work
- B Compensation

EXHIBIT A - Scope of Work

The Project

The Project consists of professional architectural and engineering services for design, bidding, and construction support services for the Tracy Aquatic Center Project (CIP 78054). The project site is about 13.46 acres of vacant City-owned land at the northwest corner of the Corral Hollow Road and Summit Drive intersection in a new residential subdivision known as Ellis.

Project Background

An Aquatic Center has been recognized as a need since the early 2000's and has gone through various iterations of planning, public outreach, and design over the years. In November 2016, the City submitted Measure V, a twenty-year half-cent transactions and use (sales) tax, to provide funding for local city services/facilities. A few years later in 2018, the City Council approved the Aquatic Center as a major amenity that would be funded by Measure V sales tax revenue. During this same time the City collaborated with a local developer to create conceptual programming and cost estimates for the City Council and public to review. In 2020, the City Council approved the Aquatic Center Program Priorities which includes (in priority order):

1. 50-meter-long course competition pool
2. Recreation/warm-up pool
3. Lazy river
4. Waterslides
5. Toddler area
6. Indoor pool (optional)
7. Fitness center (optional)

Project Description

The Project's scope of work will be completed in two separate phases. The City would like to master plan the entire 13.46 acre project site and determine phasing options for the Project. The scope of work includes developing options in Phase 1 that has a not-to-exceed total project cost of \$65 million, with an optional task of value engineering the Project to fit a not-to-exceed Phase 1 budget of \$55 million.

Phase 1: Includes development and analysis of design alternatives, facilitation of community engagement process, and preparation of a Final Conceptual Plan for the Project. Following City Council approval of a Final Conceptual Plan and an established not-to-exceed project budget, the City intends to proceed with Phase 2 scope of work.

Phase 2: Includes schematic design, design development, construction drawings and Project construction.

Project Requirements

The Consultant shall be responsible for providing the design, documentation, and support necessary for the permitting, bidding, and construction of a new Aquatic Center and associated site.

The project will be administered through the Parks, Recreation & Engineering Department with assistance from other City departments, and the City's third-party Project/Construction Manager, Griffin Structures, Inc. The Consultant shall provide leadership for the entire consultant team and will work closely with City staff, Parks and Community Services Commission, City Council, and the

broader community to identify project needs and potential solutions. The Consultant shall attend coordination meetings and other special purpose meetings as delineated.

The Consultant will be the central coordinator for all activities between the consulting team, City staff and other agencies.

The Consultant will be responsible for providing Project vision and articulation, budget analysis at each design stage, design development, schematic and detail design, contract documents and support through bidding and construction.

The Consultant shall be responsible for facilitating community outreach in coordination with the City and will build off of the significant outreach that has already been completed for the project, outreach will take place during Phase 1 of the project.

Cal-Green Tier 2 is required for this project, and the Consultant is responsible for submitting all necessary documentation for compliance.

The Consultant understands that no CEQA environmental review is required as the proposed project was environmentally cleared under the 2013 Ellis Specific Plan Environmental Impact Report.

Furniture procurement may be completed by utilizing existing contracts available to public agencies.

During each phase of the project, direction will be given to the Consultant in Project Management Team (PMT) meetings. Attending these meetings will be the Consultant, City representatives, the City's Project Manager, and others as determined by the City. Agreements and action items will be documented in meeting minutes.

Except where otherwise specified in this Agreement, summaries of decisions, design direction, and establishment of project requirements may be communicated and documented through written meeting minutes and e-mails.

The City shall provide the following for the Project as needed:

1. A City representative who can render decisions on behalf of the Project in a timely manner.
2. Scheduling and invitations for public meetings.
3. Information about:
 - a. Title Report
 - b. City Standards
 - c. City Requirements
4. Services of other specialized consultants if needed for the Project.
5. Any other information not included in Consultant's Basic Services or Supplemental Services that is reasonably needed for the Project.
6. The Bid Documents and the General Conditions for the Project.

The Consultant's assumption is that the project will be constructed through a conventional public design-bid-build delivery method. Basic and Supplemental Services assume the construction work will be developed as a single bid package to be constructed in a single phase.

Construction Costs:

Evaluations of the City’s Project budget, preliminary estimates of probable construction cost and detailed estimates of Construction Cost prepared by Consultant, represent the Consultant’s best judgment as a design professional familiar with the construction industry. It is recognized, however, that neither Consultant nor the City has control over the cost of labor materials or equipment, over the Contractor’s methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, Consultant cannot and does not warrant or represent that bids or negotiated prices will not vary from City’s Project budget or from any estimate of Construction Cost or evaluation prepared or agreed to by Consultant.

SCOPE OF WORK BY TASK

The anticipated scope of services is divided into two phases with the following tasks:

Phase 1:

- Task 1.1: Pre-Design Project Kick-Off and Site Tour
- Task 1.2: Site Feasibility and Design Alternatives
- Task 1.3: Conceptual Design and Financial Analysis
- Task 1.4: Preliminary Traffic Study
- Task 1.5: Community Outreach and City Council Direction

Phase 2:

- Task 2.1 Schematic Design (SD)
- Task 2.2: Design Development (DD)
- Task 2.3 Construction Documents (CDs)
- Task 2.4 Bidding and Construction Administration
- Task 2.5 Project Closeout and Post-Construction Phase

The City will authorize, in writing, Consultant to start work on each task. The City may issue written authorization to proceed with a task prior to the completion of a preceding task.

Upon receipt of a written authorization to proceed, Consultant shall begin work on the designated task and diligently prosecute the work to completion.

The Consultant and its sub-consultants, if any, shall separately track and report costs for each project and task.

PHASE 1 **PHASE ONE SERVICES**

TASK 1.1 **PRE-DESIGN PROJECT KICK-OFF AND SITE TOUR**

- 1.1.1 The Consultant shall conduct a kick-off meeting as well as tour the proposed site with the Project Manager and other City staff knowledgeable about the Project and Site.
- 1.1.2 The Consultant shall prepare a project work plan for each task. The project work plan shall be prepared in the degree and detail appropriate to each phase of the project and shall be updated as the project progresses. The project work plan shall be approved by the City project manager and shall provide the basis for determining timeliness and cost effectiveness of the Consultant's execution of the Scope of Services.
- 1.1.3 Other project kick-off tasks that the Consultant shall provide include:

- a. Reviewing work completed to date including city goals, community engagement, site assessments, and conceptual design studies including traffic and environmental.
- b. Reviewing the previous conceptual design plans.
- c. Preparing a community participation schedule for the City's review. Set the dates for the necessary rounds of community engagement during the design phases.
- d. Preparing a project directory.

Deliverables:

- Kick-off meeting and site tour
- Project directory
- Work plan for each task, including a community participation plan

TASK 1.2 SITE FEASIBILITY AND DESIGN ALTERNATIVES

- 1.2.1 The Consultant shall conduct a site analysis and feasibility studies on the selected site for the Project. The study shall include inventory and mapping of all existing conditions, environmental factors, offsite improvements and traffic impacts. The Consultant will complete a preliminary land use and zoning analysis and building code review for the Project Site.
- 1.2.2 Site Survey: The Consultant shall provide land surveying services, consisting of the following:
 - a. Obtain block maps for water systems, storm drains, sanitary sewers and streetlights.
 - b. Review existing infrastructure to be mapped onto topographic survey.
 - c. Site visit to verify field conditions.
 - d. Topographic Survey
 - e. Base sheet Production
 - f. Record Boundary
 - g. Underground service alert
- 1.2.3 The Consultant shall develop two or three master plan design alternatives integrating the proposed program spaces into the site based on the project cost budget. The Consultant shall develop evaluation criteria that may include project budget, ongoing operation and maintenance costs, service and access, maximum benefit to the community, opportunity for future growth and others as appropriate.
- 1.2.4 The Consultant shall refine and prepare two conceptual plans based on feedback from the City before proceeding to the next task.

Deliverables:

- Site analysis
- Site Topographic Survey and Record Boundary
- Zoning analysis
- Two conceptual design alternatives
- Bi-monthly PMT meetings, conducted virtually and in-person

TASK 1.3 CONCEPTUAL DESIGN AND FINANCIAL ANALYSIS

- 1.3.1 The Consultant shall develop up to two (2) conceptual design options for the Project. Based on the previous preferred conceptual designs and current budget constraints, develop, and present up to two (2) refined conceptual design plans to City staff that includes:
 - a. Up to two (2) conceptual site and floor plan options.
 - b. Up to two (2) civil site, grading, drainage and utility plans

- c. Up to two (2) site landscape plans
 - d. Design values and sustainability goals with the City and community input.
 - e. Conceptual building elevations, sections and massing studies for each floor plan option.
 - f. Preliminary cost models for each alternative.
 - g. Exterior materials palette and 3D digital model renderings.
 - h. Phasing plan showing the major project phases
 - i. Estimated project schedule for future phases
 - j. Conceptual project budget and cost model.
- 1.3.2 Coordinating with the City staff to refine the building program and prepare a program summary document that summarizes the sizes and functions of each of the rooms.
- 1.3.3 The Consultant shall provide a financial study that will include an operational analysis and all expected expenses and potential revenues. The Consultant will assess many components of regional and similar type aquatic facilities including those available within the market area and in neighboring communities; provide analysis of competition of duplication of services thru other public and private aquatic providers; recommendation for minimizing duplications and/or enhancing possibilities for partnerships; current policies, services, participation levels, operations and structure; deficiencies and opportunities for improvements for existing and new facilities and research of other area aquatic providers and how they affect a future aquatic facility. A demographic analysis based on the service area and an understanding of trends based on population, income and age groups will help define the necessary aquatic elements. The Consultant will work with the City to develop an operating analysis, including amenities, fee structure and all expected expenses and potential revenue
- 1.3.4 The Consultant shall prepare for and facilitate the following meetings during this phase of the project:
- a. Bi-monthly Project Management Meetings, virtually and in-person
 - b. The Consultant shall lead up to six technical meetings (6) with the City's Parks and Recreation Department, Building Safety, Planning, Police, Fire, and Public Works department staff.
 - c. The Consultant shall attend and present to the Parks and Community Services Commission at one (1) meeting.
 - d. The Consultant shall attend and present to the City Council at one (1) meeting.
- 1.3.5 Based on input received and direction from the PMT the Consultant shall refine the conceptual design drawings.
- 1.3.6 Conceptual Design shall be approved by the City before proceeding to development of schematic design documents.

Deliverables:

- Updated project directory, workplan and schedule
- Financial study
- Refined programming document
- Conceptual design package including conceptual level project budget and cost models for up to two (2) options.

TASK 1.4 PRELIMINARY TRAFFIC STUDY

- 1.4.1 The Consultant will prepare a Level of Service (LOS) analysis for the surrounding streets and intersections as related to the project condition, and identify mitigations in terms of signage, striping, and potential change in traffic control.

The Consultant will use a combination of operational data provided by the City, operational data previously provided, and trip generation rates published in the Institute of Transportation Engineers Trip Generation Manual to estimate project trip generation. The Consultant will review and refine this estimate based on input from the City's operational staff.

- 1.4.2 In cooperation with City staff, the Consultant will determine a study area that may be affected by project trips. The Consultant anticipates that the study area could include up to 10 intersections. The Consultant will coordinate with an independent data collection company to collect intersection and roadway traffic volume data. In addition to weekday AM and PM peak hour data, the Consultant will collect Saturday traffic volume data on roadways from which the project will take access. If the City anticipates the potential for unsatisfactory intersection performance on the weekend, this analysis scenario can be included in the level of service analysis.
- 1.4.3 External roadways and intersections will be evaluated without and with project traffic consistent with City guidelines. The analysis will determine if the project would cause a deficiency that would require intersection or roadway modification. If necessary, the Consultant will make recommendations for modifications and refine the recommendations in coordination with City staff.
- 1.4.4 The Consultant will use trip generation estimates to calculate delay and queuing at the project access locations. The Consultant will review preliminary site designs and advise the project team in regard to the adequacy of turn lanes and stacking. The Consultant may also make preliminary recommendations regarding quantity of parking spaces but it is up to City staff to identify the appropriate number of parking spaces consistent with the City's transportation priorities.
- 1.4.5 The Consultant will prepare a level of service report and site access analyses. The Consultant will revise the draft report based on one round of City comments.

Deliverables:

- Traffic Study Report.

TASK 1.5 COMMUNITY OUTREACH AND CITY COUNCIL DIRECTION

- 1.5.1 The Consultant will provide three rounds of outreach with the community and with current and future stakeholders to provide input, feedback and help shape the project at key project milestones. The Consultant will manage all aspects of the community outreach input including online surveys, workshops and presentations. The outreach shall include:
 - a. Community Open House/Meeting (1)
 - b. Intercept Kiosks (2)
 - c. Stakeholder Workshop (1)
 - d. On-line Survey (1)
- 1.5.2 The Consultant will provide a final report summarizing all community outreach efforts and outcomes.
- 1.5.3 The Consultant shall attend and present to the Parks and Community Services Commission at one (1) meeting.
- 1.5.4 The Consultant shall attend and present to the City Council at one (1) meeting which will provide direction of the final Conceptual Design and associated project cost budget and authorize the Phase Two services.

Deliverables:

- Community Outreach Report.

PHASE 2

TASK 2.1 SCHEMATIC DESIGN (SD)

Upon approval of the preferred Conceptual Design option by the City Council, written Notice to Proceed by the City, and receipt of the City's comments on the Conceptual Design documents, the Consultant shall advance the design of the Project to the schematic design phase. The City will also establish a not-to-exceed project cost budget.

Schematic Design tasks shall include:

- 2.1.1 The Consultant will conduct a project kickoff meeting with City Project Manager and project team to review and discuss project background, reference materials, pre-design investigations, conceptual design materials delivered to date, project goals and assumptions and established project budget.
- 2.1.2 The Consultant shall develop the schematic design package for Architectural, Aquatic, Landscape, Civil, Structural, Mechanical, Electrical, Plumbing, Food Service, Audio Visual, and Security and Access Control for the Project consisting of:
 - a. Civil Site Plan, including parking layout, preliminary grading, drainage, hydrology, utility routing
 - b. Landscape preliminary site plan showing hardscape and landscape areas
 - c. Floor and roof plans
 - d. Reflected ceiling plans
 - e. Exterior elevations
 - f. Building sections
 - g. Structural design sketches and narrative and preliminary sizes of key structural members
 - h. Preliminary lighting plan for building and site
 - i. Preliminary Title 24 energy performance data
 - j. Renderings (two interior and two exterior)
 - k. Outline specifications and/or narratives of each of the major building systems
 - l. Building program spreadsheet
- 2.1.3 The Consultant shall submit to the City the Schematic Design Package at the 100% schematic design stage. Only outline specifications and/or narratives are required at the 100% package.
- 2.1.4 The Consultant shall prepare and submit a preliminary estimate of probable project costs, including construction costs, soft costs, miscellaneous costs, and other owner's costs.
- 2.1.5 The Consultant shall coordinate with utility companies to help develop Schematic Design plans.
- 2.1.6 The Consultant shall develop a preliminary material palette, building elevations, and site and building sections to illustrate the overall site character.
- 2.1.7 The Consultant shall support the City in working with the City Arts Commission to outline public art opportunities in the schematic design package.
- 2.1.8 The Consultant shall prepare for and facilitate the following meetings during this task:
 - a. Consultant shall lead bi-monthly Project Management Meetings, virtually and in-person.
 - b. The Consultant shall lead up to six technical meetings (6) with the City's Parks and Recreation Department, Building Safety, Planning, Police, Fire, and Public Works department staff.
 - c. The Consultant shall conduct one (one) integrated design Workshop (IDW).

- d. The Consultant shall attend and present to the City Arts Commission at one (1) meeting.
- 2.1.9 Geotechnical Report
- a. The Consultant shall provide geotechnical services, consisting of evaluation of subsurface soil conditions in the vicinity of the proposed improvements and provide geotechnical recommendations relating to the foundation and earthwork components of the project. The initial services shall include:
1. County drilling notification form
 2. Underground service alert
 3. Subsurface exploration including seven (7) borings
 4. Laboratory testing
 5. Office Studies
- b. The Consultant shall review the field and laboratory data and perform engineering analyses to evaluate the planned project improvements, from a geotechnical perspective, including building foundations, basement retaining walls, slabs-on-grade, pavements, tie earthwork, and surface drainage.
- c. The Consultant shall prepare a report that summarizes the investigation and conclusions and presents geotechnical recommendations for design of the proposed improvements. The Consultant will provide site class and spectral accelerations for seismic design based on the current California Building Code. To graphically illustrate the site conditions, several figures will be presented in the report, including a vicinity plan, site plan, local geologic map, boring logs, and laboratory test results.

Deliverables:

- 100% Schematic Design Package submittal
- 100% Schematic design level estimate of probable costs for the entire project budget including construction costs, soft costs, miscellaneous costs, and other owner's costs.
- Geotechnical Report
- Preliminary material palette.
- Possible refinement of drawings based on reviews from technical meetings.
- An updated project workplan and schedule.
- Agendas / Summaries for team meetings.

TASK 2.2 DESIGN DEVELOPMENT (DD)

Upon receipt of written Notice to Proceed by the City and City's comments on the Schematic Design package, the Consultant shall develop the Design Development Documents that will include plans, elevations, building sections, renderings, and other documents that will describe the character and scale of the project components.

Design Development tasks shall include:

- 2.2.1 The Consultant shall update and refine design, budget, sustainable design strategies.
- 2.2.2 The Consultant shall prepare design development level building systems design and coordination for aquatic, landscape and civil disciplines, structural, mechanical, plumbing, and electrical/lighting disciplines, fire alarm/fire protection, food service and telecommunications/data disciplines.
- 2.2.3 The Consultant shall develop finish boards and materials for review by City design review process.
- 2.2.4 The Consultant shall submit draft specifications.

- 2.2.5 The Consultant shall prepare an updated estimate of probable project costs and shall be submitted with the 100% design development submittal.
- 2.2.6 The Consultant shall work with City and utility companies to produce and coordinate the Design Development drawings and plans.
- 2.2.7 Perform cost effectiveness adjustments to design to align with City's established project budget.
- 2.2.8 The Consultant shall prepare for and facilitate the following meetings:
 - a. Consultant shall lead monthly Project Management Meetings, virtually and in-person.
 - b. The Consultant shall lead up to six technical meetings (6) with the City's Parks and Recreation Department, Building Safety, Planning, Police, Fire, and Public Works department staff.
 - c. The Consultant shall conduct one (1) integrated design Workshop (IDW).
 - d. The Consultant shall attend and present to the Parks and Community Services Commission at one (1) meeting.
 - e. The Consultant shall attend and present to the City Council at one (1) meeting.

Deliverables:

- 100% Design Development Drawings and Draft Specifications submittals
- 100% Design Development level estimate of probable costs for the entire Project Budget including construction costs, soft costs, miscellaneous costs, and other owner's costs.
- Finish and material boards
- An updated project workplan and schedule.
- Agendas / Summaries for team meetings.

TASK 2.3 CONSTRUCTION DOCUMENTS (CD)

Upon receipt of written Notice to Proceed by the City and City's comments on the Design Development package, the Consultant shall develop the Construction Documents for the building systems and design concepts that will include construction details and calculations. All building systems, including structural, mechanical, electrical, plumbing, lighting design, food service, telecom and security, interior design concepts, and finished will be documented and refined.

Construction Documents

- 2.3.1 The Consultant shall develop the Construction Documents and perform the following tasks:
 - a. Perform Title 24 Calculations for applicable interior areas and prepare Compliance Documents.
 - b. Develop code required, wayfinding signage and furniture services as outlined in Task 2.6 - FURNITURE, FIXTURES AND EQUIPMENT AND SIGNAGE TASK.
 - c. The Construction Documents shall comply with applicable laws and regulations including, but not limited to, ADA requirements, Building Code requirements, City codes and standards, applicable Federal rules and regulations, and occupation safety and health regulations enforced at the time the Construction Documents are issued.
 - d. Specific submittals to the City shall be made at the 60%, 90% and 100% design stages.
 - e. Detailed estimated construction cost estimates shall be prepared and submitted with each submittal (60% and 90%).

- f. Consultant shall submit 90% documents to the City and other agencies for the specific purpose of obtaining the building permit and coordination review. Consultant shall make the appropriate revisions and provide written responses to the review comments and resubmit to the City and other agencies for verification of comprehensive and accurate responses. Project documents shall clearly identify document requirements for review and approval by the Fire Marshal and Building Official.
- g. Assist the City in coordination with any utility companies.
- h. The Consultant shall prepare and facilitate the following meetings:
 - 1. Consultant shall lead monthly Project Management Meetings, virtually and in-person.
 - 2. The Consultant shall lead up to six technical meetings (6) with the City's Parks and Recreation Department, Building Safety, Planning, Police, Fire, and Public Works department staff.
 - 3. The Consultant shall conduct one (1) integrated design Workshop (IDW).

2.3.2 CIVIL

The Consultant shall prepare the Civil Construction Documents and shall include the following information:

- a. Existing topographic drawings shall be included and may not be combined with the demolition plan, provided that information is clear and not obscured. Both contours and spot elevations shall be used to delineate the topography. Existing utilities, including size and material to the extent that the information has been made available shall be shown on the plans. Benchmarks and horizontal control monuments shall be clearly shown and identified.
- b. Demolition Plan – Show all existing buildings on the property clearly indicating which structures will be demolished and location of all building and site utilities (gas, electrical, sewer, water, stormwater). Provide the existing building size (square footage) and year built, type of construction, and if sprinklered. Identify all existing trees and irrigation proposed to be removed and which will remain. Include the hauling plan and hauling, as applicable. Provide a copy of the erosion and sediment control plan and dust control plan. Provide a waste management plan.
- c. Site Plan – Location all new work by dimensions from prominent existing features or survey base lines. Use same scale and orientation as the existing topography plan. Locate Contractor's storage area on this or an equivalent plan.
- d. Grading Plan – Show finished contours at intervals not greater than one foot and have them clearly distinguishable from existing contours. Clearly show where all surface water will drain. Use spot elevations to clarify grading requirements, drainage flow patterns, curb elevations, gutter elevations, pavement corner elevations, ground and pavement surface elevations at building corners, top of catch basins, etc. Show finished floor elevations and pad elevations. Use same scale and orientation as the existing topography plan.
- e. Utility Plan – Locate by dimensions all new water, fire protection, sanitary sewer and storm drain lines and appurtenances. Indicate sizes of pipes, top and invert elevations of manholes and catch basins and points of connection. (Separate Permit) Fire Service Underground Plans shall be provided by the Contractor.

- f. Details – City standard details shall be used where applicable. Other details shall be added as necessary to clearly show the work to be performed.

2.3.3 ARCHITECTURAL

The Consultant shall prepare the Architectural Construction Documents and include pertinent City ordinance details and the following plans:

- a. Cover Sheet/Title Plan – including project info, vicinity, and location maps, drawing index
- b. Plans for Code Compliance – accessibility plan, exiting plan, fire control room, pertinent City ordinance details
- c. Floor Plan (1/8" scale minimum)
- d. Exterior Elevations
- e. Building Sections
- f. Roof Plan and Roof Details
- g. Reflected Ceiling Plans
- h. Typical Wall Sections
- i. Room Finish Schedule
- j. Door, Hardware, and Window Schedules
- k. Door and Window Details
- l. Large Scale Plans (1/4" scale minimum for toilet rooms, control rooms and other special activity rooms)
- m. Interior Elevations
- n. Acoustical Treatments, if any
- o. Signage details required for code compliance
- p. Fire Control Room

2.3.4 STRUCTURAL

The Consultant shall prepare the structural plans and shall include all special inspection, requirements and necessary structural elements that require approvals (epoxy, grout, etc.) and the following plans:

- a. Foundation Plans
- b. Framing Plans
- c. Details and Sections
- d. Schedules

2.3.5 MECHANICAL AND PLUMBING

The Consultant shall prepare Mechanical and Plumbing plans that shall include a complete and functional mechanical system and include the following plans:

- a. Site Plan - Required for all outside mechanical systems and shall show all new systems and structures served, if applicable.
- b. Piping and Duct Work Plans - Heating, ventilating and air conditioning system work shall not be shown on the same drawing with the plumbing system work. Piping and ductwork plans shall be coordinated with the architectural, civil, structural, mechanical, and electrical plans to avoid conflicts. Adequate space shall be provided to meet manufacturer's required maintenance clearances and access needs. Clearly define where all work begins and ends. Design cfm's shall be shown at the supply and return registers and at the units.
- c. Fire Sprinkler System –Plans and specifications shall establish and define design criteria for Design-Build (separate permit) fire sprinkler and standpipe system including fire pump, auxiliary water supply, controls, water flow (vane type), valve supervisory (tamper) switches to result in fully operational system, to follow the current issue of the California Fire Code (CFC) and Title 19 of the California Code of Regulations.

- d. Elevations and/or Sections - Mechanical elevations and/or sections shall be shown where necessary. Sufficient elevations and sections shall be provided to facilitate accurate take-offs.
- e. Details - Plans shall include such details as necessary to enable the contractor to properly fabricate, assemble and/or install equipment or systems as shown. Details shall be to a scale large enough to be clear as to intent. Congested areas and racked piping shall be dimensioned to provide adequate clearance for clamps, hanger, insulation, flanges, valves, fittings, etc.
- f. Piping Diagrams - Incorporate isometric and/or schematic diagrams showing the piping configurations as required to clarify the fluid flow paths.
- g. Control Diagrams - Control diagrams shall be included as required to clarify function of various control systems involved in mechanical installations. Controls for mechanical equipment shall be coordinated with the electrical design so that all equipment supplied by electrical work and mechanical work is clearly defined.
- h. Sequence of Operation - Step-by-step sequences of operation shall be included in the specifications (and whenever practical, in the drawings) for each control system where similar vendors or manufactures may have differing levels of use.
- i. Equipment Schedule - Mechanical and plumbing plans shall include equipment schedules indicating capacity and description of each item of equipment. Provide voltage, phase, horsepower, or amperage of all equipment requiring electrical power.
- j. Seismic Anchorage - Plans shall include sufficient details for the attachment and anchorage of all mechanical equipment, piping systems, hangers, supports, sway braces, etc. to be in compliance with the current issues of the California Building Code (CBC) and California Mechanical Code (CMC).

2.3.6 ELECTRICAL

The Consultant shall prepare electrical plans that shall include:

- a. Electrical plans shall provide adequate information so that the electrical installation is complete and there is a clear indication as to where the work begins and ends. Tables shall identify circuits, protective devices, ratings, loads, phasing, controls, instrumentation, and other pertinent information concerning the installation. Plans shall include:
- c. Plot Plan - Required for overhead and underground power, street lighting, telephone conduit, fire alarm and distribution systems.
- d. Wiring Design - Service shall include power, fire alarm source available and any other special connections to outside systems, show locations of entering conduits and service racks. Service disconnect shall be rated to suit the conditions of the case. Metering shall be required unless directed otherwise. Panel boards shall include breakers for feeders and branches of suitable rating. Conditions shall be analyzed to ensure that the wiring method used is acceptable and economical for the intended use of the facilities. Select branch wiring voltage and system to produce a satisfactory power and lighting installation. Show conductors by size, number, voltage, and type of insulation.
- e. Riser Diagram - A riser diagram with notations shall indicate the use, rating and location of panel and equipment.

- f. Single-Line Diagram - Provide single-line diagram to simplify understanding of power and lighting systems. Use single lines and symbols to indicate the course and component devices or parts of the electrical circuits.
- g. Lighting Plan - Lighting fixtures shall be clearly indicated with dimensioned sketched and description, including the method of hanging. Lumination plan for exterior lighting shall be provided to the City for review and approval.
- h. Seismic Anchorage - Plans shall include sufficient details for the attachment and anchorage of all electrical equipment and fixtures to be in compliance with the current issues of California Building Code (CBC) and California Electrical Code (CEC).
- i. Fire Alarm System – Plans and specifications shall establish and define design criteria for Design-Build (separate permit) Fire Alarm system include controls, stations, speakers, heat detectors, smoke detectors, flow switches, door releases, and any other devices that are electrically a part of the system, to be in compliance with the current issues of the California Fire Code (CFC) and California Electrical Code (CEC)

Deliverables:

- Construction Document Submittals at the 60%, 90% and 100% design stages.
- Submittals and detailed estimated probable costs for the entire Project Budget including construction costs, soft costs, miscellaneous costs, and other owner's costs with each submittal (60% and 90%).
- Response to comments following each submittal
- Prepare Final (100%) plans and specifications suitable for the purpose of bidding and construction.
- An updated project workplan and schedule.
- Agendas / Summaries for team meetings.

TASK 2.4 BIDDING AND CONSTRUCTION ADMINISTRATION SUPPORT

2.4.1 BIDDING

The Consultant shall:

- a. Assist City and Project during pre-qualification process to be led by the Construction Manager.
- b. Assist with the evaluation and response to contractor questions.
- c. Attend a pre-bid conference and give a brief presentation of the project.
- d. Prepare addenda as required to clarify the bid documents.
- e. Assist the City with providing an analysis of bids received compared to the Consultant's final estimated construction cost.

2.4.2 CONSTRUCTION SUPPORT

The Consultant shall:

- a. Attend one pre-construction meeting. Provide documents, graphics, etc. for City and Construction Manager as necessary for the meeting.
- b. Attend weekly construction meetings (anticipate 100 meetings, which is based on an estimated two (2) year construction period). Assume Consultant participation in all meetings is virtual. When meetings coincide with in-person site observations, Consultant shall attend meeting in person. Meeting minutes will be prepared by the City's construction manager.
- c. Conduct an observation of construction work at appropriate intervals to the stage of construction or as otherwise agreed by the City and Consultant to become generally familiar with the progress and quality of the work completed and to determine, in general, if the work is being performed in a manner indicating that the work when completed will be in accordance with

the Contract Documents. However, the Consultant shall not be required to make exhaustive continuous on-site inspections to check the quality or quantity of the work. Consultant shall prepare a written document describing the general nature of work observed and identify any areas observed that are not in general conformance with the construction contract documents. Consultant assumes 50 on-site construction observations.

- d. Review and recommend appropriate professional action on submittals that are required by the construction contract documents.
 1. The Consultant shall review Contractor's submittals, including Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance equipment or systems designed by the Contractor, all of which remain the responsibility of the Contractor to the extent required by the Contract Documents.
 2. Submittals critical to work flow as indicated on the Contractor's critical path construction and submittal schedules and as mutually identified and agreed to by the Consultant, Construction Manager, and Contractor at the OAC shall be prioritized, recognizing that submittals that require coordination with subconsultants and/or large/complex submittals will take additional review time. Submittals that are mutually agreed to as not being on the critical path by the Construction Manager and Contractor will be reviewed and returned in a timely fashion after critical path submittals have been reviewed.
 3. The Consultant's review shall not constitute review of safety precautions or, unless otherwise specifically stated by the Consultant, of construction means, methods, techniques, sequences or procedures. The Consultant's review of specific items shall not indicate approval of an assembly of which the item is a component. When professional certification of performance characteristics of materials, systems or equipment is required by the Contract Documents, the Consultant shall be entitled to rely upon such certification to establish that the materials, systems or equipment will meet the performance criteria required by the Contract Documents.
 4. Consultant shall review and mark up each submittal with appropriate comments, professional stamp, sign and date each submittal with appropriate action as defined in the construction contract documents and return each submittal to the City within the time period specified. Consultant shall review operations manual submittals for appropriateness to the equipment being specified.
- e. Substitutions: The Consultant shall review and recommend approval or rejection of substitutions for general conformance and consistency with the project design concept and for compliance with the Contract Documents. Consultant shall briefly review each substitution and provide the City's Project Manager with a fee and time schedule for detailed review of each substitution. Time and cost for detailed review of substitutions shall be negotiated with Contractor on a case-by-case basis. Detailed review of each substitution cannot begin until authorized by the City's Project Manager.

Detailed review of substitutions is subject to the requirements of Additional Services when approved and authorized by the City's Project Manager prior to beginning the detailed review.

- f. Construction Means and Methods: The Consultant shall not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences or procedures, or safety precautions and programs in connection with the work, since these are solely the Contractor's responsibility under the Contract for Construction. The Consultant shall not be responsible for the Contractor's schedules or failure to carry out the work in accordance with the Contract Documents. The Consultant shall not have control over or charge of acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the work.
- g. Access to the work: The Consultant shall have access to the work wherever it is in preparation or progress.
- h. Provide consultation to the City to clarify the intent and interpretation of the construction contract documents as necessary, prepare supplementary information and/or sketches to clarify or supplement the construction contract documents.
- i. Respond in writing, including necessary design clarifications, to Requests for Information (RFI's) after such requests have been reviewed by the construction manager for appropriateness. Anticipated reasonable number of RFI's for a project of this type and size is approximately 2,000.
- j. Review and make recommendations regarding "or equal" substitutions and well-documented value engineering alternatives.
- k. Review requests for change orders as to content and appropriateness of the work proposed.
- l. Be present during the initial start-up of systems.
- m. At a point where the contractor and the City deem the project, or major portions of the project, to be substantially complete, the Consultant shall conduct a thorough walk through and identify any visible elements of the work that the Consultant judges not to be complete or acceptable. These findings shall be documented in the written form of a "punchlist".
- n. When the items on the "punchlist" have been resolved, the Consultant shall conduct a final walk through to verify resolution and issue a Notice of Completion to the City.
- o. City Responsibilities:
 1. The City shall manage the construction of the Project and provide building code and quality control inspections.
 2. The City's Owners Representative Project Manager shall be on-site during construction and make daily observations and facilitate the inspections that will be required in the specifications. This party shall maintain independent logs of RFIs, ASI, and Change Orders and Contractor requests for payment.

Deliverables:

- Addenda, as required.
- Analysis of bids.
- Supporting documents as needed for the pre-construction meeting.
- Documents describing observation of work at appropriate intervals
- Submittal, RFI, and Change Order responses, including any plan revisions as necessary

TASK 2.5 PROJECT CLOSE-OUT AND POST CONSTRUCTION PHASE

The Consultant shall provide Record Documents and project closeout services, which includes reviewing the Contractor's final punch list, noting additional required corrections, non-conforming work, and work remaining to be completed and reviewing Close-out documents and submittals.

2.5.1 Project Close-Out:

- a. The Consultant shall review the Contractor's letter of Substantial Completion and Punchlist, and if in agreement that Contractor is ready for Punchlist, provide one (1) site visit for Punchlist review and up to two (2) site visits for back check (these would be separate from previously listed site visits for construction) to review for compliance and general conformance with the design intent of the Contract Documents. The Consultant shall review for general conformance Close-Out documents, including but not limited to submittals, "As Built" drawings, O&M Manuals, written guarantees, instruction books, diagrams and charts, etc., within eighteen (18) calendar days of receipt. The Consultant shall conduct a year-end walk through immediately prior to the expiration of the warranty period and ensure completion of noted items.

2.5.2 Record Documents:

- a. The Consultant shall prepare Record Documents by modifying the conformed Contract Documents with all changes and clarifications recommended by the Consultant and accepted by the City during construction. Such changes may be the result of information that was approved in RFIs, Change Orders, or field memoranda written by the Consultant. These will be delivered as PDF files for the City's use. The Consultant is not required to record as-built conditions which are the responsibility of the Contractor and is not required to produce CAD drawings for the marked-up Contractor As-Built drawings.

2.5.3 Meetings:

The Consultant shall:

- a. One (1) site visit for Punchlist
- b. Up to two (2) site visits for back check

Deliverables:

- Punchlist and Backcheck
- Record Documents in .pdf format

TASK 2.6 FURNITURE, FIXTURES & EQUIPMENT (FF&E) AND SIGNAGE

Concurrent with Tasks 2.1-2.5, the Consultant will develop the furniture and signage procurement packages.

2.6.1 Furniture:

- a. Consultant shall work with the project team to set the furniture budget, and work with the City to develop furniture concepts and select furniture and finishes that enhance the architectural design concepts and meet the program goals. The furniture package will be developed to facilitate procurement of the FFE through established pre-negotiated contracts available to the City.
- b. Based on direction given by the City, the Consultant shall provide the following procurement services for furniture:

1. The Consultant shall prepare furniture plans and specifications to identify selected furniture, finishes and quantities.
 2. The Consultant shall assist the City in preparing purchase details. The City will be responsible for preparing and processing purchase orders.
- 2.6.2 Code and Wayfinding Signage:
- a. Consultant shall work with the project team to develop design concepts for code and wayfinding signage and branding. Signage will include graphic “wayfinding” signage that enhances usability and customer experience and integrates with building, room, and code-required signage.
 - b. The Consultant shall prepare signage concepts for review with the City and integrate that wayfinding and code-required signage into the Construction Documents.
- 2.6.3 Meetings and Installations:
- a. The Consultant will attend one (1) signage pre-installation walk through with the signage contractor.
 - b. The Consultant will provide up to two (2) consecutive days to observe furniture installation.
 - c. The Consultant shall prepare a punch list of outstanding furniture or signage installation issues.
 - d. The Consultant shall anticipate up to three (3) coordination meetings with the City.

Deliverables:

- FF&E Options and Procurement Package
- Signage Options and Bid package
- Installation Review

ADDITIONAL SERVICES

The following services are not included in the Consultant’s Scope of Basic and Supplemental Services and shall be provided if requested by the City. The Consultant shall be compensated for Additional Services in addition to compensation for Basic, Supplemental Services and Reimbursable Expenses.

- 1) Any other service not included in Basic Services or Supplemental Services.
- 2) Distributed Antennae System- DAS (Additional Service)
- 3) Geotechnical Construction Observation and Testing Services (Additional Service)
- 4) Photovoltaic System Design (Additional Service)
- 5) Detailed analysis or engineering analysis of existing facilities
- 6) Services of Subconsultants to the Consultant other than those included in Basic Services or Supplemental Services.
- 7) Providing services to verify the accuracy of drawings or other information furnished by the City.
- 8) Providing other special studies not identified in Basic Services.
- 9) Providing cost estimates beyond what is included in Basic and Supplemental Services.
- 10) Preparation of communication, marketing, and fundraising materials including PowerPoint, flyers, kiosks, animations, artist renderings, physical presentation models, videos, web design and content other than those included in Basic and Supplemental Services.
- 11) Providing services for preparing measured drawings of existing building conditions with the exception of the site survey and site plan.
- 12) Additional architectural images of the Project other than those included in Basic and Supplemental Services.

- 13) Making revisions in drawings, or documents when such revisions are:
 - a) Inconsistent with directions or instructions previously given by the City.
 - b) Required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents.
 - c) Due to changes required as a result of the City's failure to render decisions in a timely manner.
- 14) Providing services required due to significant Project scope changes, including but not limited to, size, quality, complexity, the approved Project schedule, or the method of bidding or negotiating and contracting for construction
- 15) Work required to correct non-conforming work of Contractor.
- 16) Testing and/or evaluation of any off-site utilities
- 17) Preparation, attendance and follow-up for meetings or presentations that are in addition to those that are specified and budgeted in basic services or Additional services.

PROPOSED PROJECT SCHEDULE

- Project Kick-Off September 2024

- Program and Conceptual Design & Approval October - December 2024

- Community Outreach October 2024 - January 2025

- City Council Direction on Conceptual Design February 2025

- Schematic Design & Approval March - May 2025

- Design Development June - September 2025

- Construction Documentation October - December 2025

- Plan Check and Permits January - June 2026

- Bidding & Award June - August 2026

- Construction Begins September 2026

- Grand Opening Summer 2028

EXHIBIT B - Compensation

1. COMPENSATION FOR BASIC SERVICES

Compensation to the Consultant for Basic Services described in Exhibit A, shall be based on a Project budget of \$65 million (section 1.1 below) or \$55 million (section 1.2 below), which shall be determined by City and the rates will be as follows:

1.1. Basic Services Base Option: \$65 Million Project Budget

1.1.1. Compensation for the Base Option basic services per project phase shall not exceed the following unless approved by the City.

Task	Phase	Subtotal	Total
	Phase 1		
1.1	Predesign, Project Kick-off, Tours	\$72,750	
1.2	Site Feasibility, + Design Alternatives	\$242,690	
1.3	Conceptual Design + Financial Analysis	\$304,606	
1.4	Preliminary Traffic Study	\$34,540	
1.5	Community Outreach	\$97,326	
	Phase 1 Total		\$751,912
	Phase 2		
2.1	Schematic Design	\$611,233	
2.2	Design Development	\$908,332	
2.3	Construction Documents	\$1,397,999	
2.4	Bidding, Construction Administration	\$1,084,790	
2.5	Project Closeout + Post-Construction Phase	\$163,995	
2.6	Furniture, Fixtures + Equipment	\$50,000	
	Phase 2 Total		\$4,216,349
	Total \$65M Base Option Total		\$4,968,261

1.1.2. Reimbursable Expenses Allowance per Paragraph 3.0 below shall be: \$297,000

1.1.3. Project Contingency Allowance per Paragraph 4.0 below shall be: \$400,000

1.1.4. Total Maximum Compensation for Basic Services, Reimbursable Allowance, and Project Contingencies shall be: **\$5,665,261**

A stipulated sum of **Five Million Six Hundred Sixty-Five Thousand, Two Hundred and Sixty-One Dollars (\$5,665,261.00)**.

1.2. Basic Services Alternate Option: \$55 Million Project Budget

1.2.1. Compensation for the Base Option basic services per project phase shall not exceed the following unless approved by the City.

Task	Phase	Subtotal	Total
	Phase 1		
1.1	Predesign, Project Kick-off, Tours	\$72,750	
1.2	Site Feasibility, + Design Alternatives	\$232,640	
1.3	Conceptual Design + Financial Analysis	\$270,379	

1.4	Preliminary Traffic Study	\$35,508	
1.5	Community Outreach	\$80,242	
	Phase 1 Total		\$691,591
	Phase 2		
2.1	Schematic Design	\$546,682	
2.2	Design Development	\$822,160	
2.3	Construction Documents	\$1,271,618	
2.4	Bidding, Construction Administration	\$1,033,015	
2.5	Project Closeout + Post-Construction Phase	\$144,230	
2.6	Furniture, Fixtures + Equipment	\$44,000	
	Phase 2 Total		\$3,861,704
	Total \$55M Alternate Option Total		\$4,553,223

1.2.2. Reimbursable Expenses Allowance per Paragraph 3.0 below shall be: \$276,000

1.2.3. Project Contingency Allowance per Paragraph 4.0 below shall be: \$400,000

1.2.4. Total Maximum Compensation for Basic Services, Reimbursable Allowance, and Project Contingencies shall be: **\$5,229,223**

A stipulated sum of **Five Million Two Hundred Twenty-Nine Thousand, Two Hundred and Twenty-Three Dollars (\$5,229,223.00)**.

2. COMPENSATION FOR ADDITIONAL SERVICES

2.1. Compensation to the Consultant for Additional Services described in Exhibit A is in addition to compensation for Basic Services and shall be either at the following hourly rates or made as a negotiated stipulated sum. The rates below will be in effect through December 31, 2024, and are subject to annual revisions at the start of each calendar year.

Principal in Charge	\$270.00
Principal	\$260.00
Associate	\$240.00
Project Manager	\$205.00
Architect III	\$200.00
Architect II	\$190.00
Architect I	\$185.00
Architectural Staff III	\$175.00
Architectural Staff II	\$165.00
Architectural Staff I	\$155.00
Interior Designer II / Planner II	\$165.00
Interior Designer I / Planner I	\$155.00
Project Support	\$130.00 - \$250.00
Consulting Principal	\$330.00

2.2. Compensation for meetings in addition to those described in Exhibit A Basic Services shall be on a per meeting basis at the rates below.

Community Open House, Online Survey, and Pop-up Kiosk	\$5,500 per event
Citizen's Advisory Committee (CAC) Meetings	\$2,000 per meeting
Commission Meetings:	\$2,000 per meeting
City Council Presentation	\$2,500 per meeting
Community Meetings	\$2,500 per meeting

3. COMPENSATION FOR REIMBURSABLE EXPENSES

3.1. Reimbursable expenses related to the Project, whether for consultant, subconsultant, or City use, and are billable at 1.10 times direct cost Reimbursable expenses are in addition to compensation for Basic and Supplemental Services in Exhibit A and shall not exceed two hundred and ninety-seven thousand dollars (\$297,000) without approval by the City. Reimbursable expenses include expenses incurred by the Architect and subconsultants in the interest of the Project. Such costs include, but are not necessarily limited to:

- Plotting of check sets and presentation drawings.
- Outside service scanning, printing, copying of drawings and documents of any size.
- In-house project-related printing/copying (black/white and color), including draft and final reports, specifications, and drawings.
- Outside telephone conferencing services.
- Postage, delivery and messenger service.
- Overtime expenses with prior client approval.
- Architectural renderings, physical and digital scale models and animations.
- Videos, web services, opinion surveys.
- Travel expenses, including mileage, tolls, lodging and meals.
- Sub-consultant costs.
- Presentation boards.
- Facilitation tools.
- Workshop accessories and facilitation materials.
- Software purchase and licensure on behalf of the client.

3.2. The following expenses are included in the hourly billing rates and are not billed separately:

- General in-house black and white printing/copying of 11"x 17" or smaller, except as noted above.
- Telephone and fax usage, unless stipulated otherwise by Agreement.

4. PROJECT CONTINGENCY ALLOWANCE

The project contingency allowance can be used to accommodate additional project needs and/or new project components. Under this allowance additional work conducting additional community engagement, additional studies, or project task not included in Basic Services may be performed by the Consultant as authorized.

FEE SUMMARY

BASELINE: \$65M TOTAL PROJECT BUDGET

PHASE / DESCRIPTION		PHASE 1: PREDESIGN, CONCEPT, + COMMUNITY ENGAGEMENT					PHASE 2: DESIGN + CONSTRUCTION						SUBTOTAL FEES
		Task 1.1 Pre-Design, KO, Tours	Task 1.2 Site Feasibility + Design Alt.	Task 1.3 Conceptual Design + Fin. Analysis	Task 1.4 Preliminary Traffic Study	Task 1.5 Community Outreach	Task 2.1 Schematic design	Task 2.2 Design Devt	Task 2.3 Construction Documents	Task 2.4 Bidding, CA, Project CO	Task 2.5 Project CO + Post Const.	Task 2.6 Furniture, Fixtures, + Equipment	
Architectural	Group 4 Architecture	\$65,000	\$123,200	\$173,800		\$82,500	\$203,500	\$316,000	\$360,560	\$660,363	\$66,000		\$2,050,923
Aquatic Design	Councilman-Hunsaker (CH2O)	\$6,250	\$9,470	\$16,446		\$8,999	\$98,763	\$155,942	\$187,130	\$59,626	\$18,345		\$560,970
Survey/Top/Base Map/Utilities	BKF		\$75,970										\$75,970
Civil	BKF	\$1,500		\$42,800			\$37,450	\$53,500	\$107,000	\$53,500	\$5,350		\$301,100
Geotech	Shannon Wilson						\$63,444	\$4,713	\$5,350				\$73,507
Landscape	SWA		\$30,814	\$36,523	\$2,450	\$5,827	\$93,640	\$135,875	\$177,289	\$109,433	\$5,211		\$597,063
Structure	Degenkolb		\$3,237	\$3,579			\$27,456	\$49,916	\$174,870	\$111,946	\$4,707		\$375,710
Mech./Plumb/FP	Capital Engineering						\$22,245	\$37,076	\$51,906	\$7,415	\$33,940		\$152,582
Elect./Lighting	OMahony + Myer						\$19,260	\$96,300	\$208,650	\$53,500	\$6,420		\$384,130
Low Voltage/Sec./AV	Smith Faus MacDonald						\$9,780	\$13,792	\$26,311	\$11,888	\$3,692		\$65,463
Traffic	LSA				\$32,089								\$32,089
Signage + Graphics	Group 4 Architecture	Included in Architectural											
Food Service	Marshall						\$2,140	\$4,280	\$9,630	\$8,560	\$1,070		\$25,680
FF+E	Group 4 Architecture											\$50,000	\$50,000
Commissioning	GRD							\$2,140	\$8,560	\$8,560	\$19,260		\$38,520
Community Engagement	Group 4 Architecture/CH2O	Included Above Community Outreach											
Operating + Expense Studies	Councilman-Hunsaker (CH2O)	Included Above in (CH2O fees)											
Estimating Services	TBDC			\$31,458			\$33,555	\$38,798	\$80,742				\$184,554
	SUBTOTALS:	\$72,750	\$242,690	\$304,606	\$34,540	\$97,326	\$611,233	\$908,332	\$1,397,999	\$1,084,790	\$163,995	\$50,000	\$4,968,261
Reimbursables	Allowance	\$4,000	\$15,000	\$18,000	\$2,000	\$6,000	\$37,000	\$54,000	\$84,000	\$65,000	\$10,000	\$2,000	\$297,000
	TOTAL:	\$78,250	\$367,711	\$436,967	\$71,079	\$109,153	\$967,203	\$1,398,722	\$2,332,308	\$1,514,592	\$253,645	\$102,000	\$5,265,261

HR SUMMARY

BASELINE: \$65M TOTAL PROJECT BUDGET

PHASE / DESCRIPTION		PHASE 1: PREDESIGN, CONCEPT, + COMMUNITY ENGAGEMENT					PHASE 2: DESIGN + CONSTRUCTION						SUBTOTAL HOURS
		Task 1.1 Pre-Design, KO, Tours	Task 1.2 Site Feasibility + Design Alt.	Task 1.3 Conceptual Design + Fin. Analysis	Task 1.4 Preliminary Traffic Study	Task 1.5 Community Outreach	Task 2.1 Schematic design	Task 2.2 Design Devt	Task 2.3 Construction Documents	Task 2.4 Bidding, CA, Project CO	Task 2.5 Project CO + Post Const.	Task 2.6 Furniture, Fixtures, + Equipment	
Architectural	Group 4 Architecture	325	616	869		413	1,018	1,580	1,803	3,302	330		10,255
Aquatic Design	Councilman-Hunsaker (CH2O)	31	47	82		45	494	780	936	298	92		2,805
Survey/Top/Base Map/Utilities	BKF		380										380
Civil	BKF	8		214			187	268	535	268	27		1,506
Geotech	Shannon Wilson						317	24	27				368
Landscape	SWA		154	183	12	29	468	679	886	547	26		2,985
Structure	Degenkolb		16	18			137	250	874	560	24		1,879
Mech./Plumb/FP	Capital Engineering						111	185	260	37	170		763
Elect./Lighting	OMahony + Myer						96	482	1,043	268	32		1,921
Low Voltage/Sec./AV	Smith Faus MacDonald						49	69	132	59	18		327
Traffic	LSA				160								160
Signage + Graphics	Group 4 Architecture	Included in Architectural											
Food Service	Marshall						11	21	48	43	5		128
FF+E	Group 4 Architecture												
Commissioning	GRD							11	43	43	96		193
Community Engagement	Group 4 Architecture/CH2O	Included Above Community Outreach											
Operating + Expense Studies	Councilman-Hunsaker (CH2O)	Included Above in (CH2O fees)											
Estimating Services	TBDC			157			168	194	404				923
	TOTAL HOURS	364	1,213	1,523	173	487	3,056	4,542	6,990	5,424	820		24,591

FEE SUMMARY

ALTERNATE 1: \$55M TOTAL PROJECT BUDGET

PHASE / DESCRIPTION	PHASE 1: PREDESIGN, CONCEPT, + COMMUNITY ENGAGEMENT					PHASE 2: DESIGN + CONSTRUCTION						SUBTOTAL FEES	
	Task 1.1	Task 1.2	Task 1.3	Task 1.4	Task 1.5	Task 2.1	Task 2.2	Task 2.3	Task 2.4	Task 2.5	Task 2.6		
	Pre-Design, KO, Tours	Site Feasibility + Design Alt.	Conceptual Design + Fin. Analysis	Preliminary Traffic Study	Community Outreach	Schematic design	Design Devt	Construction Documents	Bidding, CA, Project CO	Project CO + Post Const.	Furniture, Fixtures, + Equipment		
Architectural	Group 4 Architecture	\$65,000	\$112,000	\$143,000		\$65,000	\$167,000	\$284,000	\$324,000	\$648,000	\$54,000		\$1,862,000
Aquatic Design	Councilman-Hunsaker (CH2O)	\$6,250	\$9,735	\$16,907		\$9,251	\$91,633	\$144,603	\$173,524	\$55,290	\$17,012		\$524,205
Survey/Top/Base Map/Utilities	BKF		\$75,900										\$75,900
Civil	BKF	\$1,500		\$39,600			\$34,650	\$49,500	\$99,000	\$49,500	\$4,950		\$278,700
Geotech	Shannon Wilson						\$65,222	\$4,846	\$5,500				\$75,568
Landscape	SWA		\$31,678	\$37,547	\$2,519	\$5,991	\$81,729	\$117,880	\$154,088	\$95,148	\$4,516		\$531,095
Structure	Degenkolb		\$3,328	\$3,680			\$25,403	\$46,184	\$165,113	\$103,576	\$4,355		\$351,638
Mech./Plumb/FP	Capital Engineering						\$20,582	\$34,304	\$48,025	\$6,861	\$31,403		\$141,174
Elect./Lighting	OMahony + Myer						\$16,500	\$83,600	\$180,400	\$46,200	\$5,500		\$332,200
Low Voltage/Sec./AV	Smith Faus MacDonald						\$9,961	\$13,464	\$25,674	\$11,941	\$3,795		\$64,834
Traffic	LSA				\$32,989								\$32,989
Signage + Graphics	Group 4 Architecture	Included above in Architectural											
Food Service	Marshall						\$2,200	\$4,400	\$9,900	\$8,800	\$1,100		\$26,400
FF+E	Group 4 Architecture											\$44,000	\$44,000
Commissioning	GRD							\$1,650	\$7,700	\$7,700	\$17,600		\$34,650
Community Engagement	Group 4 Architecture/CH2O	Included Above Community Outreach											
Operating + Expense Studies	Councilman-Hunsaker (CH2O)	Included Above in (CH2O fees)											
Estimating Services	TBDC			\$29,645			\$31,801	\$37,730	\$78,694				\$177,870
SUBTOTALS:		\$72,750	\$232,640	\$270,379	\$35,508	\$80,242	\$546,682	\$822,160	\$1,271,618	\$1,033,015	\$144,230	\$44,000	\$4,553,223
Reimbursables	Allowance	\$4,000	\$14,000	\$16,000	\$2,000	\$5,000	\$33,000	\$49,000	\$76,000	\$62,000	\$9,000	\$6,000	\$276,000
TOTAL :		\$78,250	\$357,546	\$396,851	\$73,016	\$91,232	\$867,730	\$1,264,717	\$2,121,712	\$1,424,740	\$226,448	\$94,000	\$4,829,223

HOOR SUMMARY

ALTERNATE 1: \$55M TOTAL PROJECT BUDGET

PHASE / DESCRIPTION	PHASE 1: PREDESIGN, CONCEPT, + COMMUNITY ENGAGEMENT					PHASE 2: DESIGN + CONSTRUCTION						SUBTOTAL HOURS	
	Task 1.1	Task 1.2	Task 1.3	Task 1.4	Task 1.5	Task 2.1	Task 2.2	Task 2.3	Task 2.4	Task 2.5	Task 2.6		
	Pre-Design, KO, Tours	Site Feasibility + Design Alt.	Conceptual Design + Fin. Analysis	Preliminary Traffic Study	Community Outreach	Schematic design	Design Devt	Construction Documents	Bidding, CA, Project CO	Project CO + Post Const.	Project CO + Post Const.		
Architectural	Group 4 Architecture	325	560	715		325	835	1,420	1,620	3,240	270		9,310
Aquatic Design	Councilman-Hunsaker (CH2O)	31	49	85		46	458	723	868	276	85		2,621
Survey/Top/Base Map/Utilities	BKF		380										380
Civil	BKF	8		198			173	248	495	248	25		1,394
Geotech	Shannon Wilson						326	24	28				378
Landscape	SWA		158	188	13	30	409	589	770	476	23		2,655
Structure	Degenkolb		17	18			127	231	826	518	22		1,758
Mech./Plumb/FP	Capital Engineering						103	172	240	34	157		706
Elect./Lighting	OMahony + Myer						83	418	902	231	28		1,661
Low Voltage/Sec./AV	Smith Faus MacDonald						50	67	128	60	19		324
Traffic	LSA				165								165
Signage + Graphics	Group 4 Architecture	Included above in Architectural											
Food Service	Marshall						11	22	50	44	6		132
FF+E	Group 4 Architecture											293	293
Commissioning	GRD							8	39	39	88		173
Community Engagement	Group 4 Architecture/CH2O	Included Above Community Outreach											
Operating + Expense Studies	Councilman-Hunsaker (CH2O)	Included Above in (CH2O fees)											
Estimating Services	TBDC			148			159	189	393				889
TOTAL HOURS		728	1,163	1,352	178	401	2,733	4,111	6,358	5,165	721	293	23,203



Staff recommends that the City Council adopt a Resolution approving the Professional Services Agreement with Group 4 Architecture, Research + Planning, Inc. (Consultant) for the development of the City of Tracy Aquatic Center, CIP 78054, for a total not-to-exceed amount of \$5,665,261 and authorize the City Manager to approve change orders up to that amount.

September 17, 2024



OVERVIEW

- Summary of April 30, 2024 City Council Direction
- Request for Proposals – A/E Teams
- Group 4 Architecture Relevant Project Experience
- Project Website
- Q+A



April 30, 2024

City Council Recap

- Authorized staff to plan the project (ie. hire design team) using the elements of the 2020 conceptual plan and return to City Council with a concept for further discussion.
- Aquatic Center Program Priorities Confirmed
 1. 50-meter long-course competition pool
 2. Recreation/warm-up pool
 3. Lazy River
 4. Water slides
 5. Toddler Area
 6. Indoor Pool (Optional)
 7. Fitness Center (Optional)



Think Inside the Triangle™



Request for Proposals (RFP)

Architecture/Engineering Procurement Summary

- ✓ RFP Issued May 30, 2024
- ✓ Seven (7) Proposals Received
- ✓ Staff Evaluations & Shortlist
- ✓ Three (3) Finalists Interviewed
- ✓ Final Staff Selection – Group 4 Architecture



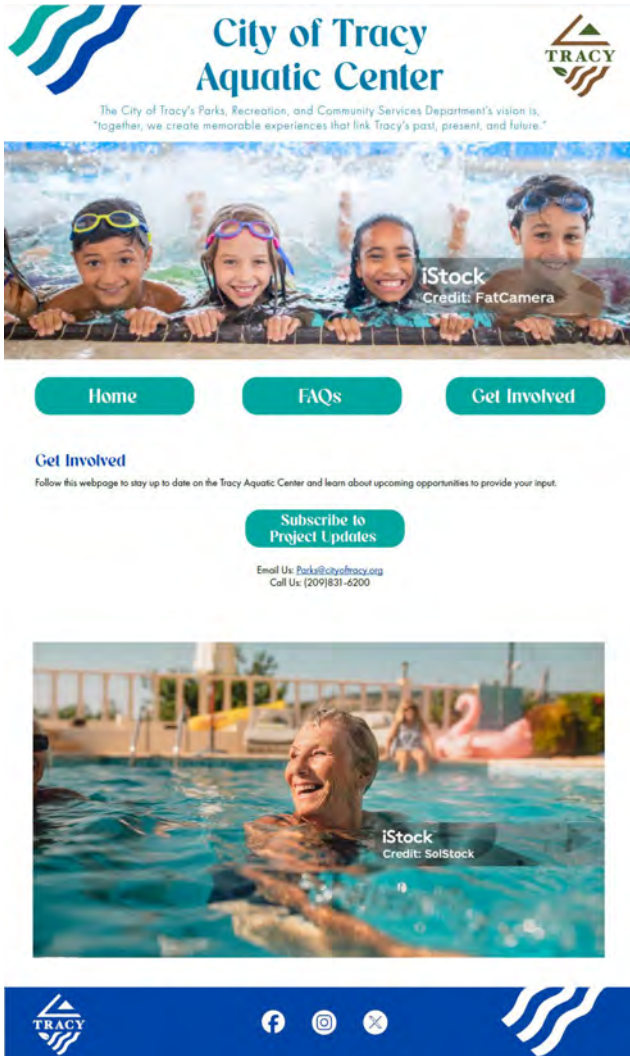
Group 4 Architecture Experience

- Demonstrated the competence and professional qualifications necessary for the satisfactory performance of the required services and best met the City's needs
- Over 40 years of experience supporting projects, with strong emphasis on aquatic and community centers for public agencies
- Aquatic design specialty subconsultant has extensive depth of both local and national experience in regional aquatic centers and operational models





Project Website



Launching Project Website

www.cityoftracyaquaticcenter.com

- ✓ Project Overview
- ✓ Next Steps / Project Schedule
- ✓ Project Location
- ✓ Frequently Asked Questions (FAQs)
- ✓ Ability to Subscribe to Project Updates



Think Inside the 'Triangle'

RECOMMENDATIONS

Staff recommends that the City Council adopt a Resolution approving the Professional Services Agreement with Group 4 Architecture, Research + Planning, Inc. (Consultant) for architectural, engineering, and associated design services related to the development of the City of Tracy Aquatic Center, CIP 78054, for a total not-to-exceed amount of \$5,665,261 and authorize the City Manager to approve change orders up to that amount.



QUESTIONS?



CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH GROUP 4 ARCHITECTURE, RESEARCH + PLANNING, INC. FOR ARCHITECTURAL, ENGINEERING, AND ASSOCIATED DESIGN SERVICES RELATED TO THE DEVELOPMENT OF THE CITY OF TRACY AQUATIC CENTER, CAPITAL IMPROVEMENT PROJECT 78054, FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$5,665,261, AND AN INITIAL TERM OF 4 YEARS WITH AN ADMINISTRATIVE OPTION TO EXTEND FOR UP TO ANOTHER 2 YEARS

WHEREAS, the City of Tracy (City) and Surland Communities LLC (Surland) have been parties to a longstanding Development Agreement (Original Agreement), dating as far back as December 16, 2008, with respect to Surland's development of real property located within the Ellis Specific Plan; and

WHEREAS, Tracy Alliance for a Quality Community (TRAQC) filed a lawsuit challenging the Ellis project approvals, including the Environmental Impact Report (EIR) and the Original Agreement; and

WHEREAS, Surland and City appealed the Superior Court's (Court) ruling effectively staying the Court's decision to overturn the approvals; and

WHEREAS, the Ellis Specific Plan (ESP) and ESP Environmental Impact Report (ESP EIR), in accordance with the California Environmental Quality Act and related Guidelines (CEQA), were approved by the City Council on January 22, 2013; and

WHEREAS, to resolve the TRAQC lawsuit, the City Council approved an Amended and Restated Development Agreement (Agreement) between the City and Surland by adopting Ordinance No. 1182 on March 5, 2013; and

WHEREAS, among other things, the 2013 Development Agreement required Surland to dedicate to the City 16 acres of land within the ESP for the future home of a public aquatics park (Aquatic Center), through the grant to the City of an irrevocable offer of dedication (IOD), by a certain date; and

WHEREAS, in addition to the IOD, the 2013 Development Agreement required Surland to pay the City \$10 million towards the development, construction, operation and maintenance of the facility; and

WHEREAS, Surland made an initial payment of \$2 million to the City on September 5, 2014; and

WHEREAS, through various tolling agreements, the parties negotiated a different location for the land dedication and extended the dates by which Surland had to grant the IOD and pay the amount due; and

WHEREAS, the last extended dates are reflected in that certain Fourth Agreement To Toll And Extend The Dedication Acceptance Period And The 60-Day Cure Period For The Second Swim Center Payment Under The Amended And Restated Development Agreement By And Between The City Of Tracy And Surland Communities, LLC, dated April 3, 2018 (Fourth Tolling Agreement); and

WHEREAS, the parties also amended the 2013 Development Agreement twice, the most recent of which was pursuant to that certain Second Amendment to the Amended and Restated Development Agreement By and Between the City of Tracy and Surland Communities, LLC (2018 Second Amendment); and

WHEREAS, the revised 2018 Development Agreement allowed Surland to take over responsibility from the City for the design and construction management of the Aquatic Center and City was required to reimburse Surland for these services from the \$2 million that was initially paid by Surland; and

WHEREAS, Surland prepared conceptual plans for the Aquatic Center, and per the terms of the 2018 Second Amendment, the City has reimbursed Surland \$1,318,287 for such services, from an initial \$2 Million that Surland had paid to the City pursuant to the 2013 Development Agreement; and

WHEREAS, Mary Mitracos filed a lawsuit against the City and Surland challenging the legality of the 2018 Second Amendment to Development Agreement and the ordinance effectuating its approval by the City Council; and

WHEREAS, in 2020, the San Joaquin County Superior Court entered Judgment in Ms. Mitracos' favor and issued a Peremptory Writ of Mandate ordering the City to rescind the 2018 Second Amendment and all actions taken pursuant to that amendment; and

WHEREAS, the Court's ruling was affirmed on appeal and the City is complying with the Court's mandate; and

WHEREAS, on September 20, 2022, in compliance with the Court order, the City Council rescinded through Resolution 2022-134 various actions that had been taken pursuant to the 2018 Second Amendment, including the City's prior approval of the conceptual plans that had been developed by Surland; and

WHEREAS, the City now holds control of the Aquatic Center project per the rescission of the 2018 Second Amendment; and

WHEREAS, the Aquatic Center project is a complex endeavor requiring a unique understanding of various systems, products, construction methods, project delivery approaches and an overall expertise in the construction of aquatic facilities; and

WHEREAS, on July 5, 2023, the City Council took action to further the project by determining a project site through the adoption of a resolution accepting an irrevocable offer of dedication of fee interest for 16 acres of community park land from Ellis Village, LLC; and

WHEREAS, on September 5, 2023, the City Council approved a Professional Services Agreement (PSA) with Griffin Structures for project management services for the Aquatic Center Project (Project); and

WHEREAS, on April 30, 2024, staff presented a plan to the City Council to move the Project forward, which included procurement of an architectural and engineering team to lead the Project; staff also recommended that Surland's 334-page Design Development plans (Surland Plans) for the project be rejected, citing concerns over an estimated cost of \$165.1 million to construct the Project if built based on the Surland Plans; and

WHEREAS, pursuant to the motion passed on April 30, 2024, staff was authorized to further plan the Project, using the elements of the prior 2020 conceptual plan that were the results of an extensive public process and return to City Council with a concept for further discussion; and

WHEREAS, those elements included, in priority order: (1) 50-meter-long course competition pool, (2) recreation/warm-up pool, (3) lazy river, (4) waterslides, (5) toddler area, (6) indoor pool (optional), and (7) fitness center (optional); and

WHEREAS, the Project was previously approved by the City Council as Capital Improvement Project (CIP) 78054 with an established budget of \$65,000,000, with \$55,000,000 from the City's Measure V funds and \$10,000,000 from Developer; and

WHEREAS, on May 30, 2024, staff issued a Request for Proposal (RFP) to obtain a consultant team to provide professional services for architectural, engineering, and associated design services related to the development of the Project; and

WHEREAS, seven (7) proposals were submitted by the established deadline of July 2, 2024, and staff evaluated the proposals using explicit criteria, including related experiences, understanding of the RFP requirements, proposed timeline, and proposed methodology; and

WHEREAS, after a comprehensive review of all proposals and short-list interviews, staff determined Group 4 Architecture, Research + Planning, Inc. (Consultant) was the most responsive and demonstrated the competence and professional qualifications necessary for the satisfactory performance of the required services; and

WHEREAS, staff proposes that the City enter into a PSA with Consultant for a not-to-exceed budget of \$5,665,261 and an initial term of 4 years and an administrative option to extend for an additional 2 years; and

WHEREAS, the Consultant's fee of \$5,665,261 (which is approximately 9% of the total project budget and within industry standard for design services) is covered by the current available funding of \$55,000,000; and

now, therefore, be it,

RESOLVED: That the City Council of the City of Tracy hereby approves a Professional Services Agreement in the form attached as Exhibit 1 with Group 4 Architecture, Research + Planning, Inc. for architectural, engineering, and associated design services for the Aquatic Center Project (CIP 78054) for a not-to-exceed amount of \$5,665,261 and an initial term of 4 years with an administrative option to extend for another 2 years; and be it further

RESOLVED: That the City Council finds that this item is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., “CEQA”) and CEQA regulations (14 California Code of Regulations §§ 15000, et seq.; “CEQA Guidelines”) as the action is for design work of a Project that has not been designed and approved and therefore constitutes “feasibility or planning studies” and not subject to CEQA pursuant to CEQA Guidelines §15262. Appropriate CEQA review will be done prior to any future discretionary actions related to the Project that may have a foreseeable impact on the environment.

The foregoing Resolution 2024-_____ was adopted by the Tracy City Council on September 17, 2024, 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