

JOINT MEETING OF THE TRACY CITY COUNCIL
AND THE SUCCESSOR AGENCY TO THE CITY OF
TRACY COMMUNITY DEVELOPMENT AGENCY

REGULAR MEETING AGENDA

Tuesday, December 1, 2015, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

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

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 (209/831-6000) 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. Each citizen will be allowed a maximum of five minutes for input or testimony. At the Mayor'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 Council direction. A motion and roll call vote may enact the entire Consent Calendar. No separate discussion of Consent Calendar items will occur unless members of the City Council, City staff or the public request discussion on a specific item at the beginning of the meeting.

Addressing the Council on Items not on the Agenda – The Brown Act prohibits discussion or action on items not on the posted agenda. Members of the public addressing the Council should state their names and addresses for the record, and for contact information. The City Council's Procedures for the Conduct of Public Meetings provide that "Items from the Audience" following the Consent Calendar will be limited to 15 minutes. "Items from the Audience" listed near the end of the agenda will not have a maximum time limit. Each member of the public will be allowed a maximum of five minutes for public input or testimony. However, a maximum time limit of less than five minutes for public input or testimony may be set for "Items from the Audience" depending upon the number of members of the public wishing to provide public input or testimony. The five minute maximum time limit for each member of the public applies to all "Items from the Audience." Any item not on the agenda, brought up by a member of the public shall automatically be referred to staff. In accordance with Council policy, if staff is not able to resolve the matter satisfactorily, the member of the public may request a Council Member to sponsor the item for discussion at a future meeting. 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.

Presentations to Council - Persons who wish to make presentations which may exceed the time limits are encouraged to submit comments in writing at the earliest possible time to ensure distribution to Council and other interested parties. Requests for letters to be read into the record will be granted only upon approval of the majority of the Council. Power Point (or similar) presentations need to be provided to the City Clerk's office at least 24 hours prior to the meeting. All presentations must comply with the applicable time limits. Prior to the presentation, a hard copy of the Power Point (or similar) presentation will be provided to the City Clerk's office for inclusion in the record of the meeting and copies shall be provided to the Council. Failure to comply will result in the presentation being rejected. Any materials distributed, including those distributed within 72 hours of a regular City Council meeting, to a majority of the Council regarding an item on the agenda shall be made available for public inspection at the City Clerk's office (address above) during regular business hours.

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 at City Hall, 333 Civic Center Plaza, and the Tracy Public Library, 20 East Eaton Avenue, and on the City's website: www.ci.tracy.ca.us

CALL TO ORDER
PLEDGE OF ALLEGIANCE
INVOCATION
ROLL CALL
PRESENTATIONS – Employee of the Month

1. CONSENT CALENDAR

- A. Adopt Council Minutes – Regular meeting minutes of November 3, 2015, and closed session minutes of November 16, 2015.
- B. Waive Second Reading and Adopt Ordinance 1202 an Ordinance of the City of Tracy Amending Sections 10.08.010, 10.08.100, 10.08.270, 10.08.320, 10.08.600, 10.08.610, 10.08.790, 10.08.1080, 10.08.1100, 10.08.1200, 10.08.1280, 10.08.1390, 10.08.1580, 10.08.3140, 10.08.3180, and Adding Sections 10.08.302, 10.08.808, 10.08.852, 10.08.861, 10.08.3197 and 10.08.3199 of the Tracy Municipal Code Relating to Conformance with the General Plan Housing Element and Other Consistency Changes
- C. Award a Construction Contract to the Lowest Responsible Bidder for the Advanced Traffic Signal System on Tracy Boulevard (Sixth Street/Beechnut Avenue to Clover Road) and Fiber Optic System from City Hall to the Wastewater Treatment Plant, CIPs - 72089 & 74112, and Authorize the Mayor to Execute the Contract
- D. City Staff Requests City Council to: (1) to Rename Schulte Road West of Lammers Road as Promontory Parkway and (2) Authorize Initiation of a Process for Renaming Existing Schulte Road Between Corral Hollow Road and Lammers Road (along Union Pacific Railroad Tracks)
- E. Authorize the Appointment of Two Youth and Two Adult Commissioners to the Youth Advisory Commission
- F. Authorize an Amendment of the City's Classification and Compensation Plan and Position Control Roster Reinstating a Full-Time Technical Theatre Supervisor and Reallocating One Full-Time Theatre Operations and Technical Assistant and Two Part Time Program Assistant Positions to a Technical Theatre Supervisor Position in the Cultural Arts Division
- G. Approval to Purchase Fuelmaster Automated Fuel Management System to Replace PetroVend Automated Fuel Management System at the City's Boyd Service Center
- H. Authorize a Master Subscription Agreement and Service Order with Fuseforward Cloud Services Ltd. for Wastewater Computerized Maintenance Management System Services and Authorize the Mayor to Execute the Service Order

- I. Approve a Professional Services Agreement with Erler & Kalinowski, Inc., a California Corporation for an Update to the Urban Water Management Plan; and Approve Supplemental Appropriations in the Amounts of \$67,000 and \$20,000 From the Water Fund
 - J. Approval of a Cooperative Agreement Between the City of Tracy and San Joaquin County for the Widening of Corral Hollow Road from Parkside Drive to the I-580 Ramp and Authorize the Mayor to Execute the Agreement
 - K. Authorize Amendment of the City's Classification and Compensation Plans and Position Control Roster by Approving the Establishment of a New Classification Specification and Salary Range for Finance Division Manager in the Administrative Services Department
 - L. Approve Amendment No. 1 to the Professional Services Agreement with Goodwin Consulting Group, Inc. for the Analysis of Fiscal Impacts from New Development and Approve Funding Allocation
 - M. Adopt the Compensation and Benefits Plan for the Confidential Management Unit
 - N. Adopt the Compensation and Benefits Plan for the Technical And Support Services Unit (TSSU)
 - O. Adopt the Memorandum of Understanding Between the City of Tracy and the Tracy Mid-Managers Bargaining Unit (TMMBU)
 - P. Adopt a Resolution Authorizing the Approval of (1) the Modification of the Loan Secured by Mountain View Townhomes, (2) The Assignment and Assumption for the Loan Between Sutter Ville SJC Holding Company LLC., and the Tracy Mountain View Associates, LP. And (3) The Subordination of the Loan to New Construction and Permanent Financing
2. ITEMS FROM THE AUDIENCE
 3. INTRODUCTION OF AN ORDINANCE ADDING A NEW SECTION 10.08.3198 TO TITLE 10 OF THE TRACY MUNICIPAL CODE RELATING TO DONATION CONTAINERS – CITY INITIATED – APPLICATION NUMBER ZA15-0004
 4. INTRODUCTION OF AN ORDINANCE AMENDING SECTION 4.16.190 OF THE TRACY MUNICIPAL CODE MAKING IT A MISDEMEANOR TO BE IN A PARK AFTER DARK; AMENDING ARTICLE 14 OF CHAPTER 4.12 DEFINING AND MAKING AGGRESSIVE AND DANGEROUS SOLICITATION A MISDEMEANOR
 5. PUBLIC HEARING TO CONSIDER THE PROPOSED ANNEXATION OF THE TRACY GATEWAY CROSSINGS APARTMENT PROJECT INTO THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT AS ZONE NO. 42; DECLARE RESULTS OF THE PROPERTY OWNER PROTEST BALLOT AND APPROVE CERTAIN RELATED ACTIONS; CONFIRM THE ANNEXATION OF THE PROJECT INTO THE DISTRICT AS ZONE 42 AND ORDER THE LEVY AND COLLECTION OF ASSESSMENTS FOR FISCAL YEAR 2016/2017

6. ADOPT A RESOLUTION OF THE SUCCESSOR AGENCY TO THE TRACY COMMUNITY DEVELOPMENT AGENCY RELATED TO THE REFINANCING OF OUTSTANDING BONDS
7. RECEIVE AND FILE THE PRESENTATION ON THE FIRST QUARTER OPERATING REPORT
8. DISCUSS FIVE-YEAR OUTLOOK AND STRATEGIC STAFFING PLAN
9. ITEMS FROM THE AUDIENCE
10. COUNCIL ITEMS
11. ADJOURNMENT

November 3, 2015, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

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

Mayor Maciel called the City Council meeting to order at 7:07 p.m. and led the Pledge of Allegiance.

Invocation was led by Pastor Scott McFarland, Journey Christian Church.

Roll call found Council Members Mitracos, Vargas, Young, Mayor Pro Tem Rickman and Mayor Maciel present.

Mayor Maciel recognized the D.A.R.E. graduate students from Art Freiler, George Kelly, and Gladys Poet Christian Elementary Schools.

Troy Brown, City Manager, presented Employee of the Month Award for November 2015, to Police Officer Scott Muir.

Mayor Maciel presented the Pancreatic Cancer Awareness Day Proclamation to Danielle Mintz, Pancreatic Cancer Action Network's Bay Area Affiliate.

Mayor Maciel presented the Arbor Day Proclamation to Don Scholl, Interim Public Works Director.

Mayor Maciel presented the Runaway Homeless Youth Awareness Month Proclamation to Joelle Gomez, CEO of Women's Center – Youth & Family Services.

1. CONSENT CALENDAR

ACTION Following the removal of item 1C it was moved by Mayor Pro Tem Rickman and seconded by Council Member Vargas to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered. Motion carried 5:0

- A. Adopt Council Minutes – Special Meeting minutes of July 28, 2015, September 1, 2015. Closed Session Meeting minutes of October 13, 2015 and October 20, 2015 were adopted.
- B. Authorize Amendment of the City's Classification and Compensation Plans and Position Control Roster By Approving the Establishment of a New Class Specification and Salary Range for Environmental Compliance Technician in the Water Resources Section of the Utilities Department – Resolution 2015-181 authorizing amendment of the City's Classification and Compensation Plans and Position Control Roster.

- D. Accept Travel Report for City Manager Troy Brown's Attendance at the International City/County Management Association (ICMA) Annual Conference in Seattle, Washington - Report was accepted.
- E. Waive Second Reading and Adopt Ordinance 1201 an Ordinance of the City of Tracy Amending Tracy Municipal Code Sections 10.12.065 Relating to Compliance with Regional Housing Needs Allocations within the Residential Growth Management Plan – Ordinance 1201 was adopted
- C. Adopt the Memorandum of Understanding Between the City of Tracy and the Tracy Police Managers Association (TPMA)

Mayor Pro Tem Rickman pulled this item to congratulate the TPMA unit on reaching an agreement. The Council requested a progress report at the next closed session regarding labor negotiations of the other units.

ACTION Motion was made by Council Member Vargas and seconded by Mayor Pro Tem Rickman to adopt Resolution 2015-182 approving a new Memorandum of Understanding between the City of Tracy and TPMA. Voice vote found all in favor; passed and so ordered.

2. ITEMS FROM THE AUDIENCE – Alice expressed not being in favor of having the Edgewood apartments consideration on the next agenda. Alice urged Council to allow the residents 30 days to discuss with neighbors who were not notified. Alice expressed disappointment with how the Planning Commission handled the consideration of the Edgewood item at a recent meeting. Staff informed Alice that the item would not come back at the next meeting.
3. APPROVAL OF RESOLUTIONS (1) INITIATING PROCEEDINGS FOR THE ANNEXATION OF TERRITORY (“TRACY GATEWAY CROSSINGS TRACY PROJECT”) TO THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT (TCLMD); AND THE LEVY AND COLLECTION OF ANNUAL ASSESSMENTS RELATED THERETO; (2) DECLARING THE CITY’S INTENTION TO ANNEX TERRITORY TO THE TCLMD AND TO LEVY AND COLLECT ANNUAL ASSESSMENTS RELATED THERETO COMMENCING FISCAL YEAR 2016/2017; CALLING FOR A PROPERTY OWNER PROTEST PROCEEDING; AND ESTABLISHING AN ASSESSMENT RANGE FORMULA FOR SAID ANNEXATION TERRITORY

Brian McDonald, Management Analyst, Public Works Department, presented the staff report.

ACTION Motion was made by Mayor Pro Tem Rickman and seconded by Council Member Vargas to adopt Resolution 2015-183 initiating proceedings for the annexation of territory (Tracy Gateway Crossing) to the Tracy Consolidated Landscape Maintenance District; and the levy and collection of annual assessments related thereto commencing with Fiscal Year 2016/2017, pursuant to the provisions of Part 2 of Division 15 of the California Streets and Highways Code. Voice vote found all in favor; passed and so ordered.

ACTION Motion was made by Mayor Pro Tem Rickman and seconded by Council Member Vargas to adopt Resolution 2015-184 declaring the City's intention to annex territory to the Tracy Consolidated Landscape Maintenance District; and to levy and collect annual assessments related thereto commencing Fiscal Year 2016/2017, pursuant to the provisions of Part 2 of Division 15 of the California Streets and Highways Code, and calling for a property owner protest proceeding, to submit to the qualified property owners the question of levying such assessments and establishing an assessment range formula for said annexation territory pursuant to the provisions of the California Constitution, Article XIII D. Voice vote found all in favor; passed and so ordered.

- 4. COUNCIL UPDATE, DISCUSSION, AND DIRECTION REGARDING THE TRANSFER OF FEDERAL USE RESTRICTIONS AND REVERSIONARY RIGHTS FROM THE SCHULTE ROAD PROPERTY, APNs 209-230-29 AND 30, TO 300 UNDEVELOPED ACRES AT LEGACY FIELDS AND ADJACENT CITY OWNED PROPERTY, APNs 212-150-02, 03, AND 04

Andrew Malik, Development Services Director, and Josh Ewen, Management Analyst, presented the staff report.

Council comments and questions followed.

Upon Council consensus staff was directed to move forward with the transfer of Federal use restrictions and reversionary rights from the Schulte Road Property.

- 5. DISCUSS AND PROVIDE DIRECTION ON WHETHER TO HAVE STAFF BRING BACK A DRAFT LOBBYING ORDINANCE FOR POSSIBLE INTRODUCTION AND ADOPTION

Dan Sodergren, City Attorney, presented the staff report.

Roger Birdsall expressed being in favor of the City adopting a Lobbying Ordinance.

Council comments and questions followed.

ACTION Motion was made by Mayor Pro Tem Rickman and seconded by Council Member Mitracos to direct staff to draft a lobbying ordinance and return to Council for introduction. Voice vote found Council Member Mitracos, Vargas, Young and Mayor Pro Tem Rickman in favor; passed and so ordered.
Mayor Maciel-Opposed

Council Members Mitracos and Vargas asked that the proposed ordinance have a five year sunset.

- 6. APPOINT A REPRESENTATIVE TO THE TRI-VALLEY REGIONAL RAIL ADVISORY GROUP

Ed Lovell, Management Analyst, Public works, presented the staff report.

Council comment and questions followed.

ACTION Motion was made by Mayor Pro Tem Rickman and seconded by Council Member Young to appoint Council Member Vargas to serve on the Tri-Valley Regional Rail Advisory Group.

7. ITEMS FROM THE AUDIENCE- There were no speakers.

COUNCIL ITEMS

Council Member Mitracos acknowledged Pete Mitracos birthday and Mayor Pro Tem Rickman’s upcoming birthday.

Mayor Pro Tem Rickman announced the following upcoming events: 20th Cross Town Classic between Tracy High and West High, Diwali Festival at the Grand Theatre; Texas Roadhouse free meals to active, former and retired military personnel from 11:00 a.m. to 2:00 p.m. Mayor Pro Tem Rickman acknowledged and expressed appreciation to all the veterans who have served and their families.

Council Member Vargas announced that on November 7th the Veterans All American is hosting a BBQ and encouraged everyone to attend. Ms. Vargas also announced the Tracy Annual Veterans Day Ceremony at the Tracy War Memorial at 11:00 a.m. on November 11, 2015.

Mayor Pro Tem Rickman expressed concern about Gary Hampton’s work related injury.

Mayor Maciel announced the following November 11, 2015 Veterans Day activities: Annual Veterans Day Ceremony at the Tracy War Memorial following refreshments at the American Legion; Texas Roadhouse will be offering free meals to veterans between 11:00 a.m. to 2:00 p.m.; at 1:00 p.m. a free showing of Private Ryan at the Grand Theatre; and following the movie Congressman Jeff Denham (CA-10th District) in collaboration with the Consul General of the Republic of Korea will be hosting a ceremony where recipients will be issued special “Ambassador for Peace” medals from 4:00 p.m. to 6:00 p.m.

8. ADJOURNMENT- Time 8:27 p.m.

ACTION Motion was made by Mayor Pro Tem Rickman and seconded by Council Member Vargas to adjourn the meeting. Voice vote found all in favor; passed and so ordered.

The above agenda was posted at the Tracy City Hall on October 27, 2015. 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

November 16, 2015, 4:00 p.m.

Council Chambers, 333 Civic Center Plaza, Tracy

1. CALL TO ORDER – Mayor Maciel called the meeting to order at 4:00 p.m. for the purpose of a closed session to discuss the items outlined below.
2. ROLL CALL – Roll call found Council Members Mitracos, Vargas, Mayor Pro Tem Rickman and Mayor Maciel present. Council Member Young arrived at 4:23 p.m.
3. ITEMS FROM THE AUDIENCE – None.
4. CLOSED SESSION

Labor Negotiations (Gov. Code, § 54957.6)

Employee Organizations:

Tracy Police Officers Association
Tracy Firefighters' Association
Teamsters Local 439, IBT
Tracy Mid-Managers' Bargaining Unit
Technical and Support Services Unit
Confidential Management Unit

City's designated representatives:

Troy Brown, City Manager
Stephanie Garrabrant-Sierra, Assistant City Manager
Rachelle McQuiston, Administrative Services Director
Midori Lichtwardt, Human Resources Manager
Dania Torres Wong, Esq.
Burke Dunphy, Esq.

5. MOTION TO RECESS TO CLOSED SESSION – Mayor Pro Tem Rickman motioned to recess the meeting to closed session at 4:01 p.m. Council Member Vargas seconded the motion. Voice vote found all in favor; passed and so ordered. Council Member Young was absent.
6. RECONVENE TO OPEN SESSION – Mayor Maciel reconvened the meeting into open session at 5:54 p.m.
7. REPORT OF FINAL ACTION – There was no report of final action.
8. ADJOURNMENT – Mayor Pro Tem Rickman motioned to adjourn. Council Member Vargas seconded the motion. Voice vote found all in favor; passed and so ordered. Time: 5:55 p.m.

The agenda was posted at City Hall on November 12, 2015. The above are action minutes.

ATTEST:

Mayor

City Clerk

AGENDA ITEM 1.B

REQUEST

WAIVE SECOND READING AND ADOPT ORDINANCE 1202 AN ORDINANCE OF THE CITY OF TRACY AMENDING SECTIONS 10.08.010, 10.08.100, 10.08.270, 10.08.320, 10.08.600, 10.08.610, 10.08.790, 10.08.1080, 10.08.1100, 10.08.1200, 10.08.1280, 10.08.1390, 10.08.1580, 10.08.3140, 10.08.3180, AND ADDING SECTIONS 10.08.302, 10.08.808, 10.08.852, 10.08.861, 10.08.3197 and 10.08.3199 OF THE TRACY MUNICIPAL CODE RELATING TO CONFORMANCE WITH THE GENERAL PLAN HOUSING ELEMENT AND OTHER CONSISTENCY CHANGES

EXECUTIVE SUMMARY

Ordinance 1202 was introduced at the Council meeting held on November 17, 2015. Ordinance 1202 is before Council for adoption.

DISCUSSION

Ordinance 1202 was introduced at a regular City Council meeting held on November 17, 2015, to amend various provisions of the Tracy Municipal Code in order to conform with the General Plan Housing Element and other consistency changes allowing for the implementation of the Housing Element. The proposed amendments include provisions for the following: title of zoning regulations, boarding and rooming house, emergency shelters, single-room occupancy facilities, supportive housing, transitional housing, dwelling unit definitions, definition of "family", manufactured/mobile homes, second units, conditional use permit for a temporary dwelling during construction, and requests for reasonable accommodation to zoning requirements for a disabled person (TMC Chapter 10.08, Articles 1, 2, 5, 6, 7, 8, 9, 11, and 23).

Ordinance 1202 is before Council for adoption.

STRATEGIC PLAN

This agenda item does not relate to the Council's four strategic plans.

FISCAL IMPACT

None.

RECOMMENDATION

That Council adopt Ordinance 1202.

Prepared by: Adrienne Richardson, Deputy City Clerk

Reviewed by: Nora Pimentel, City Clerk
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS:

Attachment A – Ordinance 1202

ORDINANCE 1202

AN ORDINANCE OF THE CITY OF TRACY AMENDING
SECTIONS 10.08.010, 10.08.100, 10.08.270, 10.08.320, 10.08.600, 10.08.610, 10.08.790,
10.08.1080, 10.08.1100, 10.08.1200, 10.08.1280, 10.08.1390, 10.08.1580, 10.08.3140,
10.08.3180, AND ADDING SECTIONS 10.08.302, 10.08.808, 10.08.852, 10.08.861, 10.08.3197
and 10.08.3199 OF THE TRACY MUNICIPAL CODE RELATING TO CONFORMANCE WITH
THE GENERAL PLAN HOUSING ELEMENT
AND OTHER CONSISTENCY CHANGES

WHEREAS, The City Council adopted an updated Housing Element to its General Plan on May 15, 2012 (Resolution No. 2012-091) and that Housing Element anticipated certain amendments to the City's Zoning Ordinance, and

WHEREAS, Each City is required to update its Zoning Ordinance to conform to the General Plan within a reasonable time (Government Code section 65860(c)), and

WHEREAS, The project will not have a significant effect on the environment, where pursuant to Section 15183(a) of the California Environmental Quality Act (CEQA), such projects that are consistent with the development densities established by existing zoning, community plans, or general plan policies for which an EIR was certified shall not require additional environmental review. On May 15, 2012, the Tracy City Council adopted an updated Housing Element to its General Plan and the Housing Element anticipated certain amendments to the City's Zoning Ordinance that this project is to accomplish, and

WHEREAS, The Planning Commission considered the amendments at a regular meeting held on October 14, 2015, and recommended approval to the City Council; and

WHEREAS, The City Council considered the amendments at a regular meeting of the Council held on November 17, 2015.

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

SECTION 1. The Zoning Ordinance of the Tracy Municipal Code is amended as set forth in Exhibit A, attached.

SECTION 2. This Ordinance shall take effect 30 days after its final passage and adoption.

SECTION 3. A summary of this ordinance shall be published in a newspaper of general circulation and a certified copy of the full text posted in the office of the City Clerk at least five days before the City Council meeting at which the proposed ordinance is to be adopted. Within 15 days after adoption, the City Clerk shall publish a summary, and shall post in her office a certified copy, of the ordinance with the names of those Council Members voting for and against the ordinance. (Government Code section 36933(c)(1).)

* * * * *

Ordinance 1202
Page 2

The foregoing Ordinance 1202 was introduced at a regular meeting of the Tracy City Council on the 17th day of November 2015, and finally adopted on the _____ day of _____, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. 1202
Exhibit A

SECTION 1: Section 10.08.010, Title, of Title 10 (Planning and Zoning) of the Tracy Municipal Code is amended to read as follows:

“10.08.010 - Title.

This chapter shall be known as the "zoning regulations" or “zoning ordinance”.

SECTION 2: Section 10.08.100, Boarding and rooming house, of Title 10 (Planning and Zoning) of the Tracy Municipal Code is amended to read as follows:

“10.08.100 - Boarding and rooming house.

"Boarding and rooming house" means a building, or portion of a building, which is used to accommodate, for compensation, three or more boarders and roomers.

Members of the occupant’s family who might-be occupying such building shall not be defined as boarders or roomers. For the purposes of this section, "compensation" includes compensation in money, services, or other things of value.

SECTION 3: A new Section 10.08.302. Emergency Homeless Shelter, is added to Title10 (Planning and Zoning) of the Tracy Municipal Code to read as follows:

“10.08.302 Emergency Homeless Shelter.

“Emergency Homeless Shelter” means housing for homeless persons with minimal supportive services that is limited to occupancy of six months or less (Health and Safety Code, § 50801(e).)”

SECTION 4: A new Section 10.08.808, Single-Room Occupancy Facility (“SRO”), is added to Title 10 (Planning and Zoning) of the Tracy Municipal Code to read as follows:

“10.08.808 Single-Room Occupancy Facility (“SRO”).

“Single-Room Occupancy Facility (“SRO”), means a residential building that includes multiple single-room dwelling units that are the primary residence of their occupant or occupants (24 C.F.R. 92.2.).”

SECTION 5: A new Section 10.08.852, Supportive Housing Facility, is added to Title 10 (Planning and Zoning) of the Tracy Municipal Code to read as follows:

“10.08.852 Supportive Housing Facility.

“Supportive Housing Facility” means housing with no limit on the length of stay, that is occupied by persons with disabilities and individuals or families that are homeless at the time approved for occupancy, and that is linked to on-site services that assist the supportive housing resident in retaining the housing, thereby improving the residents health status, and maximizing his or her ability to live and, when possible and applicable,work in the community. Supportive housing that is provided in single-family, two-family, or multi-family dwelling units will be permitted, conditionally permitted or

prohibited in the same manner as other single-family, two-family, or multi-family dwelling units under this code.” (Government Code, section 65582(f)).

SECTION 6: A new Section 10.08.861, Transitional Housing Facility, is added to Title 10 (Planning and Zoning) of the Tracy Municipal Code to read as follows:

“10.08.861 Transitional Housing Facility.

“Transitional Housing Facility” means a building configured for rental housing, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time that is not less than six months from beginning of assistance. Transitional housing that is provided in single-family, two-family, or multi-family dwelling units will be permitted, conditionally permitted or prohibited in the same manner as other single-family, two-family, or multi-family dwelling units under this code.” (Health and Safety Code, section 50675.2(h)).

SECTION 7: Section 10.08.270, Dwelling, of Title 10 (Planning and Zoning) of the Tracy Municipal Code is retitled and amended to read as follows:

“10.08.270 – Dwelling, Dwelling unit, Unit.

"Dwelling," "Dwelling unit" or "Unit" means a building, or portion thereof, designed or used for residential occupancy of indefinite duration, including single-family, two-family, and multi-family buildings. These terms do not include buildings used for boarding, rooming, or lodging houses, tents, motels, motor courts, motor lodges, cottages, camps, or similar structures designed or used primarily for transient residents.

(a) "Dwelling, single-family" means a detached building arranged, designed, or used for, and intended to be occupied by, not more than one family, and which building has not more than one primary kitchen and not less than one bathroom.

(b) "Dwelling, two-family" means a building designed for occupancy by two families living independently of each other and containing two dwelling units.

(c) "Dwelling, multiple-family" shall mean a building designed for occupancy by three or more families living independently of each other and containing three or more dwelling units”.

SECTION 8: Section 10.08.320, Family, of Title 10 (Planning and Zoning) of the Tracy Municipal Code is amended to read as follows:

"10.08.320 - Family.

"Family" means one or more persons occupying a single dwelling unit, under no more than one written or oral rental agreement.”

SECTION 9: Section 10.08.600, Manufactured home, of Title 10 (Planning and Zoning) of the Tracy Municipal Code is retitled and amended to read as follows:

“10.08.600 - Manufactured home.

“Manufactured home” means a building that is transportable in one or more sections, is eight feet or more in width, or 40 feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in it. “Manufactured home” includes: (1) a mobile home; and (2) any building that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., section 5401, and following). (Hlth. & Saf. Code, sections 18007 and 18008.)”

SECTION 10: Section 10.08.610, Mobile home, of Title 10 (Planning and Zoning) of the Tracy Municipal Code is amended to read as follows:

“10.08.610 - Mobile home.
(See “Manufactured home)

SECTION 11: Section 10.08.790, Secondary residential unit [Definition] of Title 10 (Planning and Zoning) of the Tracy Municipal Code is retitled and amended to read as follows:

"10.08.790 – Second unit.

"Second unit means an attached or detached residential building, manufactured home, or efficiency unit on a lot containing a single-family dwelling, and that provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, eating, cooking and sanitation on the same lot as the single-family dwelling. (Gov't. Code, section 65852.2(i). See TMC, section 10.08.3180.)"

SECTION 12. Use Group No. 21, Single-family uses, of Section 10.08.1080, Permitted uses, of Title 10 (Planning and Zoning) of the Tracy Municipal Code, is amended to read as follows:

"Use Group No. 21: Single-family uses.

	Permitted in Zones	
Use Group No. 21:	RE	
Single-family uses	LDR	
-(a) Single-family dwelling units; <u>Second unit, subject to TMC section 10.08.3180</u> ; <u>Manufactured home</u>	MDR	
	HDR	

SECTION 13. Subsection (a) of Section 10.08.1100, Permitted Uses (RE) [Residential Estate] of Title 10 (Planning and Zoning) of the Tracy Municipal Code is amended to read as follows:

10.08.1100 - Permitted uses (RE).

"(a) Only uses which are included in the following Use Groups shall be permitted without conditional approval in the RE Zone:

Group 1	Minor public service uses;
Group 4	Temporary buildings and uses;
Group 21	Single-family use; <u>Second unit, subject to TMC section 10.08.3180</u> ;
Group 28	Household pets and small animals;
Group 29	Accessory use when located on the same parcel as the principal use; and
Group 30	Educational, cultural, institutional and recreational uses serving local residential areas (neighborhood).

SECTION 14. Section 10.08.1200, Permitted Uses (LDR) [Low Density Residential] of Title 10 (Planning and Zoning) of the Tracy Municipal Code is amended to read as follows:

"10.08.1200 - Permitted uses (LDR).

(a) The following uses shall be permitted in the LDR Zone:

- (1) Single-family dwelling; Second unit, subject to TMC section 10.08.3180;
- (2) Mobile homes on an individual lots;
- (3) Crop and tree farming; and
- (4) Public parks, building or schools.

(b) The following conditional uses shall be permitted in the LDR Zone subject to the granting of a use permit as provided in Sections 10.08.4250 through 10.08.4420 of Article 34 of this chapter:

- (1) Mobile home park or mobile home park subdivision;
- (2) (not used)
- (3) Off-street parking to serve an adjacent commercial or office use;
- (4) Church and church-related use;
- (5) Educational, cultural, institutional or recreational uses;
- (6) Private schools, nursery school or day care centers;

- (7) Hospitals, convalescent hospitals or rest and nursing home;
- (8) Board and care facility;
- (9) Planned residential development of single-family dwellings on an individual lot; and
- (10) Mortuary."

SECTION 15. Section 10.08.1280, Permitted Uses (MDC) [Medium Density Cluster] of Title 10 (Planning and Zoning) of the Tracy Municipal Code is amended to read as follows:

"10.08.1280 - Permitted uses (MDC).

- (a) The following uses shall be permitted in the MDC Zone:
 - (1) Single-family, two-family, or three-family dwelling or dwelling group composed of such dwellings; Second unit, subject to TMC section 10.08.3180;
 - (2) Boarding and rooming houses;
 - (3) Emergency Homeless Shelter, subject to TMC Section 10.08.3197;
 - (4) Crop and tree farming;
 - (5) Public park, building or school; and
 - (6) Accessory use or structures as provided in Section 10.08.1080 of Article 5 of this chapter.

- (b) The following conditional uses shall be permitted in the MDC Zone subject to the granting of a use permit as provided in Sections 10.08.4250 through 10.08.4420 of Article 34 of this chapter:
 - (1) Mobile home park or mobile home park subdivisions;
 - (2) Condominium or planned residential developments of one- and two-family dwellings;
 - (3) (not used)
 - (4) Off-street parking to serve an adjacent commercial or office uses;
 - (5) Church and church related use;
 - (6) Educational, cultural, institutional or recreational uses;
 - (7) Private schools, nursery school or day care center;
 - (8) Hospital, convalescent hospitals, rest home or nursing homes;
 - (9) Board and care facility; and
 - (10) Mortuary."
 - (11) Single-Room Occupancy Facility ("SROs"), subject to TMC Section 10.08.3197

SECTION 16. Section 10.08.1390, Permitted Uses (MDR) [Medium Density Residential] of Title 10 (Planning and Zoning) of the Tracy Municipal Code is amended to read as follows:

"10.08.1390 - Permitted uses (MDR).

- (a) The following uses shall be permitted in the MDR Zone:
 - (1) Single-family, two-family, or multiple-family dwellings, dwelling group, or apartment houses; Second unit, subject to TMC section 10.08.3180;
 - (2) Boarding and rooming house;
 - (3) Emergency Homeless Shelter, subject to TMC Section 10.08.3197;
 - (4) Single-Room Occupancy Facility ("SROs"), subject to TMC Section

10.08.3197

- (5) Crop and tree farming;
- (6) Public park, building, or school; and
- (7) Accessory use as provided in section 10.08.1080 of Article 5 of this chapter.

(b) The following conditional uses shall be permitted in the MDR Zone subject to the granting of a use permit as provided in Sections 10.08.4250 through 10.08.4420 of Article 34 of this chapter:

- (1) Mobile home park or mobile home park subdivision;
- (2) Condominium or planned residential development;
- (3) (not used)
- (4) Off-street parking to serve an adjacent commercial or office uses;
- (5) Church and church-related use;
- (6) Educational, cultural, institutional or recreational use;
- (7) Private school, nursery school or day care center;
- (8) Hospital, convalescent hospital or rest and nursing home;
- (9) Board and care facility; and
- (10) "Mortuary"

SECTION 17. Section 10.08.1580, Permitted Uses (HDR) [High Density Residential] of Title 10 (Planning and Zoning) of the Tracy Municipal Code is amended to read as follows:

"10.08.1580 - Permitted uses (HDR).

(a) The following uses shall be permitted in the HDR Zone:

- (1) Single-family, two-family, or multiple-family dwelling, dwelling group, or apartment house; Second unit, subject to TMC section 10.08.3180;
- (2) Boarding and rooming house;
- (3) Emergency Homeless Shelter, subject to TMC Section 10.08.3197;
- (4) Single-Room Occupancy Facility ("SROs"), subject to TMC Section 10.08.3197
- (5) Crop and tree farming;
- (6) Public park, building or school; and
- (7) Accessory uses as provided in Section 10.08.1080 of Article 5 of this chapter.

(b) The following conditional uses shall be permitted in the HDR Zone subject to the granting of a use permit as provided in Sections 10.08.4250 through 10.08.4420 of Article 34 of this chapter:

- (1) Mobile home park or mobile home park subdivision;
- (2) Condominium or planned residential development;
- (3) (not used)
- (4) Off-street parking to serve an adjacent commercial or office use;
- (5) Church and church-related use;
- (6) Educational, cultural, institutional or recreational use;
- (7) Private school, nursery school or day care center;
- (8) Board and care facility;
- (9) Hospitals, convalescent hospitals, rest homes or nursing homes; and

(10) Mortuary.”

SECTION 18. The text of Subsection (a) of Use Group No. 29, Accessory uses, of Section 10.08.1080, Permitted uses, of Title 10 (Planning and Zoning) of the Tracy Municipal Code is amended to read as follows:

"Accessory uses (when located on the same parcel as the principal use and the principal use is conforming)

(a) Buildings or structures, minor, found in connection with the principal use or required by the residents or operators of the use for the normal and usual conduct of the use or the maintenance of buildings and grounds. (A second unit is not an "accessory use" or an accessory building. See TMC Section 10.08.3180.)"

SECTION 19. Section 10.08.3140, Permitted locations of mobile homes, travel trailers, motor homes, and campers, of Title 10 (Planning and Zoning) of the Tracy Municipal Code is retitled and amended to read as follows:

“10.08.3140 - Permitted locations of travel trailers, motor homes, and campers.

(a) Temporary locations. Travel trailers, office trailers, and mobile offices may be permitted on a temporary basis for the purpose of establishing a business in the POM, CBD, CS, GHC, HS, M-1, and M-2 Zones as follows:

- (1) A temporary permit authorized by the Commission, valid for six months, shall be required for such use.
- (2) Such temporary permit may be renewed for two additional six month periods, for a maximum of 18 months, at the discretion of the Commission, except as set forth in subsection (3) of this subsection.
- (3) Additional temporary permits for six month periods beyond the initial 18 month period may be authorized by the Commission:
 - (i) If the progress of the applicant toward establishing a permanent business facility is being delayed by the action of a public agency, the temporary permit may be renewed indefinitely; or
 - (ii) If the applicant has an approved development plan for a permanent business facility and can demonstrate that progress is being made to implement such plan, the temporary permit may be extended to a maximum 24 month period from the date of the initial approval.

(e b) Storage. Travel trailers, motor homes, and campers may be stored anywhere on a lot provided:

- (1) No utility service is connected to the vehicle, except for the temporary 24 hours use of power to recharge batteries or service appliances; and
- (2) The vehicle is not located in a clear zone.

(d c) Exemption. A motor home or mounted camper which is normally used for every day transportation, is mounted on a pickup of greater than 3/4 ton, is not more than 78' inches in height measured from the surface of the street, and is not more than 72' inches in width is exempt from this section.

(e d) Amortizing. Travel trailers, motor homes, and campers existing on August 21, 1973, shall conform to the requirements of this section within the time frame established by the State for amortizing mobile homes which allows nine years from the date of manufacture to amortize a 193 inch by 480 inch or smaller mobile home and 18 years from the date of manufacture to amortize larger units, but in no event shall it be less than three years.

(f e) Temporary dwelling during construction. A travel trailer, motor home or camper to be used as a dwelling in a residential zone while a single-family dwelling is under construction on the same lot is a permitted use during construction with a valid building permit for the proposed residence. The temporary dwelling must be removed from the property within 10 days of receiving a final occupancy or final inspection for the residence. (See Sections 10.08.4250 through 10.08.4410 of Article 34 of this chapter). In addition, the following provisions apply:

- (1) The trailer, motor home or camper may only be so located and occupied while actual construction activities are taking place upon the lot; in no case may the period of such placement and use exceed one year.
- (2) The trailer, motor home or camper may only be occupied by the property owner; who is also the builder designated on the building permit, and family.
- (4) The minimum yards for the zone shall be maintained.

SECTION 20. Section 10.08.3180, Secondary units, of Title 10 (Planning and Zoning) of the Tracy Municipal Code is retitled and amended to read as follows:

"10.08.3180 – Second units.

- (a) Second Unit. A second unit is permitted on any residentially zoned lot having an existing single-family dwelling (the "primary dwelling") if the proposed unit complies with the standards in Subsection B. (See Definition at TMC §10.08.790.) A second unit may be created by the conversion of a portion of, or an addition to, the primary dwelling or by the construction of a new structure.
- (b) Standards. These standards apply to a second unit.
- (1) There may be only one second unit on a lot. The second unit may not be sold separately from the primary dwelling.
 - (2) The primary dwelling must be an allowed use in the zoning district.
 - (3) The size of a detached second unit shall not exceed 1,200 square feet. The size of an attached second unit shall not exceed 30% of the living area of the primary unit.
 - (4) The second unit shall conform to the yard setback, lot coverage and building height requirements of the zoning district in which it is located.
 - (5) The minimum distance between a second unit and a primary dwelling or a second unit and an accessory building is six feet.
 - (6) One additional off-street parking space is required." (Government Code, section 65852.2.)

SECTION 21. A new section 10.08.3197, Standards for Emergency Homeless Shelters is added to Title 10 (Planning and Zoning) of the Tracy Municipal Code to read as follows:

"10.08.3197 Standards for Emergency Homeless Shelters.

- (a) General. Emergency homeless shelters are permitted in the MDR, HDR and MDC Zoning Districts, subject to the requirements of this Section.
- (b) Requirements for Emergency Homeless Shelters.
- (1) Concentration. An emergency homeless shelter may not be located closer than 300 feet from another emergency homeless shelter.
 - (2) On-site resident manager. An emergency homeless shelter shall have a resident, on-site manager.

SECTION 22. A new section 10.08.3199, Reasonable accommodation, is added to Title 10 (Planning and Zoning) of the Tracy Municipal Code to read as follows:

"10.08.3199 Reasonable accommodation.

- (a) Purpose. It is the City's policy to provide individuals with disabilities reasonable accommodation in regulations and procedures to ensure equal access to housing, and to facilitate the development of housing. The purpose of this chapter is to provide a procedure under which a disabled person may request a reasonable accommodation in the application of zoning requirements.

This chapter is based on requirements of the federal and state fair housing laws, and implements the City of Tracy General Plan Housing Element. It is distinct from the requirements for a variance set forth in Government Code Section 65906 and TMC Section 10.08.3630 and following, Variances.

(b) Definitions. In this chapter:

“Disabled person” means a person who has a medical, physical or mental condition that limits a major life activity, as those terms are defined in Government Code Section 12926, anyone who is regarded as having such a condition or anyone who has a record of having such a condition. It includes a person or persons, or an authorized representative of a disabled person. The term “disabled person” does not include a person who is currently using illegal substances, unless he or she has a separate disability. (42 U.S.C., section 3602(h).)

“Fair housing laws” means (1) the Federal Fair Housing Act (42 U.S.C., section 3601 and following) and (2) the California Fair Employment and Housing Act (Government Code, section 12955 and following), including amendments to them.

“Reasonable accommodation” means providing disabled persons flexibility in the application of land use and zoning regulations and procedures, or even waiving certain requirements, when necessary to eliminate barriers to housing opportunities. It may include such things as yard area modifications for ramps, handrails or other such accessibility improvements; hardscape additions, such as widened driveways, parking area or walkways; building additions for accessibility; tree removal; or reduced off-street parking where the disability clearly limits the number of people operating vehicles. Reasonable accommodation does not include an accommodation which would (1) impose an undue financial or administrative burden on the city or (2) require a fundamental alteration in the nature of the city’s land use and zoning program.

(c) Requesting reasonable accommodation.

(1) Request. A disabled person may request a reasonable accommodation in the application of the City’s land use and zoning regulations. Such a request may include a modification or exception to the requirements for the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers. A reasonable accommodation cannot waive a requirement for a conditional use permit when otherwise required or result in approval of uses otherwise prohibited by the City’s land use and zoning regulations.

(2) Availability of information. Information regarding this reasonable accommodation procedure shall be prominently displayed at the public information counters in the planning division, advising the public of the availability of the procedure for eligible applicants, and be made available in any other manner as determined by the Director.

(3) Assistance. If an applicant needs assistance in making the request, the Director will endeavor to provide the assistance necessary to ensure that the process is available to the applicant.

(4) Balancing rights and requirements. The City will attempt to balance:

A. the privacy rights and reasonable request of an applicant for confidentiality, with

B. the land use requirements for notice and public hearing, factual findings and rights to appeal, in the city's requests for information, considering an application, preparing written findings and maintaining records for a request for reasonable accommodation.

(d) Application requirements.

(1) Application. The applicant shall submit a request for reasonable accommodation on a form provided by the Director. The application shall include the following information:

A. The applicant's name, address and telephone number;

B. Address of the property for which the request is being made;

C. The name and address of the property owner, and the owner's written consent to the application;

D. The current use of the property;

E. The basis for the claim that the individual is considered disabled under the fair housing laws: identification and description of the disability which is the basis for the request for accommodation, including current, written medical certification and description of disability and its effects on the person's medical, physical or mental limitations;

F. The rule, policy, practice and/or procedure of the city for which the request for accommodation is being made, including the zoning code regulation from which reasonable accommodation is being requested;

G. The type of accommodation sought;

H. The reason(s) why the accommodation is reasonable and necessary for the needs of the disabled person(s). Where appropriate, include a summary of any potential means and alternatives considered in evaluating the need for the accommodation;

I. Copies of memoranda, correspondence, pictures, plans or background information reasonably necessary to reach a decision regarding the need for the accommodation; and

J. Other supportive information deemed necessary by the Director to facilitate proper consideration of the request, consistent with fair housing laws.

(2) Review with other land use applications. If the project for which the

reasonable accommodation is being requested also requires some other discretionary approval (such as conditional use permit or development review), then the applicant shall submit the reasonable accommodation application first for a determination by the Director, before proceeding with the other applications.

(3) Fee. The fee for an application for reasonable accommodation shall be established by resolution of the City Council.

(e) Approval authority – Notice – Decision.

(1) Approval authority.

A. Director of Development Services. The Director has the authority to review and decide upon requests for reasonable accommodation, including whether the applicant is a disabled person within the meaning of this chapter, except as noted in subsection (e)(1)B of this Section. The Director may refer the matter to the Planning Commission.

B. Planning Commission. The Planning Commission has the authority to review and decide upon requests for reasonable accommodation, including whether the applicant is a disabled person within the meaning of this chapter, when referred by the Director, or on appeal.

(2) Notice. No advance notice or public hearing is required for consideration of reasonable accommodation requests by the Director, except when the request includes any encroachment into the front yard setback area; results in a building size increase above what is allowed in the applicable zoning district with respect to height, lot coverage and floor area ratio maximums; or whenever a reduction in required parking is requested.

A request for reasonable accommodation subject to review by the Planning Commission requires advance notice and a public hearing under Government Code, section 65090.

(3) Decision. The Director shall render a decision or refer the matter to the Planning Commission within 30 days after the application is complete, and shall approve, approve with conditions or deny the application, based on the findings set forth in subsection (f) below.

If the application for reasonable accommodation is referred to, or reviewed by, the Planning Commission, a decision to approve, approve with conditions or deny the application shall be rendered within 20 working days after the close of the public meeting, based on the findings set forth in subsection (f) below.

(f) Findings – Other requirements.

(1) Findings. The reviewing authority shall approve the application, with or without conditions, if it can make the following findings:

- A. The housing will be used by a disabled person;
- B. The requested accommodation is necessary to make specific housing available to a disabled person;
- C. The requested accommodation would not impose an undue financial or administrative burden on the city; and
- D. The requested accommodation would not require a fundamental alteration in the nature of a city program or law, including land use and zoning.

(2) Other requirements.

- A. An approved request for reasonable accommodation is subject to the applicant's compliance with all other applicable zoning regulations.
- B. A modification approved under this chapter is considered a personal accommodation for the individual applicant and does not run with the land.
- C. Where appropriate, the reviewing authority may condition its approval on any or all of the following:
 - i. Inspection of the property periodically, as specified, to verify compliance with this section and any conditions of approval;
 - ii. Removal of the improvements, where removal would not constitute an unreasonable financial burden, when the need for which the accommodation was granted no longer exists;
 - iii. Time limits and/or expiration of the approval if the need for which the accommodation was granted no longer exists;
 - iv. Recordation of a deed restriction requiring removal of the accommodating feature once the need for it no longer exists;
 - v. Measures to reduce the impact on surrounding properties;

vi. Measures in consideration of the physical attributes of the property and structures;

vii. Other reasonable accommodations that may provide an equivalent level of benefit and/or that will not result in an encroachment into required setbacks, exceedance of maximum height, lot coverage or floor area ratio requirements specified for the zone district; and

viii. Other conditions necessary to protect the public health, safety or welfare.

(g) Appeal. A decision by the Director may be appealed to the Planning Commission and a decision of the Planning Commission may be appealed to the City Council in accordance with the appeal procedures of TMC Sections 10.08.4040. "

AGENDA ITEM 1.C

REQUEST

AWARD A CONSTRUCTION CONTRACT TO THE LOWEST RESPONSIBLE BIDDER FOR THE ADVANCED TRAFFIC SIGNAL SYSTEM ON TRACY BOULEVARD (SIXTH STREET/BEECHNUT AVENUE TO CLOVER ROAD) AND FIBER OPTIC SYSTEM FROM CITY HALL TO THE WASTEWATER TREATMENT PLANT, CIPs 72089 AND 74112, AND AUTHORIZE THE MAYOR TO EXECUTE THE CONTRACT

EXECUTIVE SUMMARY

Staff recommends City Council award a construction contract for the Advanced Traffic Signal System on Tracy Boulevard, affecting traffic signals between Sixth Street/Beechnut Avenue and Clover Road. The project will provide advanced traffic signal software, hardware, and Closed Circuit Television (CCTV) cameras along the corridor to communicate with the Traffic Control Center. This project also includes the installation of fiber optics. The fiber optics installation will provide greater bandwidth for communication from the Traffic Control Center to the traffic signal at Clover Road. This fiber optics system will be extended with the Larch Road reconstruction project to the Wastewater Treatment Plant (WWTP) to provide additional connectivity and bandwidth to the WWTP.

DISCUSSION

This new Advanced Traffic Signal System on Tracy Boulevard (Beechnut Avenue to Sixth Street) and fiber optics from City Hall to the WWTP Project will provide installation of advanced traffic signal controllers at eight intersections, CCTV cameras at four locations, and will interconnect the system to provide communication over fiber optics to connect the traffic signals on the corridor with the City's Traffic Management Center located at the Support Services Building. The project also involves installation of a fiber optic system from the Traffic Control Center to the intersection of Tracy Boulevard and Clover Road that will ultimately be extended to the WWTP with the upcoming Larch Road reconstruction project to provide communication from City Hall to the WWTP.

The project will provide advanced traffic signal controls and monitoring capabilities enabling City staff to adjust timing to accommodate changing traffic patterns along the corridor. When extended, the fiber optics system will provide greater bandwidth for communication to the WWTP facility.

City staff applied for San Joaquin Valley Air Pollution Control District (SJVAPCD) grant funding for this project and the SJVAPC has approved up to \$300,000 toward the construction of the advanced traffic signal system components of this project.

The project design, improvement plans, specifications, and contract documents were prepared by Stantec Consulting of Walnut Creek, California. The project was advertised for competitive bids on September 25, and October 2, 2015. The City received four bids on October 28, 2015 as follows:

	Bidder	Location	Total Bid
1	Pacific Excavation Inc.	Elk Grove, CA	\$327,643.00
2	Tennyson Electric, Inc.	Livermore, CA	\$425,909.00
3	Sabastian (Kertel Communication Inc.)	Fresno, CA	\$457,351.39
4	St. Francis Electric, LLC	San Leandro, CA	\$468,668.00

The lowest monetary bid is from Pacific Excavation, Inc. of Elk Grove, California, in the amount of \$327,643. The preliminary bid analysis indicates that the bids are responsive and bidder is responsible. The contractor has good references and has completed similar projects for the City of Tracy and other public agencies.

The anticipated cost for construction of this project, if awarded to Pacific Excavation, Inc., is estimated as follows:

Engineering & Design	\$ 75,000
Construction Bid Amount (Base Bid)	\$327,643
Contingency (~15%)	\$ 50,000
Construction Management & Inspection (~7%)	\$ 23,000
City Wide Management	\$ 34,000
Total Project Cost	\$509,643
Available Budget	\$650,000

If the project is awarded to Pacific Excavation Inc. of Elk Grove, California, it is anticipated that construction will commence by January 2016, with completion expected by the end of April 2016.

It is estimated that the City will be able recover \$278,533 from SJVAPCD grant funds for the advanced traffic signals on Tracy Boulevard. The remaining unused funds for CIP 72089, are estimated at \$2,000, and CIP 74112, are estimated at \$121,890. The actual costs will be reconciled after the completion of the project and reimbursement of grant funds. These unspent amounts will be returned to their respective project funds. The unspent funds for CIP 74112 will remain in the CIP budget to be used towards the fiber optics extension to the WWTP with the Larch Road reconstruction project.

Tracy Municipal Code Section 2.20.090(b) authorizes the City Manager to approve change orders up to the amount approved by Council. The recommended contingency amount for this project is \$50,000.

STRATEGIC PLAN

This agenda item is a routine operational item and is not related to the Council's Strategic Plans.

FISCAL IMPACT

There will be no impact to the General Fund. This is an approved Capital Improvement Program project in FY 2014/15. Funds are available from a SJVAPCD Grant, Gas Tax and Wastewater Capital Fund F523.

RECOMMENDATION

Staff recommends that City Council, by resolution, award a construction contract to Pacific Excavation, Inc. of Elk Grove, California, in the amount of \$327,643, for the Advanced Traffic Signal System Tracy Boulevard (Sixth Street/Beechnut Avenue to Clover Road) and Fiber Optics from City Hall to the WWTP, CIPs 72089 and 74112, and authorize the Mayor to execute the construction contract.

Prepared by: Ripon Bhatia, Senior Civil Engineer

Reviewed by: Robert Armijo, City Engineer
Andrew Malik, Development Services Director
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

RESOLUTION 2015-

AWARDING A CONSTRUCTION CONTRACT TO THE LOWEST RESPONSIVE RESPONSIBLE BIDDER FOR ADVANCED TRAFFIC SIGNAL SYSTEM ON TRACY BOULEVARD (SIXTH STREET/ BEECHNUT AVENUE TO CLOVER ROAD) AND FIBER OPTICS FROM CITY HALL TO THE WASTEWATER TREATMENT PLANT, CIPs 72089 & 74112, AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT

WHEREAS, This project will provide installation of advanced traffic signal controllers, Closed Circuit Television (CCTV) cameras, and interconnect systems to provide communication over fiber to connect the traffic signals on the corridor with the Traffic Management Center located at the Support Services Building, and

WHEREAS, The project also involves installation of a fiber optic system from the Traffic Control Center to the intersection of Tracy Boulevard and Clover Road that will be extended to the Wastewater Treatment Plant (WWTP) with the upcoming Larch Road reconstruction project to provide communication from City Hall to the WWTP, and

WHEREAS, The project design, improvement plans, specifications, and contract documents were prepared by Stantec Consulting of Walnut Creek, California, and

WHEREAS, The project was advertised for competitive bids on September 25, 2015, and October 2, 2015, and

WHEREAS, The lowest monetary bid is from Pacific Excavation, Inc. of Elk Grove, California, in the amount of \$327,643, and

WHEREAS, The bid is responsive and the bidder is responsible, has good references and has completed similar projects for City of Tracy and other public agencies, and

WHEREAS, The anticipated cost for construction of this project, if awarded to Pacific Excavation, Inc. is estimated as follows:

Engineering & Design	\$75,000
Construction Bid Amount (Base Bid)	\$327,643
Contingency (~15%)	\$ 50,000
Construction Management & Inspection (~7%)	\$ 23,000
City Wide Management	\$ 34,000
Total Project Cost	\$509,643
Available Budget	650,000

WHEREAS, Tracy Municipal Code Section 2.20.090(b) authorizes the City Manager to approve change orders up to the amount approved by Council. The recommended contingency amount for this project is \$50,000;

NOW, THEREFORE, BE IT RESOLVED, That City Council awards a construction contract to Pacific Excavation Inc. of Elk Grove, California, in the amount of \$327,643 for the Advanced Traffic Signal System on Tracy Blvd (Sixth Street/Beechnut Avenue to Clover Road)

and Fiber Optics from City Hall to WWTP, CIPs 72089 & 74112, and authorizing the Mayor to execute the contract

* * * * *

The foregoing Resolution 2015-_____ was passed and adopted by the Tracy City Council on the 1st day of December, 2015, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.D

REQUEST

CITY STAFF REQUESTS CITY COUNCIL TO: (1) RENAME SCHULTE ROAD WEST OF LAMMERS ROAD AS PROMONTORY PARKWAY, AND (2) AUTHORIZE INITIATION OF A PROCESS FOR RENAMING EXISTING SCHULTE ROAD BETWEEN CORRAL HOLLOW ROAD AND LAMMERS ROAD (ALONG UNION PACIFIC RAILROAD TRACKS)

EXECUTIVE SUMMARY

The immediate renaming of the Schulte Road extension west of Lammers Road is necessary to eliminate duplicative street names and to provide a unique identify for each street.

In addition, Staff recommends renaming the segment of Schulte Road from Corral Hollow Road to Lammers Road (along the UPRR tracks) through a separate process utilizing public input.

DISCUSSION

Background

The International Park of Commerce (IPC) is an approximately 1,600 acre development project on the west side of the City. This project involves construction of new roadways and widening or extension of existing roadways to provide traffic circulation in the area.

Within the development of IPC, a segment of Schulte Road is being constructed from Hansen Road east fronting the Medline Project. This segment will ultimately be built to connect to Mountain House Parkway to the west and Lammers Road to the east. Also, upcoming residential developments between Corral Hollow Road and Lammers Road will ultimately extend Schulte Road from its current termination point at Mabel Josephine Drive to Lammers Road.

There is an existing segment of Schulte Road between Corral Hollow Road and Lammers Road (parallel to the Union Pacific Railroad tracks). Another segment named Schulte road (also known as Old Schulte Road) is located between Lammers Road west of Mountain House Parkway (along Safeway and Costco Warehouses) and east of Mountain House Parkway in the county. These two segments would potentially overlap with the extension of Schulte Road west of Corral Hollow Road and create duplicative road names. This duplication in road names may cause confusion to the general public and create emergency response concerns

Police Department and Fire Department staff has reviewed the proposed street name and street layout configuration and concur with the proposed changes.

Renaming of Schulte Road west of Lammers Road.

To eliminate duplicative street names, one of the “Schulte Road” streets should be renamed to ensure that each street has its own unique identity. The Developer of IPC (i.e. Prologis Inc.) has requested that the Schulte Road extension west of Lammers Road be renamed Promontory Parkway. Promontory Summit, Utah, was the location of the first transcontinental railroad in the United States and therefore, of historical significance in railroad history. Prologis is a company that develops, owns, and operates real estate for industrial, distribution, and logistics uses. Prologis also has a history linked to the railroad industry. Therefore, for street naming in IPC, Prologis Inc., desires street naming to be related to items of railroad historical significance.

To address these concerns, staff recommends naming the new Schulte Road extension west of Lammers Road as Promontory Parkway as requested by Prologis.

Renaming old Schulte Road from Corral Hollow Road to Lammers Road. Staff also recommends that City Council consider renaming the segment of old Schulte Road from Corral Hollow Road to Lammers Road (along the UPRR tracks) to eliminate duplication of street names. The West Side Pioneer Association has requested renaming existing Schulte Road between Corral Hollow Road and Lammers Road with a name of historical significance as well.

Staff recommends that renaming of this segment be initiated through a separate process that involves public input which is typically performed for renaming of existing streets. After completion of public input and review, staff will seek Council authorization for final approval of the proposed street name. See Attachment A for a depiction of area street names and those streets in question.

STRATEGIC PLAN

This agenda item is a routine operational item and is not related to the Council’s Strategic Plans.

FISCAL IMPACT

There will be no impact to the General Fund.

RECOMMENDATION

Staff recommends that City Council, by resolution, (1) authorize the renaming of Schulte Road west of Lammers Road as Promontory Parkway and (2) authorize staff to initiate the process for renaming existing Schulte Road between Corral Hollow Road and Lammers Road (along the UPRR tracks).

ATTACHMENT

Attachment A – Vicinity Map, showing existing and proposed roadways

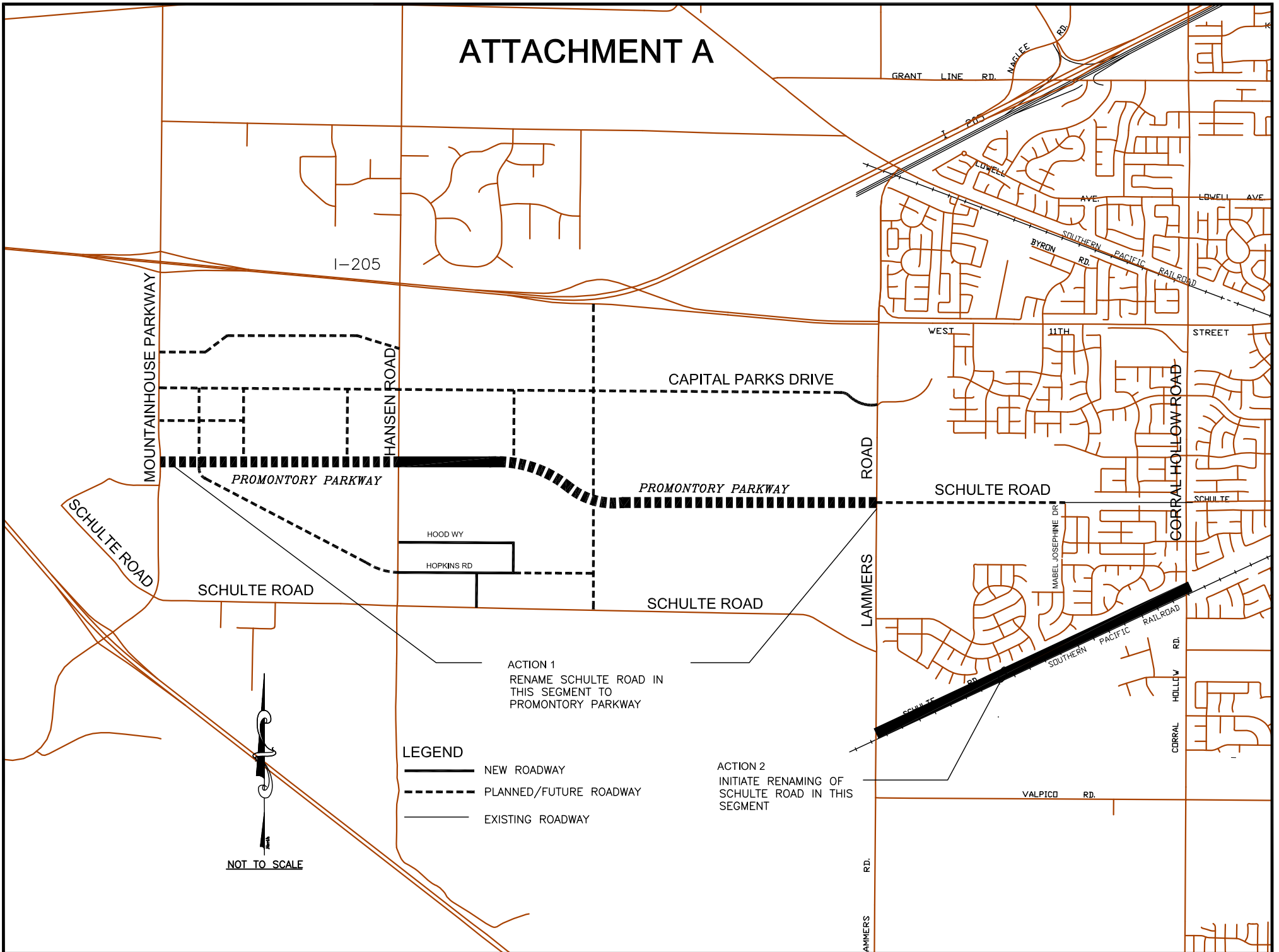
Agenda Item 1.D
December 1, 2015
Page 3

Prepared by: Ripon Bhatia, Senior Civil Engineer

Reviewed by: Robert Armijo, City Engineer
Andrew Malik, Development Services Director
Stephanie Garrabrant-Sierra, Assistant City Manager




Approved by: Troy Brown, City Manager

ATTACHMENT A

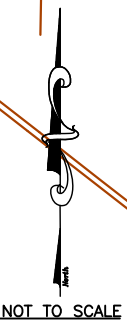


ACTION 1
RENAME SCHULTE ROAD IN
THIS SEGMENT TO
PROMONTORY PARKWAY

LEGEND

-  NEW ROADWAY
-  PLANNED/FUTURE ROADWAY
-  EXISTING ROADWAY

ACTION 2
INITIATE RENAMING OF
SCHULTE ROAD IN THIS
SEGMENT



RESOLUTION 2015-_____

RENAMING SCHULTE ROAD WEST OF LAMMERS ROAD AS
PROMONTORY PARKWAY AND
DIRECTING STAFF TO INITIATE PROCESS FOR RENAMING EXISTING SCHULTE
ROAD BETWEEN CORRAL HOLLOW ROAD AND LAMMERS ROAD

WHEREAS, The International Park of Commerce (IPC) is an approximately 1,600 acre development project on the west side of the City, and

WHEREAS, This project involves construction of new roadway segments and widening or extension of existing roadway segments to provide traffic circulation in the area, and

WHEREAS, There are existing segments of Schulte Road between Corral Hollow Road and Lammers Road, (parallel to Union Pacific Railroad tracks) and between Lammers Road west of Mountain House Parkway (along Safeway and Costco Warehouses), and east of Mountain House Parkway in the county, and

WHEREAS, To eliminate duplicative street names, one of the streets needs to be renamed to ensure that each street has its own unique identity, and

WHEREAS, The Developer of IPC, Prologis Inc., has requested that the Schulte Road extension be renamed Promontory Parkway in the IPC area, and

WHEREAS, Police Department and Fire Department staff have reviewed the proposed street name and street layout configuration and concur with the proposed change, and

WHEREAS, There will be no impact to the General Fund, and

WHEREAS, City staff also recommends that City Council consider renaming the segment of old Schulte Road between Corral Hollow Road and Lammers Road (along the UPRR tracks);

NOW, THEREFORE, BE IT RESOLVED, That the City Council:

1. Authorizes the naming of Schulte Road west of Lammers Road as Promontory Parkway; and
2. Authorizes staff to initiate the process for renaming existing Schulte Road between Corral Hollow Road and Lammers Road.

* * * * *

Resolution _____
Page 2

The foregoing Resolution 2015-_____ was passed and adopted by the Tracy City Council on the 1st day of December, 2015, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

December 1, 2015

AGENDA ITEM 1.E

REQUEST

AUTHORIZE THE APPOINTMENT OF TWO YOUTH AND TWO ADULT COMMISSIONERS TO THE YOUTH ADVISORY COMMISSION

EXECUTIVE SUMMARY

The bylaws of the Youth Advisory Commission set the minimum number of youth appointed Commissioners at eight, with a maximum limit at fourteen and a maximum of three adult Commissioners. A selection panel was established and they have made recommendations for two youth and two adults to be appointed for a two year term to fill the existing youth and adult vacancies on the Youth Advisory Commission.

DISCUSSION

The bylaws of the Youth Advisory Commission call for a minimum of eight youth and a maximum of fourteen youth Commissioners and a maximum of three adult Commissioners that may sit on the Commission. The bylaws are crafted to include two youth representatives from each of the four comprehensive high schools in the area (Kimball, Millennium, Tracy and West) and the four alternative education high schools (Delta Charter, Duncan-Russell Continuation, Excel High and Stein Continuation.) The selection process for the Youth Advisory Commission is to have a diverse group of teens that reflect each of the Tracy area high schools who wish to have a voice in their community and be involved in the Commission. Adult Commissioners shall reside within the jurisdiction of any Tracy school district to include one member of the School District and two members of the community who desire to work with youth. Currently the Commission has five youth and three adult vacancies.

The City recruits new Commissioners on an ongoing basis to fill any vacancies created by outgoing Commissioners. The bylaws of the Youth Advisory Commission call for a selection panel to review new applications and make recommendations for appointment to the City Council. This year's panel consisted of Recreation Services Supervisor Jolene Jauregui and Recreation Coordinator Justin Geibig.

The interview panel conducted interviews on October 21, 2015. The following two youth: Sergio Ramirez from Millennium High School and Mikaela Mizuno from Tracy High School, and two adults: Wes Huffman and Daniel Tavares Arriola, are being recommended to serve two year terms, from December 1, 2015 to July 31, 2017.

FISCAL IMPACT

There is no impact on the General Fund.

RECOMMENDATION

Staff recommends that the City Council approve, by resolution, the appointment of two youth and two adult Commissioners to the Youth Advisory Commission based upon the interview and selection panel recommendations.

Prepared by: Jolene Jauregui, Recreation Services Supervisor

Reviewed by: Kim Scarlata, Division Manager II
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

RESOLUTION

AUTHORIZING THE APPOINTMENT OF TWO YOUTH AND TWO ADULT COMMISSIONERS TO THE YOUTH ADVISORY COMMISSION

WHEREAS, The bylaws of the Youth Advisory Commission call for a minimum of eight Commissioners, and a maximum of fourteen youth Commissioners and a maximum of three adult Commissioners that may sit on the Commission; and

WHEREAS, The eligibility criteria and selection process of YAC Commissioners are established; and

WHEREAS, The City recruits new Commissioners on an ongoing basis to replace the outgoing Commissioners and existing vacancies, and has established a recommendation selection panel to recommend appointees to City Council; and

WHEREAS, The recommendation selection panel recommended the following two youth; Sergio Ramirez and Mikaela Mizuno, and two adults; Wes Huffman and Daniel Tavares Arriola for two year terms, from December 1, 2015 to July 31, 2017;

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby approves the appointment of the two new Youth and two new Adult Commissioners recommended by the selection panel as identified above, and for the recommended terms, to the Youth Advisory Commission.

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the _____ day of _____, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.F

REQUEST

AUTHORIZE AN AMENDMENT OF THE CITY'S CLASSIFICATION AND COMPENSATION PLAN AND POSITION CONTROL ROSTER REINSTATING A FULL-TIME TECHNICAL THEATRE SUPERVISOR AND REALLOCATING ONE FULL-TIME THEATRE OPERATIONS AND TECHNICAL ASSISTANT AND TWO PART TIME PROGRAM ASSISTANT POSITIONS TO A TECHNICAL THEATRE SUPERVISOR POSITION IN THE CULTURAL ARTS DIVISION

EXECUTIVE SUMMARY

The City Manager's Office is requesting to reallocate funding from existing, vacant positions to add a full-time Technical Theatre Supervisor position to the Cultural Arts Division. The cost of this position, including salary and benefits is \$97,715. It will be absorbed through a salary savings by deleting one Theatre Operations and Technical Assistant and two part-time Program Assistants. The additional \$4,505 will come from the Theatre Presentations operating budget.

This request will facilitate better deployment of resources within the Cultural Arts Division and provide a high level of technical support that will assist in the administration of the Performing Arts programs in the Cultural Arts division.

DISCUSSION

On January 17, 2012, City Council approved the reclassification of the Theatre Technician Supervisor position to the Cultural Arts Manager-Performing Arts due to the elimination of the Arts Program Manager position through the rightsizing efforts and the level of responsibility based on characteristics which included scope, difficulty, and impact of decision-making.

In May, 2013, the Recreation Division Manager was assigned overall management of the Cultural Arts Division in addition to the Recreation Division, in an effort to continue to streamline services and reduce expenditures. In addition, the Cultural Arts Manager-Performing Arts position was eliminated through the FY 13/14 budget process and replaced with a second Theatre Operations and Technical Assistant.

Over the past two years, attendance has increased at the Grand Theatre Center for the Arts, in fact doubling in FY 14/15 from FY13/14. Rentals have increased and community demand for additional rental times is increasing daily. Staff took the opportunity to evaluate operating the Performing Arts programs of the Grand Theatre Center for the Arts with two full time Theatre Operations and Technical Assistants versus a Cultural Arts Manager-Performing Arts or the previous position of Theatre Technical Supervisor. What we have found is that the current staffing structure is not sufficient to meet the responsibilities and characteristics of supervising a performing arts theatre.

On June 15, 2015, Council approved the FY 2015/16 operating budget which included funding for two full-time Theatre Operations and Technical Assistants and two part-time

Program Assistants. However, after two years of evaluating staffing levels we have found we are deficient in the area of technical supervision for theatre operations.

Reinstatement of the Technical Theatre Supervisor will assist in coordinating technical requirements for multiple events, ensuring there are adequate personnel and equipment resources, directing the development of theatre technical areas including stage set-up, lighting, scenery and audio, reviewing artist's contracts with regard to technical riders and clearly understanding their technical requirements, estimating time, materials and equipment for theatre productions and most importantly, overseeing the safe operation of all theatre equipment and facilities, while maintaining compliance with applicable building, fire codes, City Policies and OSHA safety standards.

Currently, one of the Theatre Operations and Technical Assistant positions is filled and our intention is to retain that position as it is. The other position is vacant. The two part-time Program Assistant positions are also currently vacant and we have been unable to successfully fill them or retain staff due to a lack of technical experience.

Reallocation Recommendations

The approved FY 2015/16 Budget and Position Control Roster includes a full time Theatre Operations and Technical Assistant and two part-time Program Assistants.

This proposed reallocation will redistribute the existing funds approved for a full-time Theatre Operations and Technical Assistant position to support one full time Technical Theater Supervisor position. This staffing model will assist the Cultural Arts division in supervising the technical needs and safety standards of the Grand Theatre Center for the Arts.

No additional funds are being requested.

STRATEGIC PLAN

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

Governance Strategy

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

Objective 1b: Affirm organizational values.

FISCAL IMPACT

The table below represents the FY 2015/2016 adopted and proposed positions impacted by the proposed reallocation. The anticipated cost of the reallocation is approximately \$ 97,715. While the proposed Technical Theatre Supervisor position in the Cultural Arts division will be primarily funded through the reallocation of the full time, vacant Operations and Technical Assistant at \$68,384 the net difference of \$ 29,331 will be offset by savings due to vacant program

assistants and temporary help in the Cultural Arts Theatre Presentation budget. The total fiscal impact to the General Fund is \$0.

Adopted FY 2015/16 Cultural Arts Positions and Services	Salary w/Benefits
FT Theatre Operations and Tech Assistant (Vacant)	\$68,384
PT Program Assistants (Vacant)	\$24,826
Temp Help-41704 Theatre Presentations	\$ 4,505
TOTAL	\$97,715
Proposed FY 2015/16 Cultural Arts Position	Salary w/Benefits
Technical Theatre Supervisor	\$97,715
Total	\$97,715
Difference	0
General Fund Impact	0

RECOMMENDATION

That the City Council, by resolution authorize the Administrative Services Director to amend the City's Classification and Compensation Plans and the Budget Officer to amend the Position Control Roster to reinstate a full-time Technical Theatre Supervisor and reallocate one full-time Theatre Operations and Technical Assistant and two part-time Program Assistants to one Technical Theatre Supervisor position in Cultural Arts.

Prepared by: Kim Scarlata, Recreation Division Manager II

Reviewed by: Rachelle McQuiston, Administrative Services Director
 Midori Lichtwardt, Human Resources Division Manager II

Approved by: Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

Exhibit A: Technical Theater Supervisor

TECHNICAL THEATER SUPERVISOR

Class Title:	Technical Theater Supervisor	Class Code:	30523
Department:	City Manager	Bargaining Unit:	Mid-Managers
EEO Code:	76	Effective Date:	November 21, 2006
FLSA Status:	Exempt		

DESCRIPTION

Under general direction of the Arts Program Manager, manages the City’s theater facilities including technical production and operational aspects; coordinates requirements for presentations, productions, seasonal and community rental events; supervises theater technicians; performs other job related duties as assigned.

DISTINGUISHING CHARACTERISTICS

This is a mid-manager level classification within the Cultural Arts Division of the City Manager’s office, responsible for managing theater facilities, productions and technical aspects of arts programs in areas such as lighting, set design and construction, audio visual and sound equipment. The incumbent is responsible for hiring and supervising technical crews for an on-going season of events presented by the City, and specific productions and events produced by rental clients.

This classification is distinguished from the Arts Program Manager in that the latter has overall management responsibility for all arts programs including performing arts, visual arts, arts education, the City’s Civic Art Program, Re-granting program, and the operation of the Grand Theatre Center for the Arts.

The Technical Theater Supervisor is distinguished from the Gallery Supervisor in that the latter plans, organizes and directs visual arts programs including gallery exhibitions, arts education programs, and the City’s Civic Arts Program.

EXAMPLES OF IMPORTANT AND ESSENTIAL DUTIES

Duties may include, but are not limited to, the following:

Coordinate technical requirements for multiple events and ensure adequate personnel and equipment resources

Direct the development of theater technical areas including stage set up, lighting, scenery and audio

Work with clients to meet desired production objectives including deadlines, schedules, rehearsals, performances, lighting and stage needs; design light plots as required to meet production needs

Interact with clients and solve technical service requirements for a multitude of events

Review artists' contracts for the presenting season, make recommendations with regard to the technical riders stating a performer's technical requirements; negotiate fees or alternate equipment requirements

Schedule usage of theater facilities for various types of presentations and performances; provide information and assistance to users of facilities; conduct workshops to assist users in the use of the facility

Estimate time, materials, equipment and labor required for various theater productions; requisition materials and supplies as needed

Make recommendations regarding long-range technical services equipment for facilities

Develop solutions to production and facilities problems

Oversee the safe operation of all theater equipment and facilities; ensure compliance with applicable building and fire codes and City policies

Develop and maintain OSHA safety standards; develop and maintain in-house safety standards; maintain and update annually the Accident and Injury Prevention Program of federal requirements for stages

Develop and administer the technical theater budget; monitor expenditures

Select, hire, train and oversee on-call technical theater staff

Perform related duties as assigned

MINIMUM QUALIFICATIONS

Knowledge of:

Technical theater and stage management techniques, including lighting, stage sets and drawings, automated rigging, rigging design, lift systems and ground plans

Computerized theater equipment, theater building engineering, theater movement systems

Methods and practices utilized in coordinating and scheduling productions and special events

Occupational hazards and related safety precautions associated with assigned duties

Procedures and techniques associated with facility maintenance and repair

Municipal budgetary and purchasing practices

Contract management for presenting season and client rentals

Program monitoring and evaluation techniques

Supervisory principles and practices

Effective communication techniques with diverse groups

Contract labor rules for additional labor on professional show calls (International Alliance of Theatrical Stagehands and Employees)

Ability to:

Operate theater equipment including lighting, sound, automated rigging

Plan, organize, assign, review, train and evaluate the work of staff and volunteers.

Develop and implement goals, objectives, policies, procedures, work standards and management controls

Resolve complex issues and build consensus among diverse populations

Create, compose and edit written materials

Negotiate, prepare and administer contracts and agreements

Maintain effective collaborative working relationships with other City staff, diverse members of the community, business, and special interest groups, artists

Effectively manage multiple projects, a diverse workload and constantly changing priorities

Work under pressure

Communicate clearly and concisely orally and in writing

EDUCATION AND EXPERIENCE

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Education:

Equivalent to graduation from an accredited four year college or university, preferably with a major in Theater Arts, Technical Theater, or related field

Experience:

Four years of progressively responsible experience in technical theater, stage supervision, theater production, or related area

SPECIAL REQUIREMENTS

This job requires working a flexible schedule including evenings and weekends as needed

LICENSES AND CERTIFICATES

Possession of, or ability to obtain an appropriate, valid California drivers' license.

TOOLS AND EQUIPMENT USED

Requires frequent use of personal computer and related software programs; calculator, telephone, copy machine and fax machine; theater equipment including lighting, video, rigging and fly systems, electric and non-electric tools.

PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

This position performs strenuous physical activity for extended periods of time requiring climbing on ladders, catwalks, scaffolding or other equipment at various heights. The employee must lift and carry equipment weighing up to 50 pounds; must hear and distinguish specific qualities, pitch, tone and volume of theater sound and audiovisual sound; see and distinguish the specific qualities of theater and audiovisual light, tones, hues and colors

WORK ENVIRONMENT

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

The employee works in a theater environment

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.

This job description does not constitute an employment agreement between the City of Tracy and employee and is subject to change by the City as the needs of the City and requirements of the job change.

RESOLUTION

AUTHORIZING AN AMENDMENT OF THE CITY'S CLASSIFICATION AND COMPENSATION PLAN AND POSITION CONTROL ROSTER REINSTATING A FULL-TIME TECHNICAL THEATRE SUPERVISOR BY APPROVING THE REALLOCATION OF ONE FULL-TIME THEATRE OPERATIONS AND TECHNICAL ASSISTANT AND TWO PART-TIME PROGRAM ASSISTANT POSITIONS TO A TECHNICAL THEATRE SUPERVISOR POSITION IN THE CULTURAL ARTS DIVISION

WHEREAS, The City has a Classification and Compensation Plan and Position Control Roster, and

WHEREAS, The Cultural Arts Division has completed a needs assessment and determined it is in the best interest and efficiency of the City Manager's Office to reallocate existing funding for one full-time Theatre Operations and Technical Assistant position and two part-time Program Assistants to fund one Technical Theatre Supervisor position in the Cultural Arts Division;

NOW, THEREFORE, BE IT RESOLVED, That City Council authorizes the Administrative Services Director and the Budget Officer to amend the Classification and Compensation Plans and Position Control Roster as follows:

1. Reinstate the previously deleted Technical Theatre Supervisor position to the Position Control Roster.
2. Reallocate one full-time Theatre Operations and Technical Assistant position to fund one Technical Theatre Supervisor position in the Cultural Arts Division

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 1st day of December, 2015 by the following votes:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.G

REQUEST

APPROVAL TO PURCHASE FUELMASTER AUTOMATED FUEL MANAGEMENT SYSTEM TO REPLACE PETROVEND AUTOMATED FUEL MANAGEMENT SYSTEM AT THE CITY'S BOYD SERVICE CENTER

EXECUTIVE SUMMARY

The City currently has PetroVend Automated Fuel Management System to operate fuel terminals and the automated security gates at Boyd Service Center (BSC). This system has become obsolete and is prone to failures, which impacts the City's day-to-day operations. The Public Works Department recommends replacement of the PetroVend Automated Fuel Management System with FuelMaster Automated Fuel Management System.

DISCUSSION

In 1996, the City installed PetroVend Automated Fuel Management System at the Boyd Service Center. This system operates all City fuel terminals/pumps (Diesel, Unleaded, and Compressed Natural Gas (CNG)) as well as the automated security gates at BSC. Given the age of the system, there have been multiple failures over the past year and there is currently only one fuel dispensing pump that is functional. The manufacturer no longer supports this system and parts have become obsolete. Due to the failures, there have been several times over the past few months that City vehicles have had to purchase gasoline at the local Chevron station. This not only disrupts service levels, but also causes a financial burden since the City pays retail prices for fuel when this occurs.

By replacing the obsolete PetroVend Automated Fuel Management System with the new FuelMaster Automated Fuel Management System, support will be provided by the vendor and failures will no longer be an issue. The FuelMaster Automated Fuel Management System is the only other system compatible with the fuel terminals and pumps that the City upgraded in June 2013. As such, the City Manager has determined that the FuelMaster Automated Fuel Management System qualifies as a sole source provider under Tracy Municipal Code section 2.20.180(b)(2). The FuelMaster Automated Fuel Management System consists of two wireless dispensing terminals (including hardware and software), six wireless nozzle readers, 200 vehicle tank rings, and 200 vehicle fuel dispensing modules. This system is covered by a 10 year warranty.

STRATEGIC PLAN

This agenda item is a routine operational item and does not relate to the Council's strategic plans.

FISCAL IMPACT

The total cost of the system replacement is \$104,000. Funding will be provided with the remaining balance from FY14/15 Central Garage Fund 601 (\$70,000) specifically carried

over from last fiscal year to pay for this project, and from Transportation Development Act (TDA) Funds (\$34,000). There will be no impact to the General Fund.

RECOMMENDATION

That the City Council, by resolution, approve the purchase of FuelMaster Automated Fuel Management System to replace PetroVend Automated Fuel Management System at the Boyd Service Center.

Prepared by: Robert Gravelle, Public Works Superintendent

Reviewed by: Don Scholl, Interim Public Works Director
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

RESOLUTION _____

AUTHORIZING PURCHASE OF FUELMASTER AUTOMATED FUEL MANAGEMENT SYSTEM TO REPLACE PETROVEND AUTOMATED FUEL MANAGEMENT SYSTEM AT THE BOYD SERVICE CENTER

WHEREAS, The current system, PetroVend Automated Fuel Management System was installed in 1996, and

WHEREAS, The system is prone to failures, is no longer supported by the manufacturer, and has become obsolete.

NOW, THEREFORE, BE IT RESOLVED, That the City Council approves the purchase of FuelMaster Automated Fuel Management System to replace PetroVend Automated Fuel Management System at the Boyd Service Center.

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 1st day of December 2015, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.H

REQUEST

AUTHORIZE A MASTER SUBSCRIPTION AGREEMENT AND SERVICE ORDER WITH FUSEFORWARD CLOUD SERVICES LTD. FOR WASTEWATER COMPUTERIZED MAINTENANCE MANAGEMENT SYSTEM SERVICES AND AUTHORIZE THE MAYOR TO EXECUTE THE SERVICE ORDER

EXECUTIVE SUMMARY

The City has a Computerized Maintenance Management System (CMMS) for the Wastewater Treatment Plant preventative maintenance and for maintenance of the sanitary sewer collection system. A master subscription agreement and service order are necessary for hosting the software and data on a cloud based server.

DISCUSSION

A preventative maintenance program for the City's wastewater collection system is required as part of the City's National Pollutant Discharge Elimination System (NPDES) wastewater discharge permit. In 2009, the City obtained proposals for establishing a CMMS program. Four vendors submitted formal proposals and demonstrated their preventative maintenance programs. Fuseforward was selected based on its use of the IBM Maximo program, as this program best meets the City's needs for both the collection system facilities and Wastewater Treatment Plant equipment. Fuseforward integrated the City's preventative maintenance work orders and schedules into the IBM Maximo program and provides access through their website. Fuseforward "hosts" the CMMS on its servers so the City does not need to purchase computer hardware, software, or software updates.

The Master Subscription Agreement provides for ongoing services. Each year, a Service Order is prepared and executed. The Service Order denotes the services to be provided. The term of the current Service Order is July 1, 2015 through June 30, 2016.

STRATEGIC PLAN

This agenda item is a routine operational item and is not related to the Council's Strategic Plans.

FISCAL IMPACT

There is no fiscal impact to the General Fund. The cost for hosting the program on the Fuseforward servers is not to exceed \$50,000. Funding is from the Wastewater Enterprise Fund and has been included in the 2015 – 2016 budget.

RECOMMENDATION

That the City Council, by resolution, authorize the Master Subscription Agreement and Service Order with Fuseforward Cloud Services Ltd. for wastewater computerized

maintenance management system services and authorize the Mayor to execute the Service Order.

Prepared by: Steve Bayley, Project Specialist

Reviewed by: Kuldeep Sharma, Utilities Director
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment A: Master Subscription Agreement and Service Order

SERVICE ORDER SERVICE ORDER

ATTACHMENT A

This Service Order is governed by, is an attachment to, and is, upon execution by the parties, incorporates by reference the Master Subscription Agreement (the "Agreement") by and between Fuseforward Cloud Services Ltd. ("Fuseforward"), and the party designated below.

All the terms used in this Service Order shall retain the same meaning as defined in the Agreement and such definitions are incorporated herein by reference. In the event of any conflict between the provisions of the Agreement and this Service Order, the terms of this Service Order Form shall prevail.

The terms and conditions of this Service Order are applicable solely to the Services described herein and in no way affect or alter the terms of any other Service Order incorporated into the Agreement prior to or after the effective date of this Service Order.

Until this Service Order is signed by the parties, the prices in this Service Order are considered to be a quotation which may be revised at any time and which will expire, unless otherwise noted on this Service Order, thirty (30) days after such prices are provided to Customer or Reseller. The parties intend and agree that a photocopy, facsimile or electronically signed copy of this Service Order shall be treated as an original, and shall be deemed to be as binding, valid, genuine and authentic as an original document for all purposes.

Any Services purchased under the terms of this Service Order will be provided as per the terms of the Agreement and agreed service level agreements or statements of work.

IN WITNESS WHEREOF, the parties have caused this Service Order to be executed by their duly authorized representatives.

City of Tracy

Fuseforward Cloud Services Ltd.

By: _____

DocuSigned by:

By: _____
53D7B567AC454E4...

Printed Name: _____

Printed Name: Mark Damm

Title: _____

Title: President

Date: _____

Date: June 30, 2015

RESELLER INFORMATION			
Name	DIRECT	Partner Number	
Location		Reseller Contract	
END USER INFORMATION			
Legal Name	City of Tracy		
Street Address	333 Civic Center Plaza	Unit	
City	Tracy	State / Province	CA
Country	USA	Postal Code / ZIP	95376
Primary Contact Name	Public Works and Utilities Dept.	Company Phone	209-831-4420
Email Address		Support Phone	
BILLING INFORMATION			
P.O. Number / Dept	Public Works and Utilities Department		
Street Address	333 Civic Center Plaza	Unit	
City	Tracy	State / Province	CA
Country	USA	Postal Code / ZIP	95376
Billing Contact		Contact Phone	
Email Address		Payment Method	
Credit Card No.		CC Type	
Name on Card			

SERVICE DEFINITION		
Service Order Effective Date	June 30, 2015	Enter the date that the service order becomes effective.
Subscription Start Date	July 1, 2015	Enter the date that the subscription starts
Initial Service Term	12	Indicate the initial number of months for the service term.
Cloud Node	N. America	Indicate which cloud node that the subscription will be provided from – N.America, Europe or S.Africa.

SERVICES ORDERED						
Item	Description	UoM	Unit Price	Units	Term (months)	Amount
APEV-RHWS-EV10	Application Environment - Enterprise Value Websphere Redhat	Per Month	\$2,500.00	1	12	\$ 30,000.00
APUS-APPU-EV10	Application User - Value	Per User Per Month	\$5.50	10	12	\$ 660.00
PTR-MXO-STD	MX-EAM Standard User	Per User Per Month	\$260.00	4	12	\$ 12,480.00
PTR-MXO-LTD	MX-EAM Limited User	Per User Per Month	\$120.00	6	12	\$ 8,640.00
		Subtotal				\$ 51,780.00
		Discount		5.7%		\$ 2,940.00
		Subtotal after Discount				\$ 48,840.00
		HST/GST		0%		\$ -
		PST		0%		\$ -
		Total				\$ 48,840.00

SERVICE ORDER SPECIFIC TERMS AND CONDITIONS	
1.	
2.	
3.	
4.	

FUSEFORWARD SERVICE TERMS

Master Subscription Agreement

How this Agreement Works

This Agreement is a master subscription agreement under which you may order Cloud Services including Application Services, Platform Services and Infrastructure Services from time to time through the execution of a Service Order and the applicable Schedules and Attachments, signed by you and Fuseforward. Upon execution of each Service Order by both parties, each such Service Order will be deemed to be incorporated by reference into and governed by this Agreement.

Pursuant to the terms of this Agreement, Fuseforward will provide you with use of the Cloud Services, including a browser interface, data encryption, transmission, access and storage. Your registration for, or use of, the Cloud Services shall be deemed to be your agreement to abide by the terms of this Agreement.

1. Definitions

As used in this Agreement and in any Service Order now or hereafter associated herewith:

“Application Services” means application software and services provided by Fuseforward including its portal, data analytics, business and other application software services provided via online access based on the Fuseforward Technology and third party technology (available solely as part of the Application Services) developed, operated, and maintained by Fuseforward, accessible via <http://cloud.fuseforward.com> or another designated web site or IP address, and any ancillary online or offline products and services provided to you by Fuseforward, to which you are being granted access under this Agreement, including the Fuseforward Technology;

“Cloud Services” means the Application, Platform and Infrastructure Services, including the use of the accompanying embedded software, information technology infrastructure and support services, all pursuant to the terms of this Agreement and the applicable Service Order;

“Content” means the audio and visual information, documents, taxonomies, software, products and services contained or made available to you in the course of using the Cloud Services;

“Customer Data” means any data, information or material provided or submitted by you through the Cloud Services in the course of using the Cloud Services;

“Effective Date” means the earlier of the this Agreement is accepted by selecting the “I Accept” option presented on the screen after the Agreement is displayed, the date you begin to use the Cloud Services, or the signature date on a printed copy of this Agreement or a Service Order;

“Fuseforward” means Fuseforward Cloud Services Ltd., a Canadian federal corporation, having its registered and records office at Suite 2300 – 925 West Georgia Street, Vancouver, BC, Canada, V6C 3L2;

“Fuseforward Technology” means all of Fuseforward’s proprietary technology (including software, hardware, products, processes, algorithms, taxonomies, user interfaces, know-how, techniques, Content, designs and other tangible or intangible technical material or information) made available to you by Fuseforward in the course of providing the Cloud Services;

“Infrastructure Services” means the network, servers both physical and virtual, operating system and monitoring software, access devices (e.g., virtual desktops, network routers, computers) and security services provided by Fuseforward including any offline products, devices and services, the embedded software and services based on Fuseforward Technology and third party technology (available solely as part of the Infrastructure Services) developed, operated and maintained by Fuseforward, that are used to provide and operate Fuseforward’s Platform and Applications services and third party services.

“Intellectual Property Rights” means unpatented inventions, patent applications, patents, design rights, copyrights, trade-marks, service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world;

“Online Order Center” means Fuseforward’s online application that allows the Subscription Administrator designated by you to, among other things, purchase additional Cloud Services;

“Platform Services” means the cloud platform including the application, data and analytics services provided by Fuseforward including the embedded software based on the Fuseforward Technology and third party technology

(available solely as part of the Platform Services) developed, operated and maintained by Fuseforward, that are used to provide and operate Fuseforward's Application Services and third party applications.

"Service Order" means an online or written form and its Schedules and Attachments evidencing the service subscriptions and any subsequent order forms submitted online or in written form, specifying, among other things, the number of subscriptions and types of Cloud Services contracted for, the applicable fees, the billing period, and other charges as agreed to between the parties, each such Service Order to be incorporated into and to become a part of this Agreement;

"Subscription Administrator(s)" means those Users designated by you who are authorized to purchase service subscriptions online using the Online Order Center or by executing a written Service Order and to create User accounts and otherwise administer your use of the Cloud Services;

"Subscription Term" means each of the annual periods (unless some other time period is specified in the applicable Service Order) during which the you are authorized to use the Cloud Services pursuant to a Service Order; and

"Users" means individuals who are authorized by you including but not limited to your employees, customers, representatives, consultants, contractors, agents and third parties to use the Cloud Services, for whom subscriptions to a Cloud Service have been ordered, and who have been supplied user credentials including user ids and passwords by you (or Fuseforward at your request).

2. Right to Use & Restrictions

Fuseforward hereby grants you a non-exclusive, non-transferable, worldwide right to use the Cloud Services subject to the terms and conditions of this Agreement. All rights not expressly granted to you are reserved by Fuseforward and its licensors.

You shall not:

- (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Cloud Services or the Fuseforward Technology, including, but not limited to the Content, in any way;
- (ii) modify or make derivative works based upon the Cloud Services or Fuseforward Technology, including, but not limited to, any Content;
- (iii) create Internet "links" to the Cloud Services or "frame" or "mirror" any Fuseforward Technology, including, but not limited to, any Content, on any other server or wireless or Internet-based device; or
- (iv) reverse engineer or access the Cloud Services in order to (a) build a competitive product or service, (b) build a product using similar ideas, features, functions or graphics of the Services, or (c) copy any ideas, features, functions or graphics of the Cloud Services.

Notwithstanding the foregoing, you may create Internet "links" to the Cloud Services and/or "frame" or "mirror" the Cloud Services provided the link, frame or mirror is to Cloud Services or Content specifically available as publically accessible or Content without any user login requirements;

User subscriptions cannot be shared or used by more than one individual User but may be reassigned from time to time to new Users who are replacing former Users who are no longer using the Cloud Services.

You may not access the Cloud Services if you are a direct competitor of Fuseforward, except with Fuseforward's prior written consent. In addition, you may not access the Cloud Services for purposes of monitoring availability, performance or functionality, or for any other benchmarking or competitive purposes.

You shall not:

- (i) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws;
- (ii) send or store infringing, harassing, obscene, threatening, libelous, or otherwise unlawful, objectionable or tortious material, including material harmful to children or violative of third party privacy rights;
- (iii) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs;
- (iv) interfere with or disrupt the integrity or performance of the Cloud Services or the data contained therein;
- (v) attempt to gain unauthorized access to the Cloud Services or related systems or networks; or
- (vi) use the Cloud Services for illegal, unethical or inappropriate purposes.

3. Your Responsibilities

You are responsible for all activity occurring under your User accounts and shall abide by all applicable local, provincial, state, national and foreign laws, treaties and regulations in connection with your use of the Cloud Services, including those related to data privacy, international communications and the transmission of technical or personal data.

You and your Users are responsible for maintaining the confidentiality of all passwords at all times and for ensuring that issued passwords are used only by the authorized User(s) and only for authorized purposes. You are entirely responsible for all activities that occur under your account and all charges incurred in connection with the use of the Services accessed using your passwords. You shall:

- (i) notify Fuseforward immediately of any unauthorized use of any password or account or any other known or suspected breach of security;
- (ii) report to Fuseforward immediately and use reasonable efforts to stop immediately any unpermitted copying or distribution of Fuseforward Technology, including but not limited to Content, that is known or suspected by you or your Users; and
- (iii) not impersonate another Fuseforward user or provide false identity information to gain access to or use the Services.

You are responsible for obtaining and maintaining all computer hardware, software and communications equipment needed to access and use the Cloud Services and for paying all third party fees and access charges incurred while using the Services.

4. Privacy; Disclosure

Fuseforward shall maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of the Customer Data. Fuseforward's legal agreements and privacy policies may be viewed at <http://www.Fuseforward.com/legal>. Fuseforward reserves the right to modify its privacy policies in its reasonable discretion from time to time. Users, when they initially log in, may be asked whether or not they wish to receive marketing and other non-critical Services-related communications from Fuseforward from time to time. Users may opt out of receiving such communications at that time or at any subsequent time by changing their preferences under Personal Setup. Note that because the Cloud Services are hosted, online applications and services, Fuseforward occasionally may need to notify all Users of the Services (whether or not they have opted out as described above) of important announcements regarding the operation of the Services. You agree that Fuseforward can disclose the fact that you are a customer and the edition of the Services that you are using.

5. Account Information and Data

Fuseforward does not own any data, information or material that you submit to or store via the Cloud Service in the course of using the Cloud Service ("Customer Data"). You, not Fuseforward, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Data.

You represent and warrant that you have the express consent of subject individuals to the collection, use and disclosure of their personal information as part of the Customer Data and in connection with the Cloud Services, or that such collection, use and disclosure of personal information as part of the Customer Data, whether by you or Fuseforward on your behalf, is in compliance with applicable law. Fuseforward assumes no responsibility and shall have no liability, for the deletion, correction, destruction, damage, loss or failure to store any Customer Data.

Fuseforward may access your account and Customer Data from time to time as Fuseforward deems necessary or appropriate for purposes of performing under this Agreement, including without limitation, providing support, performing account administration and generating invoices with respect to your use of the Cloud Services.

Except as permitted in this Agreement, Fuseforward shall not, during the term of this Agreement, disclose the contents of Customer Data unless authorized by you or Fuseforward is required to do so by law or in the good faith belief that such action is necessary to:

- (i) conform with applicable laws or comply with legal process served on Fuseforward;
- (ii) protect and defend the rights or property of Fuseforward and its licensors; or
- (iii) enforce this Agreement or establish any rights hereunder.

In the event this Agreement is terminated (other than by reason of your material breach as described in Section 13 (Termination for Cause)), Fuseforward will make available to you a file of the Customer Data within 30 days of termination if you so request at the time of termination. You agree and acknowledge that Fuseforward has no

obligation to retain the Customer Data, and may delete such Customer Data, at any time after the expiration of the aforementioned 30 day period.

Fuseforward reserves the right to withhold, remove and/or irretrievably delete Customer Data subject to notice for material breach, including, without limitation, your non-payment of any monies due hereunder as described in Section 13 (Termination for Cause). Upon termination for cause, your right to access or use Customer Data immediately ceases, and Fuseforward shall have no obligation to maintain or forward any Customer Data and may, in its discretion, withhold, remove or irretrievably delete such Customer Data.

6. Intellectual Property Ownership

Fuseforward alone (and its licensors, where applicable) shall own all right, title and interest, including all related Intellectual Property Rights, in and to the Fuseforward Technology and all other aspects of the Cloud Services and any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by you or any other person relating to the Cloud Services.

This Agreement is not a sale and does not convey to you any rights of ownership in or related to the Cloud Services, including, but not limited to, the Fuseforward Technology or the Intellectual Property Rights owned by Fuseforward. The Fuseforward name, the Fuseforward logo and the product names associated with the Cloud Services are trademarks of Fuseforward or third parties, and no right or license is granted to use them.

7. Third Party Interactions

During use of the Cloud Services, you may enter into correspondence with, purchase goods and/or services from, or participate in promotions of advertisers or sponsors showing their goods and/or services through the Cloud Services. Any such activity, and any terms, conditions, warranties or representations associated with such activity, are solely between you and the applicable third-party. Fuseforward and its licensors shall have no liability, obligation or responsibility for any such correspondence, purchase or promotion between you and any such third-party. Fuseforward does not endorse any sites on the Internet that are linked through the Cloud Services. Fuseforward provides these links to you only as a matter of convenience, and in no event shall Fuseforward or its licensors be responsible for any content, products, or other materials on or available from such sites.

Fuseforward provides the Cloud Services to you pursuant to the terms and conditions of this Agreement. You recognize, however, that certain third-party providers of ancillary software, hardware or services may require your agreement to additional or different license or other terms prior to your use of or access to such software, hardware or services.

8. Charges and Payment of Fees

8.1 Application Service Fees

You agree to pay all Application Service fees specified in all Service Orders hereunder. Except as otherwise specified herein or in a Service Order, (i) fees are based on the number of units purchased and not actual usage, (ii) payment obligations are non-cancelable and fees paid are non-refundable, and (iii) the number of subscription units purchased cannot be decreased during the relevant subscription term stated on the Service Order.

8.2 Platform Service Fees

You agree to pay all Platform Service fees specified in all Service Orders hereunder. Except as otherwise specified herein or in a Service Order, (i) fees are based on the number of units purchased and/or usage and/or any combination thereof, (ii) payment obligations are non-cancelable and fees paid are non-refundable, and (iii) the number of subscription units purchased cannot be decreased during the relevant subscription term stated on the Service Order. Usage based fees will be billed on actual usage during a period. Where pre-payment has been provided, actual usage will be reconciled on a monthly basis.

8.3 Infrastructure Service Fees

You agree to pay all Infrastructure Service fees specified in all Service Orders hereunder. Except as otherwise specified herein or in a Service Order, (i) fees are based on the number of units purchased and/or usage and/or any combination thereof, (ii) payment obligations are non-cancelable and fees paid are non-refundable, and (iii) the number of subscription units purchased cannot be decreased during the relevant subscription term stated on the Service Order. Usage based fees will be billed on actual usage during a period. Where pre-payment has been provided, actual usage will be reconciled on a monthly basis.

9. Excess Data Storage Fees

Where applicable, the maximum disk storage space provided to you for your Cloud Services at no additional charge is as identified in the capacity component of the specific Cloud Service subscription offering purchased under the applicable Service Order. Fuseforward will use reasonable efforts to notify you when the average storage used per Cloud Service reaches approximately 90% of the maximum; however, any failure by Fuseforward to so notify you shall not affect your responsibility for such additional storage charges. Fuseforward reserves the right to establish or modify its general practices and limits relating to storage of Customer Data.

10. Billing and Renewal

Fuseforward charges and collects in advance for use of the Cloud Services. All invoices are due upon receipt. Fees for other services will be charged on an as-quoted basis. Fuseforward's fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and you shall be responsible for payment of all such taxes, levies, or duties, excluding only taxes based solely on Fuseforward's income.

You agree to provide Fuseforward with complete and accurate billing and contact information. This information includes your legal company name, street address, e-mail address, and name and telephone number of an authorized billing contact to act as the Subscription Administrator. You agree to update this information within 30 days of any change to it. If the contact information you have provided is false or fraudulent, Fuseforward reserves the right to terminate your access to the Cloud Services in addition to any other legal remedies.

Unless Fuseforward in its discretion determines otherwise:

- (i) entities with headquarters and a majority of Users resident in Canada will be billed in Canadian dollars and will be subject to Canadian payment terms and pricing structures ("Canadian Customers");
- (ii) entities with headquarters and a majority of Users resident in the United States will be billed in USA dollars and will be subject to USA payment terms and pricing structures ("USA Customers");
- (iii) entities with headquarters and a majority of Users resident in the United Kingdom will be billed in Great Britain pounds and will be subject to UK payment terms and pricing structures ("UK Customers");
- (iv) entities with headquarters and a majority of Users resident in the European Union excluding the United Kingdom will be billed in Euros and will be subject to EU payment terms and pricing structures ("EU Customers"); and
- (iv) all other entities will be billed in USA dollars and will be subject to Rest of World payment terms and pricing structures ("ROW Customers").

If you believe your bill is incorrect, you must contact Fuseforward in writing within sixty (60) days of the invoice date of the invoice containing the amount in question to be eligible to receive an adjustment or credit.

Fuseforward may, at its election, pledge all or any part of Fuseforward's right to payment under this Agreement and any amounts due or to become due pursuant to this Agreement to any assignee. Upon receipt of written notice from Fuseforward of such assignment, you will promptly acknowledge receipt thereof in writing. If you are given written notice by Fuseforward of any such assignment, you agree to pay all amounts due or to become due hereunder, in accordance with the terms of this Agreement applicable to such payments, directly to the applicable assignee or to any other party designated by such assignee. Fuseforward will have no rights to any amounts paid by you to an assignee designated in writing by Fuseforward. You agree not to assert against any such assignee any set-off, defense, recoupment, claim or counterclaim that you may have against Fuseforward or any other person. You also agree to execute and deliver to Fuseforward such documentation as any such assignee shall reasonably request, including, without limitation, an acknowledgement of or consent to the assignment and reaffirmation with respect to your agreement to make payments directly to such assignee as required pursuant to the terms of this Agreement. Each of Fuseforward and you will not be relieved of any obligations under this Agreement as a result of any such assignment by Fuseforward of the right to receive payments from you. Any such assignee will be entitled to rely on your consent to such assignment and your payment obligations related thereto under the terms of this Agreement and shall be considered a third party beneficiary thereof.

11. Non-Payment and Suspension

In addition to any other rights granted to Fuseforward herein, Fuseforward reserves the right to suspend or terminate this Agreement and/or your access to the Cloud Services if your account becomes delinquent (falls into arrears). Delinquent invoices (accounts in arrears) are subject to interest of 1.5% per month (18% per annum) on any outstanding balance, or the maximum permitted by law, whichever is less, plus all expenses of collection. You will continue to be charged for Cloud Service subscriptions during any period of suspension. Fuseforward reserves the right to impose a reconnection fee in the event you are suspended and thereafter request access to the Cloud Services. If you or Fuseforward initiates termination of this Agreement, you will be obligated to pay the balance due

on your account computed in accordance with Section 8 (Charges and Payment of Fees). You agree that Fuseforward may charge such unpaid fees to your credit card or otherwise bill you for such unpaid fees.

12. Term and Termination

This Agreement commences on the Effective Date. Either party may terminate this Agreement or reduce the number of subscriptions, effective upon the expiration of the then-current Subscription Term, by notifying the other party in writing at least thirty (30) days prior to the expiration of the then-current Subscription Term.

13. Termination for Cause

Fuseforward, in its sole discretion, may terminate, at Fuseforward's election, this Agreement (including termination of use of your password, closure of your account and termination of your use of the Cloud Services) if you materially breach or otherwise fail to comply with this Agreement subject to 30 days prior written notice of such material breach by Fuseforward and the opportunity for you to fully cure such material breach during such notice period. Any breach of your payment obligations or unauthorized use of the Fuseforward Technology or Cloud Service will be deemed a material breach of this Agreement. In addition, Fuseforward may terminate a free account at any time in its sole discretion. Any actual or proposed change in control of you that results or would result in a direct competitor of Fuseforward directly or indirectly owning or controlling 50% or more of you shall entitle Fuseforward to terminate this Agreement for cause immediately upon written notice.

14. Representations & Warranties

Each party represents and warrants that it has the legal power and authority to enter into this Agreement. Fuseforward represents and warrants that it will provide the Cloud Services in a manner consistent with general industry standards reasonably applicable to the provision thereof and that the Services will conform substantially to the online Fuseforward help documentation under normal use and circumstances. You represent and warrant that you have not falsely identified yourself nor provided any false information to gain access to the Cloud Services and that your billing information is correct.

15. Mutual Indemnification

You shall indemnify and hold Fuseforward, its licensors and each such party's parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with:

- (i) a claim alleging that use of the Customer Data infringes the rights of, or has caused harm to, a third party;
- (ii) a claim, which if true, would constitute a violation by you of your representations and warranties; or
- (iii) a claim arising from the breach by you or your Users of this Agreement, provided in any such case that Fuseforward (a) gives written notice of the claim promptly to you; (b) gives you sole control of the defense and settlement of the claim (provided that you may not settle any claim unless, in such settlement, you unconditionally release Fuseforward of all liability and such settlement does not affect Fuseforward's business or Services or require Fuseforward to make any payments or incur any liability); (c) provides to you all available information and assistance; and (d) has not compromised or settled such claim.

Fuseforward shall indemnify and hold you and your parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with:

- (i) a claim alleging that the Cloud Services directly infringes a copyright, a U.S. patent issued as of the Effective Date, or a trademark of a third party;
- (ii) a claim, which if true, would constitute a violation by Fuseforward of its representations or warranties; or
- (iii) a claim arising from breach of this Agreement by Fuseforward; provided that you (a) promptly give written notice of the claim to Fuseforward; (b) give Fuseforward sole control of the defense and settlement of the claim (provided that Fuseforward may not settle any claim unless such settlement unconditionally releases you of all liability and does not require you to make any payments or incur any liability); (c) provide to Fuseforward all available information and assistance; and (d) have not compromised or settled such claim. Fuseforward shall have no indemnification obligation, and you shall indemnify Fuseforward pursuant to this Agreement, for claims arising from any infringement arising from the combination of the Cloud Services with any of your products, service, hardware or business process(s).

16. Disclaimer of Warranties

FUSEFORWARD AND ITS LICENSORS MAKE NO REPRESENTATION, WARRANTY, CONDITION OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE CLOUD SERVICES OR ANY FUSEFORWARD TECHNOLOGY. FUSEFORWARD AND ITS LICENSORS DO NOT REPRESENT OR WARRANT THAT (a) THE USE OF THE CLOUD SERVICES AND/OR FUSEFORWARD TECHNOLOGY WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, (b) THE CLOUD SERVICES AND/OR FUSEFORWARD TECHNOLOGY WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, (c) ANY STORED DATA WILL BE ACCURATE OR RELIABLE, (d) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE CLOUD SERVICES WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, (e) ERRORS OR DEFECTS WILL BE CORRECTED, OR (f) THE CLOUD SERVICES AND/OR FUSEFORWARD TECHNOLOGY OR THE SERVER(S) THAT MAKE THE CLOUD SERVICES AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THE CLOUD SERVICES AND ALL FUSEFORWARD TECHNOLOGY IS PROVIDED TO YOU STRICTLY ON AN "AS IS" BASIS EXCEPT AS OTHERWISE SPECIFIED IN THE APPLICABLE SERVICE ORDER. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY FUSEFORWARD AND ITS LICENSORS.

17. Internet Delays

FUSEFORWARD'S CLOUD SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. FUSEFORWARD IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

18. Limitation of Liability

IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY EXCEED THE AMOUNTS ACTUALLY PAID BY AND/OR DUE FROM YOU IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM (EVEN IN THE EVENT OF A FUNDAMENTAL BREACH OF THIS AGREEMENT). IN NO EVENT SHALL EITHER PARTY AND/OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE CLOUD SERVICES, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE CLOUD SERVICES, ANY HARDWARE DEVICE, OR FUSEFORWARD TECHNOLOGY OR INFORMATION OBTAINED FROM OR THROUGH THE CLOUD SERVICES, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, REGARDLESS OF CAUSE, IN THE CLOUD SERVICES, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. (EVEN IN THE EVENT OF A FUNDAMENTAL BREACH OF THIS AGREEMENT.)

19. Local Laws and Export Control

The Cloud Services use information, hardware, software and technology that may be subject to Canadian or United States export control laws. You acknowledge and agree, on your own behalf and on behalf of each of your Users (for which you shall be jointly and severally liable), that the Cloud Services shall not be used, and none of the underlying information, hardware, software, or technology may be transferred or otherwise exported or re-exported to prohibited or restricted countries, to restricted or prohibited persons or entities or for any prohibited or restricted end uses under applicable U.S. or Canadian laws, including any changes to those laws that may be made from time to time. Pursuant to U.S. laws, the lists of prohibited or restricted end-users includes the List of Specially Designated Nationals and Blocked Persons administered by U.S. Department of the Treasury, Office of Foreign Assets Control, the Entity, Unverified and Denied Persons lists administered by the U.S. Department of Commerce, and the Non-Proliferation and Debarred Parties Lists administered by the U.S. Department of State.

By using the Cloud Services, you represent and warrant that you are not located in, under the control of, or a national or resident of any prohibited or restricted country and are not a prohibited or restricted person to which the transfer, export or reexport of the information, hardware, software, technology or Cloud Services is prohibited by U.S. or Canadian laws. You also agree to comply strictly with all applicable Canadian and U.S. export laws, as well as any other applicable export laws, and assume sole responsibility for obtaining licenses to export or re-export as may be required.

None of the information acquired through the use of the Cloud Services or any software, or technology used in the Cloud Services, is or will be used for nuclear activities, chemical or biological weapons, or missile projects, unless specifically authorized by the United States government or appropriate Canadian body for such purposes.

These Cloud Services may use encryption software and/or technology that are subject to licensing or other related requirements under the U.S. Export Administration Regulations, 15 C.F.R. Parts 730-774.

Fuseforward and its licensors make no representation that the Cloud Services are appropriate or available for use in other locations. If you use the Cloud Services from outside Canada or the United States of America, you are solely responsible for compliance with all applicable laws, including without limitation export, import and use regulations of other countries.

Any diversion of the Cloud Services or related hardware, software, technology, or information contrary to Canadian or United States law is prohibited.

20. Notice

Fuseforward may give notice by means of a general notice delivered through the Cloud Services, electronic mail to your e-mail address on record in Fuseforward's account information, or by written communication sent by first class mail or pre-paid post to your address on record in Fuseforward's account information. Such notice shall be deemed to have been given upon the expiration of 48 hours after mailing or posting (if sent by first class mail or pre-paid post) or 12 hours after sending (if sent by email). You may give notice to Fuseforward (such notice shall be deemed given when received by Fuseforward) at any time by any of the following: letter sent by confirmed facsimile to Fuseforward at the following email address: legaldesk@fuseforward.com, fax number: (604) 229-2435; or letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail to Fuseforward at the following address: Fuseforward Cloud Services Ltd., 671J Market Hill, Vancouver, BC, Canada V5Z 4B5: attention of: Chief Financial Officer or Chief Executive Officer.

21. Entire Agreement

This Agreement, including all exhibits and addenda hereto and all Service Orders, constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and either signed or accepted electronically by the party against whom the modification, amendment or waiver is to be asserted. However, to the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any exhibit or addendum hereto or any Service Order, the terms of such exhibit, addendum or Service Order shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in your purchase order or other order documentation (excluding Service Order) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void. No waiver of any other provisions of this agreement shall be deemed or shall constitute a waiver of any other provisions (whether or not similar) nor shall the waiver constitute a continuing waiver unless otherwise expressly provided.

22. Assignment; Change in Control

Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in its entirety (including all Service Orders), without the consent of the other party, to its Affiliates or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of the other party. Any purported assignment in violation of this section shall be void.

23. General

With respect to Customers located in the United States, this Agreement shall be governed by Washington State law and controlling United States federal law, without regard to the choice or conflicts of law provisions of any jurisdiction, and any disputes, actions, claims or causes of action arising out of or in connection with this Agreement or the Cloud Service shall be subject to the non-exclusive jurisdiction of the state and federal courts located in Seattle, Washington.

With respect to customers located in Canada and Internationally excluding the United States, this Agreement shall be governed by British Columbia and controlling Canadian law without regard to the choice or conflicts of law provisions of any jurisdiction, and any disputes, actions, claims or causes of action arising out of or in connection with this Agreement or the Cloud Service shall be subject to the non-exclusive jurisdiction of British Columbia, Canada.

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect.

No joint venture, partnership, employment, or agency relationship exists between you and Fuseforward as a result of this agreement or use of the Services.

The failure of Fuseforward to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by Fuseforward in writing.

The parties agree that each of the Uniform Computer Information Transactions Act (UCITA) and the United Nations Convention for the International Sale of Goods is excluded in its entirety from application to this Agreement.

RESOLUTION 2015-_____

AUTHORIZING A MASTER SUBSCRIPTION AGREEMENT AND SERVICE ORDER WITH FUSEFORWARD CLOUD SERVICES LTD. FOR WASTEWATER COMPUTERIZED MAINTENANCE MANAGEMENT SYSTEM SERVICES AND AUTHORIZING THE MAYOR TO EXECUTE THE SERVICE ORDER

WHEREAS, A preventative maintenance program for the City’s wastewater collection system is required as part of the City’s NPDES Wastewater Discharge Permit, and

WHEREAS, Fuseforward integrated the City’s preventative maintenance work orders and schedules into the IBM Maximo program and provides access through their website, and

WHEREAS, Fuseforward “hosts” the CMMS on its servers so the City did not need to purchase computer hardware, software, or software updates, and

WHEREAS, The Master Subscription Agreement provides for ongoing services. Each year a Service Order is prepared and executed, and

WHEREAS, The Service Order denotes the services to be provided and a term of July 1, 2015 through June 30, 2016, and

WHEREAS, There is no impact to the General Fund; the cost for hosting the program on the Fuseforward servers is not to exceed \$50,000, and

WHEREAS, Funding is from the Wastewater Enterprise Fund and is included in the budget;

NOW, THEREFORE, BE IT RESOLVED, That the City Council authorizes Master Subscription Agreement and Service Order with Fuseforward Cloud Services, Ltd. for Wastewater Computerized Maintenance Management System services and authorizes the Mayor to execute the Service Order.

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 1st day of December, 2015, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.I

REQUEST

APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH ERLER & KALINOWSKI, INC., A CALIFORNIA CORPORATION FOR AN UPDATE TO THE URBAN WATER MANAGEMENT PLAN; AND APPROVE SUPPLEMENTAL APPROPRIATIONS IN THE AMOUNTS OF \$67,000 AND \$20,000 FROM THE WATER FUND

EXECUTIVE SUMMARY

State law mandates updates of the Urban Water Management Plan and Watershed Sanitary Survey from local agencies/cities once every five years. Services of a consultant are needed to update this plan and survey.

DISCUSSION

The City is required by State law to update the Urban Water Management Plan once every five years. The Urban Water Management Plan was updated in 2011 and is now due on June 30, 2016. This update requires the inclusion of a discussion of the existing water sources, planned growth in the City's service area, discussion of the planned sources of water to meet that growth, discussion of the planned program to reduce water usage during drought periods including impacts on the Water Enterprise's revenue, and discussion of the City's wastewater collection and treatment system including implementation of recycled water programs. The Urban Water Management Plan is required to have public review at a public hearing and needs adoption by the City Council.

The City is also required by State law to update its Watershed Sanitary Survey every five years and the next update is due on December 31, 2015. This survey update examines possible sources of potential contamination to the City's surface water supply. The study will incorporate the South County Water Supply Program into the City's watershed survey.

Erler & Kalinowski (Consultant) prepared the original Urban Water Management Plan and Sanitary Survey in the years 2000, 2005 and 2010. The Consultant is familiar with the City's water and wastewater systems. Therefore, pursuant to section 2.20.140(b)(3), the City Manager has determined that compliance with the formal request for proposal process is not in the best interest of the City, and therefore may be dispensed with, for the Professional Services Agreement with the Consultant for the Urban Water Management Plan. The Professional Services Agreement with the Consultant for the Sanitary Survey does not require formal requests for proposals, and may be signed by the Utilities Director without City Council approval.

Erler & Kalinowski has submitted a proposal to complete the Urban Water Management Plan update for a not to exceed amount of \$67,000 and to complete the Sanitary Survey for a not to exceed amount of \$20,000. Since the consultant prepared previous updates

and is familiar with the City the Consultant will need a minimum of direction from City Staff to complete this work in a timely manner.

STRATEGIC PLAN

This agenda item is a routine operational item and is not related to the Council's Strategic Plans.

FISCAL IMPACT

There is no fiscal impact to the General Fund. The cost of the Urban Water Management Plan update is \$67,000. The cost of the Watershed Sanitary Survey update is \$20,000. These studies are included in the City budget as CIP's 75PP -086 and 75PP-087, but funding was inadvertently postponed until FY 16-17. The supplemental appropriations will provide funding in the current budget year.

RECOMMENDATION

That the City Council, by resolution, authorize execution of the Professional Services Agreement with Erler & Kalinowski for an update of the Urban Water Management Plan and authorize the Mayor to execute the agreement and authorize supplemental appropriations in the amount of \$67,000 and \$20,000 respectively from the Water Fund.

Prepared by: Steve Bayley, Project Specialist, Utilities

Reviewed by: Kuldeep Sharma, Utilities Director
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment A – Professional Services Agreement with Erler & Kalinowski (UWMP Update)

City of Tracy
PROFESSIONAL SERVICES AGREEMENT
Urban Water Management Plan Update 2015

This Professional Services Agreement (Agreement) is entered into between the City of Tracy, a municipal corporation (City), and Erler & Kalinowski, Inc., a California corporation (Consultant).

Recitals

- A. The City is required by State law to prepare an Urban Water Management Plan update, which is due on June 30, 2016
- B. On September 3, 2015, the City issues a Request for Proposals (RFP) for the Urban Water Management Plan Update (Project). On September 15, 2015, Consultant submitted its proposal for the Project to the City. 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.

Now therefore, the parties mutually agree as follows:

1. **Scope of Services.** Consultant shall perform the services described in Exhibit "A" attached and incorporated by reference. The services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Stephen Tarantino and Anona Dutton. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit "A," nor shall Consultant use any subcontractors or subconsultants, without City's prior written consent.
2. **Time of Performance.** Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Consultant. Consultant shall submit all requests for extensions of time to the City in writing no later than thirty days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. Consultant's time for performance of services shall be extended for delays beyond the Consultant's reasonable control.
3. **Compensation.**
 - 3.1 **General.** For services performed by Consultant under this Agreement, City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit "B," attached and incorporated by reference. Consultant's fee for this Agreement is Not to Exceed \$67,000. Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Not to Exceed amount without the City's prior written approval.
 - 3.2 **Invoices.** Consultant shall submit monthly invoices to the City describing the services performed, including times, dates, and names of persons performing the service.

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

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

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

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

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

5. Insurance.

5.1 General. 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 here.

5.2 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 \$2,000,000 general aggregate and \$1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.

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

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

5.5 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 \$2,000,000 general aggregate and \$1,000,000 per claim.

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

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

5.6.2 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.

5.7 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.

5.8 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.

5.9 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.

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

5.11 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.

6. Independent Contractor Status; Conflicts of Interest. 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 (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.

7. Termination. The City may terminate this Agreement by giving ten days written notice to Consultant. Upon termination, Consultant shall give the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant for this Agreement. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given. Either party may terminate this Agreement for cause upon seven (7) days written notice.

8. Ownership of Work. All original documents prepared by Consultant for this Agreement, whether complete or in progress, are upon payment of all amounts owed under this Agreement 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. The Consultant may keep copies of all documents for the completion of its records.

9. Miscellaneous.

9.1 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 as follows:

To City:

Director of Utilities
City of Tracy
3900 Holly Drive
Tracy, CA 95304

To Consultant:

Stephen A. Tarantino, P.E., Vice President
Erler & Kalinowski, Inc.
1870 Ogden Drive
Burlingame, CA 94010

With a copy to:

City Attorney
333 Civic Center Plaza
Tracy, CA 95376

Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated above, or (2) three working days after the deposit in the United States Mail of registered or certified mail, sent to the address designated above.

9.2 Standard of Care. 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.

9.3 Modifications. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.

9.4 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.

9.5 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. City may not assign this Agreement without the written consent of the Consultant.

9.6 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.

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

9.8 Business Entity Status. Contractor is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Contractor. City may void this Agreement if Contractor is a suspended corporation,

limited liability company or limited partnership at the time it enters into this Contract, City may take steps to have this Agreement declared voidable.

9.9. Business License. Before the City signs this Agreement, Consultant shall obtain a City of Tracy Business License.

9.10 Entire Agreement; Severability. This Agreement comprises the entire integrated understanding between the parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements.

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.

9.11 Third Parties. Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either City or Consultant. Consultant's Services hereunder are being performed solely for the benefit of City.

10. 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 the Consultant and the City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

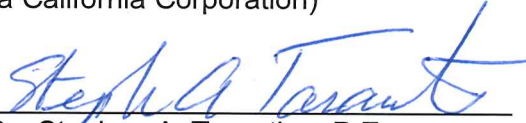
The parties agree to the full performance of the terms set forth here.

City of Tracy

Consultant

Erler & Kalinowski, Inc.
(a California Corporation)

By: Michael Maciel
Title: Mayor



By: Stephen A. Tarantino, P.E.,
Title: Vice President

Date: _____

Date: NOV 10, 2015

Approved by City Council on _____ by
Resolution No. _____.

Federal Employer Tax ID No. 943087395

Attest:

Nora Pimentel, City Clerk

Approved as to form:

Daniel G. Sodergren, City Attorney

Exhibits:

- A Scope of Services, including personnel and time of performance (See Agreement sections 1 and 2.)
- B Compensation (See Agreement section 5.)

EXHIBIT A

SCOPE OF WORK

Below is the scope of work for the 2015 UWMP preparation. It should be noted that we have assumed that the majority of the necessary information to prepare the UWMP will be available in the 2010 UWMP, the City's 2012 Water System Master Plan, and from City staff or from other readily available sources. We have further assumed that the tables for the UWMP will be developed using the DWR templates and that the "optional" elements from the UWMP Act and DWR guidance will not be included in the 2015 UWMP unless specifically requested by the City as part of an additional scope of work.

Task 1 - Data Collection and Review and Project Kick-Off Meeting

Specific information will be required for the 2015 UWMP regarding water demands and supplies, coordination efforts, water conservation, and compliance with SBX7-7. Prior to the kick-off meeting, EKI will review the City's 2010 UWMP and relevant changes and updates in the 2015 UWMP Act and the 2015 UWMP Guidebook. EKI will provide the City with a tabular summary of the additional data and information needs and will work with City staff to identify when the relevant information is likely to become available. The tabular summary will be organized by UWMP section so the intended use of the data and the manner in which the data will be included in the UWMP document is clear.

At the kick-off meeting, EKI and City staff will discuss UWMP requirements, project goals, opportunities, constraints, information needs, roles, responsibilities, schedule, and expectations. A key topic for discussion will be the project schedule to ensure efficient development of the UWMP in coordination with others, as needed. EKI will provide the City with an agenda and meeting minutes that document the key decisions and action items identified during the kick-off meeting.

Task 2 - Prepare for and Attend Workshop #1 – Water Demand and Conservation

Task 2 includes preparing information regarding the City's service area, demand projections, and water conservation measures and attending Workshop #1, where EKI will update the City on the progress of work and solicit intermediate input. As part of this Task, EKI will develop information related to the following.

Task 2.1 - Prepare Water System and Service Area Description

Per CWC Section 10631(a), a broad suite of information is required to describe the supplier's service area. Based on information provided or approved by the City, a summary of the characteristics of the City's water service area including the water system, average rainfall, average temperature, demographics, water use sectors, and service area will be prepared, including relevant figures.

Task 2.2 - Develop Current and Future Population Estimates

Per CWC Section 10631(a), the 2015 UWMP must describe the current and projected population within the service area. Refining how population estimates are done has been a key focus of the 2015 UWMP Guidebook. We have assumed that information provided by the City, the 2010 Census data, and/or California Department of Finance Data to estimate current population can be relied upon and will meet the requirements of the Guidebook. As appropriate, future population growth over the UWMP planning horizon will be based on information provided by the City, or from sources approved by the City and acceptable to DWR.

Task 2.3 - Develop Water Demand and Conservation Projections

Per CWC Section 10631(e)(1), water suppliers are required to quantify, to the extent records are available, past, current, and projected water use by sector. If data and/or projections are not readily available from the City (or have changed significantly from recent projections, e.g., from those included in 2012 Water System Master Plan), EKI will work with the City to identify data gaps and/or apply an appropriate methodology to estimate future demands for the service area. Once population, planning, per capita water use, and other input information have been reconciled, the City's water demand and conservation projections will be analyzed in five-year increments for the next 25 years required by CWC Section 10631(e)(2). Because the scope of work associated with the development of demand and conservation projections can vary significantly depending on the methodology, available data, and level of detail requested by the City, we have allocated a cost range for this task which can be refined based upon further discussions with the City.

Task 2.4 - Describe Demand Management Measures

Per CWC Section 10631(f), retail water suppliers are required to provide descriptions regarding the nature and extent of implemented and planned demand management measures (i.e., water conservation measures or "DMMs"). EKI will work with City staff to incorporate appropriate water conservation information into the 2015 UWMP based on the revised DMM framework required per Assembly Bill 2067 and CWC §10631. EKI has assumed that records of the City's historical and planned water conservation programs and actions will be provided by the City, specifically with respect to:

- Water waste prevention ordinances;
- Metering;
- Conservation pricing;
- Public education and outreach;
- Programs to assess and manage real distribution system water loss;
- Water conservation program coordination and staffing support; and
- Other DMMs that have a significant impact on water use, including innovative measures, if implemented.

Task 2.5 - Senate Bill X7-7 Per-Capita Water Usage Analysis

Per CWC Section 10608.20 and SBX7-7, Tracy's 2015 UWMP will need to provide the City's baseline water use, compliance water use, and water use targets for 2015 and 2020, which may be updated relative to those established in the City's 2010 UWMP (i.e., which were 204 GPCD in 2015 and 182 GPCD in 2020). As above, the City's low GPCD numbers achieved in 2014 and 2015 most likely reflect the City's drought response efforts and could increase in the future if the economy continues to grow and drought conditions are alleviated. EKI will work with the City to assess if there is any reason to modify the existing baselines or targets.

Task 2.6 – Summarize and/or Update the Water Shortage Contingency Plan (“WSCP”)

Per CWC Section 10632(a), the UWMP must include an urban water shortage contingency analysis that includes each of the WSCP elements that are within the authority of the urban water supplier. As part of this task, EKI will review and summarize the City's existing WSCP for inclusion in the 2015 UWMP. Given the recent and severe drought, Executive Order B-29-15, and the SWRCB's Emergency Drought Regulations, WSCPs are subject to increased scrutiny. Therefore, if desired, and as an optional scope and budget item, EKI will work with the City to develop an updated and more comprehensive WSCP pursuant to an additional scope of work.

Task 2.7 - Prepare Stand-Alone System Water Loss Report

Distribution system water losses (also known as real losses) are the physical water losses from the water system and the utility's storage tanks, before the point of customer consumption. Per CWC 10631 (e)(3), water suppliers must report in the 2015 UWMPs their distribution system water loss for the most recent 12-month period for which data are available. It is expected that DWR will require that the City use the worksheet-based American Water Works Association (“AWWA”) Free Water Audit Software Version 5.0 for reporting system water loss. EKI will prepare the stand-alone worksheet based on system data provided by the City.

Task 2.8 - Conduct Workshop #1

Workshop #1 will include a presentation of the information identified above and will consist of an approximately two-hour meeting with appropriate stakeholders as identified by the City. During Workshop #1, EKI will obtain input from the City regarding initial findings of Task 2 and information to include in the Administrative Draft UWMP.

Task 3 - Prepare for and Attend Workshop #2 – Water Supply Projections

This task includes preparing information regarding the City's water supply projections and attending Workshop #2, where EKI will update the City on the progress of work and solicit City input. As part of this task, EKI will develop and present the following information.

Task 3.1 - Develop Water Supply Projections

Per CWC 10631(b), the 2015 UWMP must identify and quantify, to the extent practicable, the existing and planned sources of water available to the supplier for the next 20 years, in five-year increments, and during various water-year types. Further, CWC 10631(c)(2) requires water

suppliers to identify and describe water sources that may not be consistently available, given specific legal, environmental, water quality, or climatic factors.

To the extent appropriate, the 2015 UWMP will incorporate information regarding the source, nature and projected availability of the City's current water supplies based upon information provided by the City, SSJID, and the USBR. As above, the current drought has likely changed historical water supply reliability assumptions. EKI will identify such changes and coordinate closely with the City with respect to how to address the resultant impacts as part of the water supply reliability evaluation. If new, clearly-defined, reliability criteria have not yet been developed for key supply sources for the City, and additional effort is required beyond what has been anticipated herein, EKI will work with the City to develop updated reliability assumptions pursuant to an additional scope of work.

Task 3.2 - Evaluate Potential Supplemental Supplies

Per CWC 10631(c)(2), a supplier is required to describe plans to supplement or replace its water source(s) with alternative sources or water demand management measures, to the extent practicable. Also, per CWC Section 10631(g), the 2015 UWMP must include a detailed description of expected future projects and programs that the water supplier may implement to increase the amount of the water supply available to the urban water supplier in average, single-dry, and multiple-dry water years. As part of this effort, EKI will work closely with the City to assess which supplemental sources of supply (e.g. recycled water, additional groundwater, water exchange, water transfers, water conservation or other supply sources), and what volumes, are likely to be developed as part of the City's future water supply portfolio.

Task 3.3 - Evaluate Future Recycled Water Supplies

In addition to information provided as part of Task 3.2, CWC Section 10633 requires the 2015 UWMP contain, to the extent available, information on recycled water and its potential for use as a water source in the service area of the urban water supplier. Further, per CWC Section 10620(f), a water supplier shall describe the management tools and options used by that entity to maximize resources and minimize the need to import water from other regions. As described previously, the City is installing infrastructure for recycled water and plans to supply recycled water in the near future. Based on information provided by the City, EKI will summarize the City's potential recycled water demand in addition to its existing and planned recycled water supplies.

Task 3.4 - Evaluate Current and Future Groundwater Supplies

Per CWC Section 10631(b), if groundwater is identified as an existing source of water available to the supplier, substantial information must be included in the UWMP, including a detailed description and analysis of the location, amount, and sufficiency of groundwater pumped by the supplier for the past five years, and information regarding groundwater quality and management.

EKI will review groundwater data provided by the City, including new information developed since the preparation of the 2007 Tracy GWMP, the 2010 UWMP, and the 2010 Water System Master Plan (e.g., relative to operation of the ASR program). As discussed previously, EKI will

summarize the available information and the potential implications of SGMA implementation on Tracy's groundwater supplies. We have generally assumed that, while groundwater conditions have likely changed in recent years, the current groundwater supply reliability and availability is fully documented in readily accessible documents.

Task 3.5 - Evaluate Water Quality

Per CWC Section 10634, the 2015 UWMP will have to include information, to the extent practicable, relating to the quality of existing sources of water available to the supplier. As requested by the City, EKI will review historical water quality data, including information contained in the 2010 UWMP, the City's 2014 Water Quality Report and other sources, and will summarize the available information and the potential implications to water quality (e.g., boron and total dissolved solids ("TDS")) on supply.

Task 3.6 - Evaluate Supply versus Demand

Per CWC Section 10635(a), the 2015 UWMP must include an assessment of the reliability of the water supply as compared to projected demands during various year types. Based on information developed as part of the 2015 UWMP, EKI will compare the City's projected water supply to projected water demand in five-year increments for the next 25 years, for normal, dry, and multiple dry years. To the extent that there are significant shortfalls or uncertainties identified, EKI will bring these issues to the City's attention so that they can be addressed prior to drafting the Administrative Draft UWMP.

Task 3.7 - Conduct City Workshop #2

Workshop #2 will include a presentation of the information identified above and will consist of an approximately two hour meeting with all appropriate stakeholders as identified by the City. During Workshop #2 EKI will obtain input regarding the presentation of initial findings of Task 3 and guidance from the City on how to include the information in the Administrative Draft UWMP.

Task 4 – Public Outreach

EKI will support the City with the public outreach elements of the UWMP. This support will include:

- Drafting the coordination letters and notices required by CWC Section 10621(b), Section 10620(d)(2), and Section 10642;
- Attending and presenting at one (1) City Council meeting; and
- Engaging stakeholders as directed by the City in the workshops identified as part of Tasks 2 and 3.

Task 5 - Prepare and Submit Draft and Final 2015 UWMPs

Task 5 includes the preparation of the written UWMP documents for City and public review, incorporation of feedback, and subsequent preparation and submission of a final 2015 UWMP.

Task 5.1 - Administrative and Public Review Draft UWMPs

Based upon the results of Tasks 1 through 3, EKI will prepare an Administrative Draft UWMP. EKI will provide three (3) bound paper copies and one electronic PDF version of the Administrative Draft UWMP. Following an established review period, EKI will communicate with key City staff to discuss comments received from the City and to agree on an approach to modify the Administrative Draft UWMP.

EKI will incorporate comments received from the City into a Public Review Draft 2015 UWMP. EKI will provide three (3) bound paper copies and one electronic version of the Public Review UWMP that will be distributed by the City for public comment and submitted to City Council for adoption.

Task 5.2 - Preparation and Filing of Final UWMP

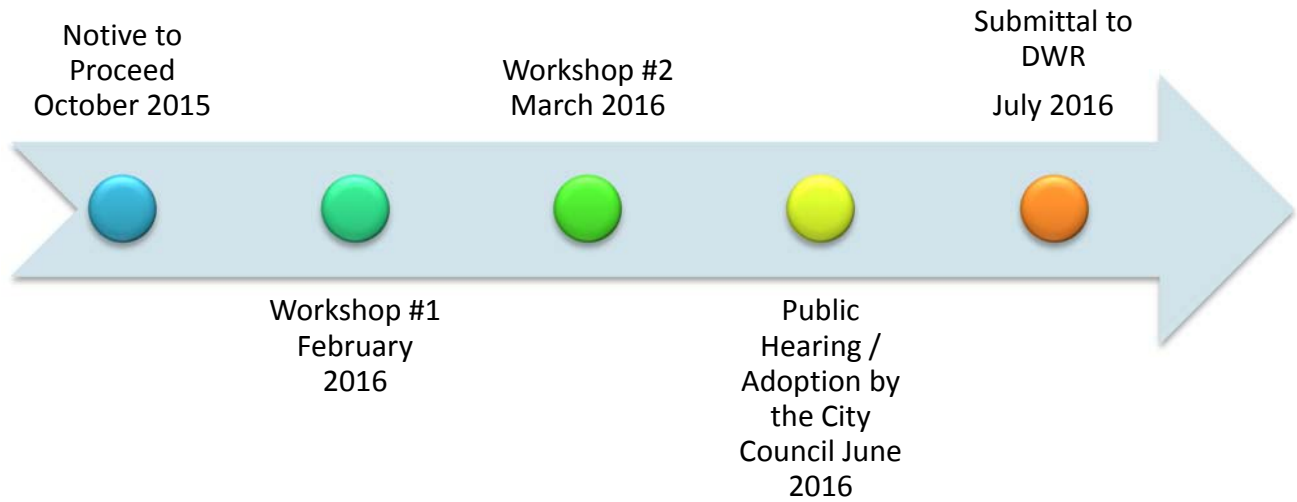
As appropriate, EKI will incorporate comments received at the public hearing into a Final 2015 UWMP, as well as the City's Council's resolution to adopt the 2015 UWMP. Within 30 days of City Council adoption, EKI will forward the Final 2015 UWMP on the City's behalf to DWR, the California State Library, and the San Joaquin County Library. The Final 2015 UWMP will be delivered, including supporting documentation (GIS files, word and excel files used, documentation of assumptions, documentation of calculation methods, methodology for unit demand analysis, methodology for service area population, and methodology for residential and non-residential growth) to the City in the following formats: Ten (10) paper copies of the final 2015 UWMP; one electronic file in Adobe PDF format; and electronic files in GIS, Word and Excel formats.

Task 6 – Project Management

EKI will provide project management and consultation services to the City throughout the UWMP development process. This task includes coordination and communications with City staff and general consultation and technical project management services by EKI, including the preparation of invoices and progress reports. It is anticipated that regular, brief conference calls with the City will also occur on an as-needed basis throughout the duration of the project.

SCHEDULE

EKI has developed a preliminary schedule that meets the City’s goal for submitting the UWMP to DWR by 1 July 2016. Project milestones include the following:



The schedule presented herein assumes timely review of draft submittals by the City and other key stakeholders. EKI will closely monitor the schedule during the project, and seek to proactively identify any major hurdles that could significantly impact the schedule.



DETAILED AND ITEMIZED COSTS

In the table below, EKI has summarized the approximate level of effort for the key tasks included in this proposal.

Scope Task	Task Total
Task 1: Data Collection and Review and Kick-Off Meeting	\$8,000
Task 2: Prepare for and Attend Review Meeting #1 – Water Demand and Conservation	\$20,000
Task 3: Prepare for and Attend Review Meeting #2 – Water Supply Projections	\$17,000
Task 4: Public Outreach	\$4,000
Task 5: Prepare and Submit Draft and Final UWMPs	\$14,000
Task 6: Project Management	\$4,000
Total Estimated Budget	\$67,000

EXHIBIT B

2015 SCHEDULE OF CHARGES

Client/Address: City of Tracy Public Works
Steve Bayley, P.E.
520 Tracy Boulevard
Tracy, California 95376



Proposal/Agreement Date: 5 October 2015

EKI Project # B5-070

SCHEDULE OF CHARGES FOR ERLER & KALINOWSKI, INC.

1 JANUARY 2015

Personnel Compensation

Classification	Hourly Rate
Officer and Chief Engineer-Scientist	259
Principal Engineer-Scientist	249
Supervising Engineer-Scientist	239
Senior I, Engineer-Scientist	217
Senior II, Engineer-Scientist	203
Associate I, Engineer-Scientist	195
Associate II, Engineer-Scientist	181
Engineer-Scientist, Grade 1	169
Engineer-Scientist, Grade 2	159
Engineer-Scientist, Grade 3	148
Engineer-Scientist, Grade 4	127
Engineer-Scientist, Grade 5	111
Engineer-Scientist, Grade 6	99
Technician	91
CADD / GIS Operator	103
Administrative Assistant	90
Secretary	75

Direct Expenses

Reimbursement for direct expenses, as listed below, incurred in connection with the work will be at cost plus fifteen percent (15%) for items such as:

- a. Maps, photographs, reproductions, printing, equipment rental, and special supplies related to the work.
- b. Consultants, soils engineers, surveyors, drillers, laboratories, and contractors.
- c. Rented vehicles, local public transportation and taxis, travel and subsistence.
- d. Special fees, insurance, permits, and licenses applicable to the work.
- e. Outside computer processing, computation, and proprietary programs purchased for the work.

Communication charges for local and long distance telephone, facsimile transmittal, standard delivery U.S. postage, and routine in-house copying will be charged at a rate of 4% of labor charges. Large volume copying of project documents, e.g., bound reports for distribution or project-specific reference files, will be charged as a project expense as described above.

Reimbursement for company-owned automobiles, except trucks and four-wheel drive vehicles, used in connection with the work will be at the rate of sixty cents (\$0.60) per mile. The rate for company-owned trucks and four-wheel drive vehicles will be seventy-five cents (\$0.75) per mile. There will be an additional charge of thirty dollars (\$30.00) per day for vehicles used for field work. Reimbursement for use of personal vehicles will be at the federally allowed rate plus fifteen percent (15%).

CADD Computer time will be charged at twenty dollars (\$20.00) per hour. In-house material and equipment charges will be in accordance with the current rate schedule or special quotation. Excise taxes, if any, will be added as a direct expense.

Rate for professional staff for legal proceedings or as expert witnesses will be at a rate of one and one-half times the Hourly Rates specified above.

The foregoing Schedule of Charges is incorporated into the Agreement for the Services of Erler & Kalinowski, Inc. and may be updated annually.

RESOLUTION 2015- _____

AUTHORIZING THE PROFESSIONAL SERVICE AGREEMENT WITH ERLER & KALINOWSKI, INC. FOR PREPARATION OF AN URBAN WATER MANAGEMENT PLAN UPDATE, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND AUTHORIZING THE SUPPLEMENTAL APPROPRIATIONS IN THE AMOUNTS OF \$67,000 AND \$20,000 FROM THE WATER FUND

WHEREAS, The City is required by State law to prepare an Urban Water Management Plan update, which is due on June 30, 2016, and

WHEREAS, the City desires to enter into a Professional Services Agreement with Erler & Kalinowski ("Consultant") to prepare this update, and

WHEREAS, in order to prepare this update, a supplemental appropriation from the Water Fund of \$67,000 is required, and

WHEREAS, The City is required by State law to prepare a Watershed Sanitary Survey update, which is due on December 31, 2015, and

WHEREAS, in order to prepare this update, a supplemental appropriation from the Water Fund of \$20,000 is required;

NOW, THEREFORE, BE IT RESOLVED, That the City Council authorizes a Professional Services Agreement with Erler and Kalinowski, Inc. for the 2015 Urban Water Management Plan Update, authorizes the Mayor to execute the agreement, and authorizes supplemental appropriations in the amounts of \$67,000 and \$20,000 from the Water Fund.

* * * * *

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 1st day of December, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.J

REQUEST

APPROVAL OF A COOPERATIVE AGREEMENT BETWEEN THE CITY OF TRACY AND SAN JOAQUIN COUNTY FOR THE WIDENING OF CORRAL HOLLOW ROAD FROM PARKSIDE DRIVE TO THE I-580 RAMP AND AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT

EXECUTIVE SUMMARY

The City of Tracy Roadway Master Plan identifies the widening of Corral Hollow Road from Parkside Drive to I-580 for the effective circulation of traffic in this part of the City. The widening of Corral Hollow Road from the existing two lanes to four lanes is also consistent with the San Joaquin County Transportation Plan. The project is an approved Capital Improvement project scheduled for construction in multiple phases due to the lack of available funding at any one time. The majority of the funding will be coming from development impact fees and the other sources including Measure K sales tax, state and federal grants.

The San Joaquin Council of Governments (SJCOG) has allocated a total of \$17 million (M) (\$13M from measure K and \$4M from Regional Traffic Impact fees) toward completion of a portion of this project between Parkside Drive to Linne Road. The exact limits of the project will be determined during the project design process. Since certain segments of this project are located within the San Joaquin County (County) jurisdiction, the City has been working with both the County and its impacted residents to educate, coordinate and address their concerns by identifying the extent of project improvements and responsibilities of each jurisdiction. Both the City and the County have finalized a cooperative agreement addressing these issues to facilitate construction of this project in a timely manner.

DISCUSSION

The widening of Corral Hollow Road from Parkside Drive to the I-580 ramp is an approved capital improvement project. The project is consistent with the City's adopted Roadway Master Plan and San Joaquin County's Transportation Plan. The majority of the funding needed to construct this project will come from development impact fees and may be supplemented by State and Federal grants in the future. The project is also partly funded from Measure K sales taxes.

Due to multiple sources and the lack of sufficient funding at any one time, the project is scheduled for construction in multiple phases. Each phase can be completed as funding becomes available. However, in order to improve the circulation of traffic on the most congested portions of Corral Hollow Road between Parkside Drive and Linne Road, staff has been aggressively pursuing all available funding sources to jump start the construction of this project.

Last year, SJCOG allocated \$13M from Measure K and \$4M from the City's share of Regional Traffic Impact Fees (RTIF) toward completion of this portion of the Corral Hollow Road widening. Staff also successfully coordinated with the County for transfer of the

County's allocated funds of \$750,000 from Congestion Management and Air Quality Funds to the City for improvements for the intersection of Corral Hollow Road and Valpico Road. In addition, the City will also receive approximately \$100,000 collected by the County Development Impact Fees from St. Bernard's Church. Design and construction of these two projects together will provide well-coordinated and systematic improvements on Corral Hollow Road from Parkside Drive to south of Valpico Road toward Linne Road.

Since portions of Corral Hollow Road are located within the County's jurisdiction, staff has been meeting with County staff and County residents who will be impacted by this project. Additional right of ways will be required from certain properties for the widening of Corral Hollow Road. A total of three Public Meetings were held and staff met with some residents separately on a per request basis. It is noted that the standard Roadways Master Plan street cross section will not work in the constrained areas fronting certain properties in the County area south of Parkside Drive. New solutions were provided to reduce impact to the neighboring and fronting properties. The County attended these meetings and worked with the City to address concerns of the residents.

After addressing the majority of the concerns of the impacted residents, both City and County staff worked together to finalize a cooperative agreement which allows the City to acquire the required right of ways, design and construct the improvements and enforce traffic during construction. This cooperative agreement covers the proposed and all future roadway widening projects on Corral Hollow Road from Parkside Drive to I-580. Additional agreements may be required in future to address long term traffic enforcement issues on Corral Hollow to address the concerns of the County residents.

The cooperative agreement has been reviewed by both City and County attorneys. After approval of the agreement by City Council, the County Board of Supervisors will approve the agreement. The next step after approval of the cooperative agreement is the approval of the street precise plan line by the City Council which will facilitate starting the design process of the project.

Initially, this agenda item was scheduled for Council's consideration at the November 17 City Council meeting. However, this item was pulled due to some concerns raised by the County residents regarding annexation of their properties in to the City as result of the construction of this project. Staff met with the residents on November 23 in a general meeting and explained that the agreement allows initiation of the annexation process for the County's unincorporated area of Corral Hollow Road in to the City and not the private properties located in the County. Staff also met with some residents separately to address similar concerns.

It is anticipated that the project design will be completed by October 2016 and right of acquisition will be completed by December 2016. The construction is scheduled for completion in May 2018.

STRATEGIC PLAN

This agenda item is consistent with the City Council's approved Public Safety Strategy and meets its goal to promote safety by widening and improving the circulation of traffic on Corral Hollow Road.

FISCAL IMPACT

This agenda item will have no impact to the General Fund. The project will be funded from Measure K sales taxes (\$13M) and RTIP funds (\$4M). The combination of Congestion Management and Air Quality (CMAQ) and Development Impact Fees to the tune of \$850,000 received from the county will be for intersection improvements at Corral Hollow Road and Valpico Road.

RECOMMENDATION

That the City Council, by resolution, authorize approval of a Cooperative Agreement between the City of Tracy and San Joaquin County for the widening of Corral Hollow Road from Parkside Drive to the I-580 Ramp and authorize the Mayor to execute the agreement.

Prepared by: Kuldeep Sharma, Utilities Director

Reviewed by: Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment A – Cooperative Agreement

Dated 7/27/15
A-15-_____

CITY-COUNTY COOPERATIVE AGREEMENT
FOR CORRAL HOLLOW ROAD WIDENING PROJECT
BETWEEN PARKSIDE DRIVE AND I-580 RAMP

THIS AGREEMENT is made and entered into this _____ day of _____, by and between the CITY OF TRACY, a Municipal Corporation to the State of California, (hereinafter "CITY") and the COUNTY OF SAN JOAQUIN, a political subdivision of the State of California, (hereinafter "COUNTY").

WITNESSETH

WHEREAS, CITY plans to undertake a project to widen Corral Hollow Road between Parkside Drive and I-580 Interchange, including a section in the unincorporated jurisdiction of COUNTY (hereinafter referred to as "Project"), as shown on Exhibit A attached; and

WHEREAS, CITY AND COUNTY acknowledge the need to implement the Project, while being sensitive to the needs of area residents, businesses, and property owners.

NOW, THEREFORE, is it mutually agreed by and between COUNTY and CITY as follows:

1. The Project includes, but is not limited to: environmental documentation, right-of-way acquisition using eminent domain, if necessary, utility relocations, design, and construction for the widening of Corral Hollow Rd between Parkside Dr. and I-580 Interchange.
2. The parties agree that CITY is the lead agency for the Project, responsible for all costs related to the Project, including, but not limited to, the preparation of the environmental documentation, all right-of-way acquisition (including the use of eminent domain, if needed), utility relocations, design, and construction of Project.
3. The COUNTY and CITY hereby agree that the real property identified on Exhibit A, attached hereto and made a part of this Agreement by this reference, is the real property located in the COUNTY's jurisdiction needed for the Project. The COUNTY and CITY agree that acquisition of the property is necessary in order to exercise each entity's powers and duties under this Agreement. CITY agrees to provide COUNTY prior written notice of any real property anticipated to be taken through the eminent domain process.
4. COUNTY agrees to request the San Joaquin Council of Governments to re-program federal Congestion Mitigation and Air Quality (CMAQ) grant funds awarded to COUNTY for the Corral Hollow Road-Valpico Road intersection improvements to reflect CITY will construct these improvements as part of Project.

5. COUNTY shall forward traffic impact or other fair share contributions collected by COUNTY from development in the unincorporated areas fronting the Project limits to CITY upon CITY'S request, after award of construction contract. All such funds shall be utilized for Project construction. Any remaining funds shall be returned by CITY to COUNTY upon Project completion.
6. Tasks to be performed by the COUNTY shall specifically include, but not be limited to, the following:
 - i) Provide information and consultation to CITY to facilitate environmental documentation, right-of-way acquisition, including eminent domain acquisitions, if necessary, utility relocations, design and construction within the unincorporated area of the County;
 - ii) Approving legal plats and descriptions for the conversion of COUNTY-owned right of way to roadway purposes.
 - iii) Technical assistance with drainage solutions; and,
 - iv) Granting needed permits at no cost to CITY.
7. Both the COUNTY and CITY acknowledge and agree that each party will incur costs in completing the Project and agree to waive right to any repayment of reimbursement from the other for any and all cost incurred by the Project.
8. Both the CITY and COUNTY agree that the ultimate design must accommodate and respect both CITY's plan for Corral Hollow Rd. and COUNTY's plan for Corral Hollow Road.
9. CITY hereby represents and warrants that the letting of Project contracts and construction will be done pursuant to the laws of the State of California.
10. COUNTY shall not be liable or responsible for and the CITY hereby expressly promises to indemnify, defend and hold COUNTY harmless from any injury, damage or loss, suffered, sustained or claimed as a result of CITY's acts or omissions under this Agreement.
11. CITY shall not be liable or responsible for, and COUNTY hereby expressly promises to defend and hold CITY harmless from any injury, damage or loss, suffered, sustained or claimed as a result of COUNTY's acts or omissions under this Agreement.
12. After Completion of Project, portions located in COUNTY will be maintained by CITY.
13. Upon award of Project contract by CITY, CITY will initiate and COUNTY will support annexation of COUNTY portions within Project limits.
14. CITY intends to annex portions of Project within COUNTY prior to CITY acceptance of Project.

15. During Project construction, COUNTY will delegate its authority for traffic control to CITY

Execution of the foregoing agreement has been authorized by Resolution No. _____, duly passed by the Board of Supervisors of San Joaquin COUNTY on _____, and by Resolution No. _____, duly passed by the CITY Council of the CITY of Tracy, State of California, on _____.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

CITY OF TRACY

COUNTY OF SAN JOAQUIN,
Political subdivision of the
State of California

MICHAEL MACIEL
Mayor

Katherine Miller
Chair, Board of Supervisors

ATTEST:

ATTEST:

NORA PIMENTEL
City Clerk

MIMI DUZENSKI, Clerk of
the Board of Supervisors

RECOMMENDED FOR APPROVAL:

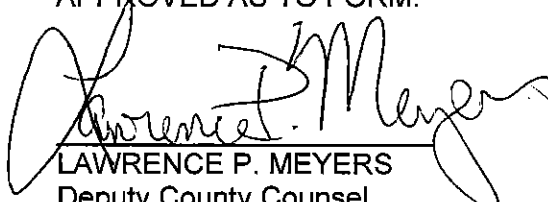
MICHAEL SELLING,
Deputy Director of Public Works

APPROVED AS TO FORM:

APPROVED AS TO FORM:



DAN SODERGREN,
City Attorney



LAWRENCE P. MEYERS
Deputy County Counsel

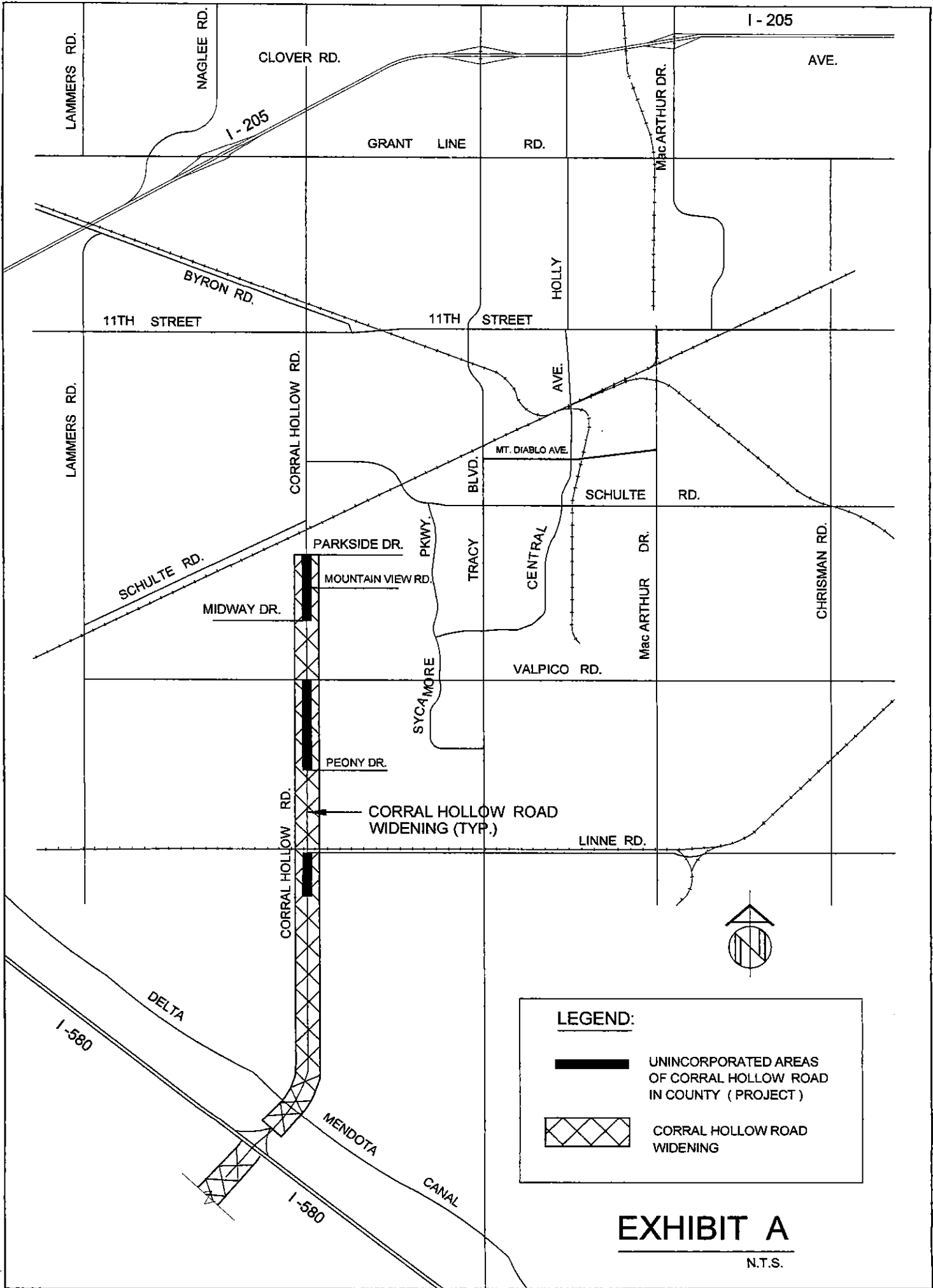


EXHIBIT A

N.T.S.

RESOLUTION 2015- _____

APPROVING A COOPERATIVE AGREEMENT BETWEEN THE CITY OF TRACY AND SAN JOAQUIN COUNTY FOR THE WIDENING OF CORRAL HOLLOW ROAD FROM PARKSIDE DRIVE TO THE I-580 RAMP AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, The City of Tracy Roadway Master Plan identifies the widening of Corral Hollow Road from Parkside Drive to I-580 for the effective circulation of traffic in this part of the City, and

WHEREAS, The project is an approved Capital Improvement project scheduled for construction in multiple phases due to the lack of available funding at any one time and that the majority of the funding will be coming from Development Impact Fees and the other sources including Measure K sales tax, state and federal grants, and

WHEREAS, The San Joaquin Council of Governments (SJCOG) has allocated a total of \$17 million (M) (\$13m from measure K and \$4M from Regional Traffic Impact fees) toward completion of a portion of this project between Parkside Drive to Linne Road, and

WHEREAS, Portions of Corral Hollow Road are located within the County's jurisdiction, staff has been coordinating with the County and it residents who will be impacted by this project. Additional right of ways will be required from certain properties for the widening of Corral Hollow Road, and

WHEREAS, A total of three Public Meetings were held and staff met with some residents separately on a per request basis, and

WHEREAS, After addressing the majority of the concerns of the impacted residents, both City and County Staff worked together to finalize a cooperative agreement which allows the City to acquire the required right of ways, design and construct the improvements and enforce traffic during construction, and

WHEREAS, Additional agreements between the City and County may be needed to address additional long term traffic enforcement concerns of the County residents, and

WHEREAS, The cooperative agreement has been reviewed by both City and County attorneys and after approval of the agreement by City Council, the County Board of Supervisors will approve the agreement, and

WHEREAS, There is no fiscal impact to the City General Fund and the project is primarily funded from Measure K and RTIF Funds;

NOW, THEREFORE, BE IT RESOLVED, That the City Council approves the cooperative agreement between the City of Tracy and San Joaquin County for the Widening of Corral Hollow Road from Parkside Drive to the I-580 Ramp and Authroizes the Mayor to execute the agreement.

* * * * *

Resolution 2015- _____
December 1, 2015
Page 2

The foregoing Resolution 2015- _____ was passed and adopted by the Tracy City Council on the 1st day of December, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.K

REQUEST

AUTHORIZE AMENDMENT OF THE CITY'S CLASSIFICATION AND COMPENSATION PLANS AND POSITION CONTROL ROSTER BY APPROVING THE ESTABLISHMENT OF A NEW CLASSIFICATION SPECIFICATION AND SALARY RANGE FOR FINANCE DIVISION MANAGER IN THE ADMINISTRATIVE SERVICES DEPARTMENT

EXECUTIVE SUMMARY

This report recommends establishment of a new classification of Finance Division Manager in the Administrative Services Department as part of achieving strategic priorities and goals in the City for organizational effectiveness and operational efficiencies.

DISCUSSION

Periodically, Human Resources receives requests for classification studies and conducts classification reviews as necessary to allow for changes that have occurred in areas such as job responsibilities, organizational structure, and/or service needs.

As part of restructuring and reorganizing the Finance Division of the Administrative Services Department, the Department requested establishment of a broad division manager classification encompassing budgeting, accounting and supervisory responsibilities.

The Administrative Services Department is comprised of three divisions including the Human Resources Division and the Information Technology Division which are managed by Division Managers. The Finance Division, however, does not have an overall division manager and the budgeting and accounting functions are currently managed separately.

The proposed Finance Division Manager will meet the need for a broad management classification in the Finance Division that combines responsibility for both the budgeting and accounting operations, and is at a classification level high enough to directly supervise lower level management and supervisory staff in the Finance Division.

Additionally, the Finance Division Manager will oversee all activities of the Finance Division, including budgeting, accounting, payroll and internal auditing; and will provide budget and accounting expertise to City departments, report on the status of the City's budget; estimate revenue and expenditure, and oversee the maintenance of accounting records and preparation of financial reports.

Based on the results of a classification study the Human Resources Department recommends approval of a new classification of Finance Division Manager.

Classification Study Findings

Currently the budgeting and accounting activities in the Finance Division are separate and specialized. For organizational effectiveness and operational efficiency, the Department plans to move from the specialized Budget Officer to a broader base manager to merge the budgeting and accounting activities, while also adding internal audit responsibilities.

The study determined that there is not an existing City of Tracy classification that will provide the desired consolidation of duties, specialized focus and appropriate level of knowledge, skills and abilities required for the Finance Division Manager.

Therefore, a new classification of Finance Division Manager is recommended to meet the needs of the City.

Classification Study Recommendations

Based on the results of the classification study, Human Resources recommends that the City's Classification and Compensation Plans and the Position Control Roster be amended to incorporate the following adjustments:

Establish Classification Specification and Salary Range: Finance Division Manager - Administrative Services Department

Staff recommends that the monthly salary range for Finance Division Manager be \$8,030.80 - \$9,761.50 per month. This range is aligned internally with the Human Resources Manager and the Information Technology Manager, who manage the other two divisions in the department.

STRATEGIC PLAN

This agenda item supports the Organizational Efficiency Strategic Plan and specifically implements the following goals and objectives:

Organizational Effectiveness Plan

Goal 3: Ensure systems are in place to meet the City's service delivery strategies

Objective 3c: Evaluate organization structure and operational efficiencies

FISCAL IMPACT

The cost for this new position is partially offset by the announced retirement of the Budget Officer and non-refilling of the position.

For FY 2015/16, \$48,000 is requested to be appropriated from fund balance to cover the cost of the changes. Future year costs will be incorporated into the Administrative Services departmental budget.

RECOMMENDATION

That the City Council, by resolution, authorize the Administrative Services Director to amend the City's Classification and Compensation Plans and the Budget Officer to amend the Position Control Roster by approving the establishment of a classification specification and salary range for Finance Division Manager

Prepared by: V. Rachelle McQuiston, Administrative Services Director

Reviewed by: Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENT:

Finance Division Manager Job Description

City of Tracy

FINANCE DIVISION MANAGER

Class Title: Finance Division Manager
Department: Administrative Services
Management
Effective Date: 12/1/2015

Salary Range: \$8,030.80 - \$9,761.50
Bargaining Group: Confidential
Revision History: New Classification

DESCRIPTION

Under the direction of the Administrative Services Director, the Finance Division Manager plans, organizes, coordinates, directs and supervises the City's budgeting and accounting operations; establishes and maintains an internal audit control structure; performs specialized professional level work in budgets and accounting; supervises staff directly or through subordinate supervisors; performs other job related duties as assigned.

DISTINGUISHING CHARACTERISTICS

The Finance Division Manager oversees all activities of the Finance Division, including budgeting, accounting, payroll and internal auditing; provides budget and accounting expertise to City departments; reports on the status of the City's budget; estimates revenue and expenditures; and oversees the maintenance of accounting records and preparation of financial reports.

The position receives supervision from the Administrative Services Director and exercises supervision directly over Division staff as directed.

The Finance Division Manager is distinguished from the next higher class of Administrative Services Director by the latter's responsibility for by the latter's responsibility for the entire Administrative Services Department.

EXAMPLES OF IMPORTANT AND ESSENTIAL DUTIES

Duties may include, but are not limited to, the following:

Plans, organizes, directs and manages the operations and activities of the Finance Division including budgeting, accounting, payroll and internal controls and audits; provides assistance to the Administrative Services Director and City departments; develops and implements goals, objectives, policies and priorities for the Division

Recommends staffing needs and participates in recruitment and selection of staff; provides training, monitor employee performance objectives; coaches and evaluates staff; works with employees to correct deficiencies; recommends and implements disciplinary procedures; resolves grievances

Coordinates and compiles City operating and Capital Improvement Program budgets; compiles data based on statistical studies of trend analysis; estimates revenue, expenditures and reserves; participates in the forecast of additional funds needed for staffing, equipment, materials, and supplies; receives, interprets, analyzes and summarizes budget requests

Plans, prioritizes and oversees the full range of municipal accounting operations including utility billing, accounts payable and receivable, payroll, financial statements and reporting; establishes financial controls and accounting systems; monitors and reports on status of various financial transactions

Establishes and maintains policies and procedures for an internal control structure over on-going and new programs; reviews and implements new or revised laws, regulations and accounting standards

Monitors legislation related to Division operations, evaluates impact, and makes recommendations

Maintains effective and on-going communication with City departments, committees, consultants, executive management, regulatory officials and elected officials; develops and presents recommendations and reports to groups and City Council as necessary

Establishes procedures for budget control, transfers and revisions; prepares budget preparation procedures, schedules, forms and instructions for management use in budget processes; participates in budget hearings; advertises hearings; prepares materials, charts and graphics for budget hearings and workshops

Develops, monitors, and reviews complex financial calculations, reconciliations, and reports; oversees development of annual financial statements

Oversees audits of financial records and procedures; audits accounts, projects, procedures, grants, contracts, departmental budgets and balance sheet accounts; recommends corrective action as appropriate

Maintains and controls the adopted budget; reviews departmental and other assigned budgets; recommends mid-year adjustments and approaches to balancing budgets

Performs related duties as assigned

MINIMUM QUALIFICATIONS

Knowledge of:

Principles, practices, procedures and techniques of municipal budgeting, accounting, and auditing

Laws regulating public finance, fiscal operations, budgeting and accounting practices

Principles and practices of management, supervision, training and performance evaluation

Ability to:

Plan, organize, coordinate and direct budget preparation and control activities; accounting operations including payroll; and internal control and auditing policies and procedures

Prepare and administer detailed budgets; analyze and estimate future revenues and expenditures; develop effective budget preparation procedures, forms and schedules

Establish policies and procedures for internal controls and auditing

Read, understand, interpret and apply applicable regulations, procedures and policies

Effectively supervise and manage professional and administrative staff

Prepare clear and concise reports; communicate effectively both orally and in writing; prepare and make presentations to departments, groups and the City Council

Perform complex statistical and financial analyses

Establish and maintain effective working relationships with those contacted during the course of work

EDUCATION AND EXPERIENCE

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Six years of increasingly responsible professional accounting, budgeting and auditing experience, including two years of supervisory experience

Education:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in accounting, finance or a related field

LICENSES AND CERTIFICATES

Possession of, or ability to obtain an appropriate, valid California drivers' license

TOOLS AND EQUIPMENT

Personal computer, including spreadsheet and word processing software; central financial computer system; telephone; 10-key calculator, copy machine

PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is frequently required to walk, sit and talk or hear. The employee is occasionally required to use hands to finger, handle, feel or operate objects, tools, or controls; and reach with hands and arms. The employee is occasionally required to climb or balance; stoop, kneel, crouch, or crawl.

The employee must occasionally lift and/or move up to 50 pounds. Specific vision abilities required by this job include close vision, color vision, and the ability to adjust focus.

WORK ENVIRONMENT

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee occasionally works in outside weather conditions. The employee is occasionally exposed to wet and/or humid conditions, toxic or caustic chemicals.

The noise level in the work environment is usually quiet while in the office, or moderately loud when in the field.

RESOLUTION _____

AUTHORIZING AMENDMENT OF THE CITY'S CLASSIFICATION AND COMPENSATION PLANS AND POSITION CONTROL ROSTER BY APPROVING THE ESTABLISHMENT OF A NEW CLASSIFICATION SPECIFICATION AND SALARY RANGE FOR FINANCE DIVISION MANAGER IN THE ADMINISTRATIVE SERVICES DEPARTMENT

WHEREAS, The City has Classification and Compensation Plans and a Position Control Roster, and

WHEREAS, The City has completed a classification review and determined it is in the best interest and efficiency of the Administrative Services Department to establish a new classification specification of Finance Division Manager to further the strategic priorities and goals of the City;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy does hereby authorize the Administrative Services Director to amend the City's Classification and Compensation Plans as follows:

- Establish Classification: Finance Division Manager as described in the attached job description
- Establish Salary Range: \$8,030.80 - \$9,761.50 per month, and

BE IT FURTHER RESOLVED That the City Manager hereby authorize the Budget Officer to amend the Position Control Roster to reflect the amendments set forth above.

* * * * *

The foregoing Resolution 2015-_____ was adopted by City Council on the 1st day of December, 2015, by the following vote:

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

MAYOR

ATTEST

CITY CLERK

AGENDA ITEM 1.L

REQUEST

APPROVE AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH GOODWIN CONSULTING GROUP, INC. FOR THE ANALYSIS OF FISCAL IMPACTS FROM NEW DEVELOPMENT AND APPROVE FUNDING ALLOCATION

EXECUTIVE SUMMARY

In February, 2015, Goodwin Consulting Group, Inc. was retained by the City to estimate the fiscal impacts to the City of Tracy that result from new development within the City within a designated planning horizon.

Due to the extended time and effort that went into the data collection process with City staff, the remaining budget will not be sufficient to complete the analysis. It is estimated that the remaining tasks will not exceed \$15,000. The total cost for the analysis will be \$65,000.

DISCUSSION

On February 2, 2015 the City Manager entered into a Professional Services Agreement (PSA) with Goodwin Consulting Group, Inc. to estimate the fiscal impacts of new development on the city and conduct a comparison of recurring annual revenues to the recurring annual costs incurred by the City in providing public services to new residents and employees.

Amendment No. 1 to the PSA with Goodwin Consulting Group, Inc. is necessary to complete the analysis. Due to the extended time and effort that went into the data collection process the remaining balance in the current budget will not be sufficient to complete the analysis.

STRATEGIC PLAN

This agenda item supports the Economic Development Strategy by providing infrastructure for new developments.

FISCAL IMPACT

There is no fiscal impact the General Fund. Development Impact fees are being used to fund the analysis. Amendment No. 1 will be \$ 15,000. The total contract amount will be \$65,000.

RECOMMENDATION

That City Council, by resolution, authorize Amendment No. 1 to the Professional Services Agreement with Goodwin Consulting Group, Inc. for the analysis of fiscal impacts by new development, approve funding allocation, and authorize the Mayor to execute the Amendment.

Agenda Item 1.L
December 1, 2015
Page 2

Prepared by: V. Rachelle McQuiston, Administrative Services Director

Reviewed by: Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment A – Amendment No. 1 to PSA with Goodwin Consulting Services, Inc.

City of Tracy
AMENDMENT NO. 1 TO
PROFESSIONAL SERVICES AGREEMENT
ANALYSIS OF FISCAL IMPACTS FROM NEW DEVELOPMENT

This Amendment No. 1 (Amendment) to the Professional Services Agreement is entered into between the City of Tracy, a municipal corporation (City), and Goodwin Consulting Group, Inc., a California Corporation ("Consultant").

Recitals

- A. The City and Consultant entered into a Professional Services Agreement (Agreement) for the Analysis of Fiscal Impacts from New Development which was approved by the City Manager on February 2, 2015.
- B. Due to the extended time and effort assisting city staff in data collection additional funding is necessary to complete the scope of work as set forth in the Agreement.

Now therefore, the parties mutually agree as follows:


- 1. **Incorporation by Reference.** This Amendment incorporates by reference all terms set forth in the Agreement, unless specifically modified by this Amendment. The terms which are not specifically modified by this Amendment will remain in effect.
- 2. **Terms of Amendment.** Section 5.1 COMPENSATION of the Agreement is hereby amended to increase the not to exceed amount by \$15,000.
- 3. **Modifications.** This Amendment may not be modified orally or in any manner other than by an agreement in writing signed by both parties, in accordance with the requirements of the Agreement.
- 4. **Severability.** If any term of this Amendment is held invalid by a court of competent jurisdiction, the Amendment shall be construed as not containing that term, and the remainder of this Amendment shall remain in effect.
- 5. **Signatures.** The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Amendment. This Amendment shall inure to the benefit of and be binding upon the parties and their respective successors and assigns.

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

City of Tracy

Consultant
Goodwin Consulting Group, Inc.

By: Michael Maciel
Title: Mayor
Date: _____

By: 
Susan Goodwin
Title: Managing Principal
Date: 11/4/15
Fed. Employer ID No. 94-3393430

Attest:

By: Nora Pimentel
Title: City Clerk
Date: _____

Approved as to form

By: Daniel G. Sodergren
Title: City Attorney
Date: _____

RESOLUTION _____

APPROVING AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH GOODWIN CONSULTING GROUP, INC. FOR THE ANALYSIS OF FISCAL IMPACTS FROM NEW DEVELOPMENT AND APPROVE FUNDING ALLOCATION

WHEREAS, on February 2, 2015 the City Manager authorized a Professional Services Agreement with Goodwin Consulting Group, Inc. to estimate the fiscal impacts of new development on the city and conduct a comparison of recurring annual revenues to the recurring annual costs incurred by the City in providing public services to new residents and employees, and

WHEREAS, the current budget is insufficient to cover the tasks remaining on scope of the original Agreement thus requiring an additional funding allocation, and

WHEREAS, the additional funding allocation requires City Council approval;

NOW, THEREFORE, BE IT RESOLVED, That City Council does hereby approve Amendment No. 1 to the Professional Services Agreement with Goodwin Consulting Group Inc. for the analysis of fiscal impacts by new development, approve funding allocation, and authorize the Mayor to execute the Amendment.

* * * * *

The foregoing Resolution 2015-_____ was adopted by City Council on the 1st day of December, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST

CITY CLERK

AGENDA ITEM 1.M

REQUEST

ADOPT THE COMPENSATION AND BENEFITS PLAN FOR THE CONFIDENTIAL MANAGEMENT UNIT

EXECUTIVE SUMMARY

The Confidential Management Unit Compensation and Benefits Plan expired on June 30, 2015. The Confidential Management Unit is unrepresented and are composed of management employees who are directly involved in labor negotiations, or have access to information related to labor relation strategies or are otherwise involved in highly confidential matters. Representatives from the City and the Unit have met and consulted on the various elements covered by the Plan. Agreement was reached on a new Plan covering a period of 39 months, from July 1, 2015 through September 30, 2018.

DISCUSSION

There are five key changes in the Confidential Management Unit Compensation and Benefits Plan. These include the following:

1. Salary Adjustment for all classifications:

July 2016	3% salary adjustment (COLA)
July 2017	2% salary adjustment (COLA)

2. One time payments:

Upon Council Approval	9% lump sum of base salary (Safety)
Upon Council Approval	8% lump sum of base salary (Miscellaneous)
July 2016	6% lump sum of base salary (All)
July 2017	3% lump sum of base salary (All)

3. Employees pay a portion of Employer's CalPERS obligation:

Effective as soon as administratively possible, each employee in this unit shall pay three percent (3%) towards the employer's share of CalPERS pension, regardless of the CalPERS pension formula applicable to the employee. In exchange, the City shall pay the corresponding salary increase that represents the three percent (3%) contribution and cost neutral to the City.

4. Management Leave

Beginning January 1, 2016, management leave will increase to 112 hours per calendar year.

5. Deferred Compensation

Confidential Management Unit employees shall be eligible to participate in both a City-sponsored 457 deferred compensation plan and a City-sponsored 401(a)

deferred compensation plan. The amount of the City's matching contributions shall remain unchanged.

STRATEGIC PLAN

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

Governance Strategy

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

Objective 1b: Affirm organizational values.

FISCAL IMPACT

The fiscal impact for approving this Compensation and Benefits is estimated at \$414,000 during the term of the contract with approximately \$93,000 in ongoing costs. For FY 2015/16, \$123,000 is being requested to be appropriate from fund balance to cover the cost of the Compensation and Benefit Plan. Future year costs will be incorporated into the appropriate departmental operational budgets.

RECOMMENDATION

That the City Council, by resolution, adopt the Compensation and Benefit Plan for the Confidential Management Unit.

Prepared by: V. Rachele McQuiston, Administrative Services Director

Reviewed by: Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

Attachment: Confidential Management Unit Compensation and Benefits Plan

RESOLUTION 2015 - _____

ADOPTING THE COMPENSATION AND BENEFITS PLAN FOR THE CONFIDENTIAL MANAGEMENT UNIT

WHEREAS, The Confidential Management Unit Compensation and Benefits Plan expired on June 30, 2015, and

WHEREAS, Representatives from the City and the Confidential Management Unit met and consulted on the elements of the Plan, and

WHEREAS, Agreement was reached on a new Confidential Management Unit Compensation and Benefits Plan covering the period of July 1, 2015 through September 30, 2018, and

WHEREAS, The Confidential Management Unit Compensation and Benefits Plan directly supports one of the four Council Strategic Priorities: the Governance Strategy, Goal 1: Further develop an organization to attract, motivate, develop, and retain a high-quality, engaged, high-performing, and informed workforce,

NOW, THEREFORE, BE IT RESOLVED, that the City Council adopt the Compensation and Benefits Plan for the Confidential Management Unit.

The foregoing Resolution 2015 - _____ was adopted by the Tracy City Council on the 1st day of December, 2015 by the following vote:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

ABSTAIN: COUNCIL MEMBERS

Mayor

ATTEST:

City Clerk

COMPENSATION AND BENEFITS PLAN

BETWEEN

THE CITY OF TRACY

AND

CONFIDENTIAL MANAGEMENT UNIT

~~July 1, 2012 Through June 30, 2015~~

July 1, 2015 through September 30, 2018



Think Inside the Triangle™

Human Resources Department
333 Civic Center Plaza
Tracy, CA 95376
(209) 831-6150
www.ci.tracy.ca.us

CONFIDENTIAL MANAGEMENT UNIT
~~July 1, 2012 through June 30, 2015~~
July 1, 2015 through September 30, 2018

Table of Contents

<u>Section</u>	<u>Topic</u>	<u>Page</u>
1	Purpose and Intent	1
2	Confidential Management Unit Membership	1
3	Compensation	1
	A. Salary Plan.....	1
	B. Components of Salary	2
	C. Overtime – Assistance by Hire/Strike Team	2
4	Leaves	2
	A. Vacation	2
	B. Management Leave	3
	C. Floating Holidays.....	3
	D. Maximum Accrual of Leave	3
	E. City Buy-Back of Accrued Leave	3
	F. Sick Leave Accrual	3
	G. Conversion of Sick Leave Balance Upon Retirement/Death/Termination	3
	H. Bereavement Leave	4
	I. Flexible Leave	4
5	Benefits	5
	A. CalPERS Retirement	5
	B. Insurance.....	7
	C. Deferred Compensation.....	9
	D. Management and Professional Development Benefit	10
	E. Uniform Allowance.....	10
	F. Annual Physical.....	10
	G. Educational Expenses Reimbursement	10
6	Miscellaneous	10
	A. Retiree Health Saving Account.....	10
	B. Establishment of Additional Deferred Compensation Vehicles.....	10
	Exhibit A – Confidential Management Unit Salary Schedules	11

CITY OF TRACY
CONFIDENTIAL MANAGEMENT UNIT
COMPENSATION AND BENEFITS PLAN
~~July 1, 2012 Through June 30, 2015~~
July 1, 2015 through September 30, 2018

Section 1: Purpose and Intent

The City Council desires to establish a Confidential Management Compensation and Benefits Plan. Confidential Management staff is exempt from the Fair Labor Standards Act (FLSA) and is covered by the authority of the Personnel Rules and Regulations. The City Manager is empowered to grant compensation adjustments as specified in the Confidential Management Compensation and Benefits Plan.

The City of Tracy is desirous of providing greater service to its citizens, and of recruiting and maintaining qualified Confidential Management staff. The following plan provides the basis for recognition, benefits and compensation, effective ~~July 1, 2012 through June 30, 2015~~ **July 1, 2015 through September 30, 2018.**

Section 2: Confidential Management Unit Membership

Positions covered by this plan exclusively are as follows:

Arts Program Manager
Assistant City Attorney
Assistant Director of DES
Assistant Director of DES/City Engineer
Deputy City Attorney I/II
Deputy Director of Parks and Community Services
Deputy Director of Public Works (Maintenance)
Deputy Director of Public Works (Utilities)
Deputy Chief of Police
Division Fire Chief
Executive Assistant to the City Manager
Fire Marshal
Human Resources Analyst I/II
[Human Resources Division Manager II](#)
Information Technology Manager
Information Systems Manager
Police Support Operations Manager
Public Affairs Officer
Senior Human Resources Analyst

Section 3: Compensation

A. Salary Plan

There shall be a five-step salary range for all classifications.

All rates of pay set forth in this Section represent the standard rate of pay for full-time employment for each classification. Employees occupying a position in a classification covered by this Plan shall be paid at a base salary within the range established for that

position's classification. The salary ranges for all classifications covered in the plan shall be increased as outlined in this Section.

1. Equity Increases

There shall be no equity increases for the employees covered under this Compensation and Benefits Plan for the term of this agreement.

2. Cost of Living Adjustments

~~There shall be no Cost of Living Adjustments (COLAs) for the employees covered under this Compensation and Benefits Plan for the term of this agreement.~~ **Effective the beginning of the first full pay period following adoption of this Compensation and Benefits Plan by the City Council, employees who are employed by the City at the time of ratification and adoption of this agreement shall receive a one-time lump sum payment representing (i) 8.0% of the employee's base salary on the salary schedule at the time of the payment for "miscellaneous" employees and (ii) 9.0% of the employee's base salary on the salary schedule at the time of the payment for "safety" employees.**

Effective the beginning of the first full pay period in July 2016, employees who are employed by the City at the time of ratification and adoption of this agreement shall receive a one-time lump sum payment representing 6.0% of the employee's base salary on the salary schedule at the time of the payment

Effective the beginning of the first full pay period of July 2016, employees shall receive a wage increase equal to 3.0%.

Effective the beginning of the first full pay period in July 2017, employees who are employed by the City at the time of ratification and adoption of this agreement shall receive a one-time lump sum payment representing 3.0% of the employee's base salary on the salary schedule at the time of the payment.

Effective the first pay period of July 2017, employees shall receive a wage increase equal to 2.0%.

3. Compaction in Division Fire Chief Classification

No later than six (6) months after of the date upon which this Compensation and Benefits Plan is adopted by the City Council, the City agrees to analyze the issue of whether there is compaction between the classification of Division Fire Chief and the classification of Fire Captain and report back to this Unit with the results of that analysis.

B. Components of Salary

The City Manager is authorized to set the salary of Confidential Management at any step within the salary range.

1. Base Salary

This is the amount set at any step within the range at initial appointment and will be subject to adjustment until the Confidential Management employee reaches the top step of the range. Base salary may be adjusted on an annual basis by the City Manager, based on meritorious performance and the recommendation of the Department Head, but not to exceed the established range.

2. Cost of Living Adjustments

~~There will be no Cost of Living Adjustments (COLAs) during the term of this agreement. Effective the beginning of the first full pay period following adoption of this Compensation and Benefits Plan by the City Council, employees who are employed by the City at the time of ratification and adoption of this agreement shall receive a one-time lump sum payment representing (i) 8.0% of the employee's base salary on the salary schedule at the time of the payment for "miscellaneous" employees and (ii) 9.0% of the employee's base salary on the salary schedule at the time of the payment for "safety" employees.~~

~~Effective the beginning of the first full pay period in July 2016, employees who are employed by the City at the time of ratification and adoption of this agreement shall receive a one-time lump sum payment representing 6.0% of the employee's base salary on the salary schedule at the time of the payment~~

~~Effective the beginning of the first full pay period of July 2016, employees shall receive a wage increase equal to 3.0%.~~

~~Effective the beginning of the first full pay period in July 2017, employees who are employed by the City at the time of ratification and adoption of this agreement shall receive a one-time lump sum payment representing 3.0% of the employee's base salary on the salary schedule at the time of the payment.~~

~~Effective the first pay period of July 2017, employees shall receive a wage increase equal to 2.0%.~~

C. Overtime - Assistance By Hire /Strike Team (Division Fire Chiefs – Only)

Division Fire Chiefs assigned to work with other entities in response to task force, strike team, or for "Assistance By Hire" assignments on behalf of a third party and/or Division Fire Chief's backfilling for Division Fire Chiefs on assignment to work with other entities, shall be eligible for overtime compensation at their regular hourly rate or at a rate equivalent to time and one half of the employee's hourly rate for each hour of such assignment if the contract for such assignment, or the conditions of reimbursement from the third party, provide for reimbursement of overtime costs at either straight time or time and one-half hourly rate. The intent of this paragraph is to provide the Division Fire Chiefs compensation at the rate that is reimbursed to the City by a third party for services provided by the Division Fire Chief. The City shall not be responsible for payments not reimbursed by a third party.

Section 4: Leaves

A. Vacation

Confidential Management Unit employees shall accrue vacation at the following rates:

0-5 years	96 hours per year
6-10 years	136 hours per year
11-15 years	176 hours per year
16-20 years	192 hours per year
21+ years	216 hours per year

B. Management Leave

The City provides management leave in recognition of the need to devote more than 40 hours per week to their duties. The City shall provide management leave in the amount of 96 hours per calendar year to Confidential Management Unit employees through December 31, 2015. Beginning January 1, 2016 through the term of this Compensation and Benefits Plan, the City shall provide management leave in the amount of 112 hours per calendar year to Confidential Management Unit employees.

C. Floating Holidays

16 hours of floating holiday leave per calendar year shall be granted to Confidential Management Unit employees.

D. Maximum Accrual of Leave

The maximum accrual for Confidential Management Unit employees for vacation, management leave, and floating holidays shall be the total accrual for each type of leave, not to exceed 600 hours.

E. City Buy-Back of Accrued Leave

Confidential Management Unit employees are allowed an optional buy-back of accumulated leave. They may, twice in a calendar year, buy back up to 50 percent (50%) of accumulated leave, but not more than the equivalent of one (1) year's earning rate for vacation, management leave and floating holidays. The hourly rate is the annual salary divided by the annual hours of work.

F. Sick Leave Accrual

All Confidential Management Unit employees shall be eligible to accrue sick leave at the following rates:

One day, eight (8) hours, for each month of service.

Anyone employed prior to January 1, 1987 shall be entitled to the following: two (2) days, 16 hours for each month of service beginning the 21st year of employment and thereafter.

Unlimited accrual of sick leave is allowed.

Employees may utilize up to one-half (1/2) of their annual accrual of sick leave for the care of their immediate family. Immediate family is defined as child, parent or spouse.

G. Conversion of Sick Leave Balance Upon Retirement/Death/Termination

Upon retirement, employees may elect to convert all accrued sick leave to a medical insurance bank. The value of the medical insurance bank shall be determined by multiplying the number of accrued sick leave hours by the employee's hourly rate of pay. The retired employee and his/her dependents shall be entitled to continued group health insurance coverage, dental and/or vision coverage in effect at the time, with premiums for such coverage being deducted from the medical insurance bank until said bank is exhausted. Thereafter, the employee and his/her dependents may continue to participate in the City's group health, dental and/or vision plans provided the City receives the employee's payment for the premium by the 10th of each month for the following month's coverage.

Subject to approval by the City, retirees may elect to utilize funds in their medical insurance bank to purchase alternate medical coverage.

Terms of the Policy Agreement with the City's insurance carrier regarding coverage and eligibility shall apply to the employee and his/her dependents.

Upon death, the employee's estate shall receive straight-time pay for all accrued sick leave in excess of 960 hours.

If a Confidential Management Unit employee terminates or is terminated for any reason, all accumulated sick leave shall be canceled. Such accumulated sick leave, however, shall be credited to such employee if he/she returns to City employment within two (2) years of such termination.

H. Bereavement Leave

In the event of a death in the immediate family of an employee, the employee shall be allowed to take paid bereavement leave not to exceed five (5) workdays within two (2) weeks of the date of death of the family member. The employee may, with his/her Department Director's permission, use vacation leave if additional leave is required. Such permission shall not be unreasonably refused. In the event of the death of a relative, not a member of the immediate family, absence from duty shall be allowed not to exceed one (1) day. Such absences shall not be charged to sick leave.

The immediate family of an employee is defined as: parents, stepparents, parents-in-law, spouse, child, stepchild, brother, sister, grandparents, grandchildren, brother/sister-in-law, son/daughter-in-law, or legal guardian or a person who is at least 50 percent (50%) dependent on an employee.

In special cases, with the approval of the Department Director, the Personnel Officer may grant bereavement leave in other circumstances.

I. ~~Flexible Leave Hours~~ Holiday Pay for Division Fire Chiefs

If a Division Fire Chief is required to work on an observed holiday, the employee will receive an additional eight (8) hours of vacation leave in addition to straight time pay for hours worked.

~~The City shall credit each employee with a block of paid leave hours each fiscal year of this Compensation and Benefits Plan. These hours shall be labeled Flexible Leave. Each employee may use these leave hours subject to the conditions for use of vacation or sell-back the Flexible Leave hours during the fiscal year. Each employee will receive the Flexible Leave hours for that fiscal year on July 1st of each year. Each employee has the option of using such hours as leave in the same manner as vacation leave, or periodically selling the hours. A code will be set up for each option and employees can note the use of or selling of such hours on each time card throughout the fiscal year. Employees must use the current fiscal year hours by June 15th of each year and hours cannot be carried over to a new fiscal year. If an employee terminates before June 30th of any fiscal year, the employee is only eligible for a proration of hours for the period of July 1st to the date of termination and hours used in excess of the prorated amount will be deducted accordingly from the employee's final pay.~~

~~Amount: During fiscal year 2012-2013, each employee shall receive 44 hours of Flexible Leave during the pay period beginning July 1, 2012. During fiscal year 2013-2014, each employee shall receive 88 hours of Flexible Leave during the pay period beginning July 1, 2013. During fiscal year 2014-2015, each employee hired on or before December 16, 2010 and under the first tier CalPERS retirement formula (2.5% at 55) shall receive 132 hours of Flexible Leave. Each employee hired after December 16, 2010 and under the second tier CalPERS retirement formula (2% at 55) shall receive 122 hours of Flexible Leave.~~

~~The Division Fire Chief classification under the CalPERS retirement formula of 3% @ 55 shall receive the following: During fiscal year 2012-2013, each employee shall receive 50 hours of Flexible Leave during the pay period beginning July 1, 2012. During fiscal year 2013-2014, each employee shall receive 100 hours of Flexible Leave during the pay period beginning July 1, 2013. During fiscal year 2014-2015, each employee shall receive 150 hours of Flexible Leave during the pay period beginning July 1, 2014.~~

~~The parties acknowledge that the block of paid leave hours labeled Flexible Leave is credited to each full-time, regular employee at the beginning of each fiscal year of this Compensation and Benefits Plan and ends when this Compensation and Benefits Plan expires on June 30, 2015.~~

~~Sell-Back: An employee may sell-back some or all of the employee's accrued Flexible Leave balance with any pay period during the fiscal year, so long as it does not generate a separate paycheck. If a separate paycheck is desired, the leave hours will be paid on a separate paycheck on June 30th and/or December 15th of each contract year.~~

~~City Buy-Back of Accumulated Leave: Should an employee not utilize Flexible Leave as time off during a fiscal year, or should an employee not sell-back his/her Flexible Leave during the fiscal year, the City shall cash-out each employee's Flexible Leave balance at the end of the fiscal year in which it was provided and pay it to the employee. There shall be no carry-over of Flexible Leave hours from one fiscal year to the next, and no Flexible Leave balance shall be allowed to remain after the expiration of this Compensation and Benefits Plan.~~

Section 5: Benefits

A. CalPERS Retirement

1. CalPERS Formula

Miscellaneous employees hired on or before December 16, 2010 shall receive the single highest year and 2.5% at 55 benefit formula provided through the California Public Employees' Retirement System (CalPERS).

Miscellaneous employees hired on or after December 17, 2010 **and on or before December 31, 2012** shall receive average of three (3) consecutive highest years and 2% at 55 benefit formula provided through the California Public Employees' Retirement System (CalPERS).

Miscellaneous employees hired on or after January 1, 2013 and who qualify as "new employees" under the Public Employees' Pension Reform Act ("PEPRA") shall be subject to all the provisions of that law, including but not limited to the 2% at 62 benefit formula provided through the Public Employees' Retirement System (CalPERS) with a three year final compensation period.

Safety employees hired on or before July 1, 2010 shall receive CalPERS 3% at 50 and single highest year formula provided through the Public Employees' Retirement System (CalPERS).

Safety employees hired on or after July 2, 2010 and on or before December 31, 2012 shall receive CalPERS 3% at 55 and single highest year formula provided through the Public Employees' Retirement System (CalPERS).

Safety employees hired on or after January 1, 2013 meeting the definition of "new member" under PEPRA shall be subject to all the provisions of that law, including but not limited to the two point seven percent at age 57 (2.7% at 57) retirement formula with a three year final compensation period.

2. Payment of CalPERS Retirement Benefit

a. Payment of Employer Share of PERS Contribution

Effective as soon as administratively possible in accordance with the California Government Code section 20516 contract amendment process, each employee in this unit shall pay 3% towards the employers share of CalPERS pension regardless of what CalPERS pension formula employee is applicable to employee. In exchange, the City shall pay the corresponding salary increase that represents the 3% contribution. The parties agree that should the parties negotiate elimination of the 3% contribution towards the employers share or such contribution becomes contrary to any subsequent rules, regulations and/or law rendering the contribution null and void that the equivalent salary increase conferred in this section shall also cease and become null and void.

The City agrees to continue to pay the **remainder of the** employer contribution for the City's CalPERS retirement benefit.

b. Miscellaneous Employees

~~For m~~**Miscellaneous employees hired on or before December 16, 2010, and under the first tier CalPERS retirement formula (2.5% at 55), the City and employees shall pay share payment of the 8% employee salary contribution towards employee statutory share of CalPERS retirement during the term of this Compensation and Benefits Plan, as follows:**

~~Fiscal Year 2012-2013 — Effective the pay period including July 1, 2012, each employee shall pay 2.66% of salary and the City shall pay 5.34% of salary to fund the employee contribution for the CalPERS retirement benefit.~~

~~Fiscal Year 2013-2014 — Effective the pay period including July 1, 2013, each employee shall pay 5.33% of salary and the City shall pay 2.67% of salary to fund the employee contribution for the CalPERS retirement benefit.~~

~~Fiscal Year 2014-2015 — Effective the pay period including July 1, 2014, each employee shall pay 8% of salary to fund the employee contribution for the CalPERS benefit.~~

For miscellaneous employees hired after December 16, 2010 and on or before December 31, 2012 and under the second-tier CalPERS retirement formula (2% and 55), the City and employees shall pay share payment of the 7% employee salary contribution towards employee statutory share of CalPERS retirement during the term of this Compensation and Benefits Plan, as follows:

~~Fiscal Year 2012-2013 — Effective the pay period including July 1, 2012, each employee shall pay 2.66% of salary and the City shall pay 4.34% of salary to fund the employee contribution for the CalPERS retirement benefit.~~

~~Fiscal Year 2013-2014 — Effective the pay period including July 1, 2013, each employee shall pay 5.33% of salary and the City shall pay 1.67% of salary to fund the employee contribution for the CalPERS retirement benefit.~~

~~Fiscal Year 2014-2015 — Effective the pay period including July 1, 2014, each employee shall pay 7% of salary to fund the employee contribution for the CalPERS benefit.~~

Miscellaneous employees who receive the CalPERS retirement formula of 2% at 62 shall pay the employee contribution required by PEPRA, currently calculated at fifty percent (50%) of the normal cost.

c. Safety Employees

Safety employees hired under the first tier CalPERS retirement formula (3% at 50) or the second tier CalPERS retirement formula (3% at 55) shall pay the 9% employee contribution towards the employee statutory share of CalPERS retirement during the term of this Compensation and Benefit Plan.

Safety employees who receive the CalPERS retirement formula of 2.7% at 57 shall pay the employee contribution required by PEPRA, currently calculated at fifty percent (50%) of the normal cost.

~~Division Fire Chief: This Public Safety classification in the Confidential Management Unit which receives the CalPERS retirement formula of 3% @ 55, shall share payment of the 9% of salary employee contribution during the term of this Compensation and Benefits Plan as follows:~~

~~Fiscal Year 2012-2013 — Effective the pay period including July 1, 2012, each employee in the Division Fire Chief classification shall pay 3% of salary and the City shall pay 6% of salary to fund the employee contribution for the CalPERS retirement benefit.~~

~~Fiscal Year 2013-2014 — Effective the pay period including July 1, 2013, each employee in the Division Fire Chief classification shall pay 6% of salary and the City shall pay 3% of salary to fund the employee contribution for the CalPERS retirement benefit.~~

~~Fiscal Year 2014-2015 — Effective the pay period including July 1, 2014, each employee in the Division Fire Chief classification shall pay 9% of salary to fund the employee contribution for the CalPERS benefit.~~

Employee payments of the employee share of the CalPERS retirement benefit cost shall be made as a payroll deduction on a pre-tax basis to the extent allowed by law.

The parties may reopen negotiations to discuss the impact of any changes to the Public Employment Retirement Law which occur during the term of this Compensation and Benefits Plan.

B. Insurance

1. Medical

1.1 Plans Provided

The City offers medical insurance through Kaiser and Health Net. During the term of this Agreement the City reserves the right to change medical providers and the parties shall meet regarding any such change.

1.2 New Employees

New employees hired after July 1, 2007, shall be required to select a medical plan for at least the employee and are not eligible for cash benefits except as may be required by provisions of the IRS regulations covering Flexible Benefits plans.

2. Dental

The City shall offer dental insurance coverage for full-time employees and their eligible dependents through the existing providers.

3. Vision Care

The City shall offer vision care benefits for full-time employees and their eligible dependents through the existing providers.

4. Life Insurance

The City shall provide life insurance coverage of \$50,000. This coverage will be mandatory for all Confidential Management Unit employees. The City will fully pay the premium by adding the actual cost of the premium to the amount provided in the Cafeteria Plan each month.

5. Short-Term Disability Insurance (STD)

Short Term Disability Insurance payments may be available to employees who cannot work because of sickness or non-work related injuries as determined by the STD insurance provider. STD payments shall be integrated with accumulated sick and vacation leave balances unless the employee elects in writing, at the time of disability, to retain STD payments and receive no supplemental income (paid leave) from the City.

To the extent accumulated sick leave or vacation leave is available, the employee will continue to receive normal paychecks. Payments received from the insurance carrier shall be turned in to the City. When such checks are received by the City, a portion of the employee's next paycheck, equal to the amount turned in, shall be recorded as nontaxable pay and sick leave shall be charged only for the amount of the City's share of the paycheck.

In no case may an employee receive more income than the amount of his/her normal pay. Employees must turn in checks received from the insurance carrier to the City, unless the employee elected in writing, at the time of disability, of the employee's choice not to receive paid leave.

6. Long Term Disability Insurance (LTD)

City paid Long Term Disability Insurance shall be provided to all Confidential Management Unit employees.

7. Cafeteria Plan

7.1 City Contribution

The City shall maintain an account for each full-time employee in regular or probationary status within the City's cafeteria plan. The City shall make monthly payments of no more than the annual maximum amount for the employee's benefit level, either family, employee plus one, or employee only to each employee's account.

7.2 Cash Out Options

For employees hired before July 1, 2007, the maximum cash payment shall be set at \$996 per month for employees who do not elect a medical, dental, and/or vision plan. For employees hired on or after July 1, 2007, each employee shall be required to select a medical plan and the cash payment shall be limited to the minimum required by law (if any).

7.3 Future Contributions

If premiums increase in the plans to which City employees subscribe effective January 1, ~~2013~~2016, and each January thereafter during the term of this Agreement, the City will increase the City's monthly contribution for employees by 75% of the average of the dollar increase of the family HMO plan premiums for employees electing family coverage.

For employees who elect employee only or employee plus one coverage, any City increase to the Employee's account shall be limited to the amount necessary to fully cover the plan selected or up to a maximum of the dollar amount increase allocated to employees who elect family coverage. There shall be no increase for employees who do not elect health insurance coverage.

In the event the above listed amounts are insufficient to fully pay the premiums required of employees enrolled in any one of the medical insurance plans, the City shall make a payroll deduction from the employee's pay to cover the difference in cost.

7.4 Approved Account Uses

The monies in an employee's account shall be used for one or more of the following purposes only: 1) payment of premium charges for the medical insurance program in which the employee is enrolled, 2) payment of premium charges for the dental insurance program in which the employee is enrolled and/or 3) payment of premium charges for the vision insurance program in which the employee is enrolled. The City also independently funds life insurance premiums through each employee's account.

Each employee shall provide the Personnel Officer or Human Resources designee in writing on a form provided, and at times designated by the City each year, all information necessary to administer the Cafeteria Plan during the 12 month period beginning the first day of each plan benefit year. Thereafter, no changes to designations so made will be allowed until the following open enrollment period without a qualifying event.

Each employee shall be responsible for providing immediate written notification to the Personnel Officer or Human Resources designee of any change to the number of his/her dependents which affects the amount of the City payment on behalf of the employee. Changes in Cafeteria Plan payments required because of a change in an employee's number of dependents shall take effect at the start of the first pay period in the month following the month in which advice from the employee is received by the Personnel Officer or Human Resources designee. No retroactive payments shall be allowed.

8. Flexible Benefits Plan (IRS Section 125)

The City has implemented an Internal Revenue Code Section 125 Plan to redirect employees' pre-selected amount of base salary to pay employee paid insurance premiums and other approved expenses. The City will not treat these monies as

compensation subject to income tax withholding unless the Internal Revenue Service or the Franchise Tax Board indicates that such contributions are taxable income subject to withholding. Each employee shall be solely and personally responsible for any federal, state or local tax liabilities of the employee that may arise out of the implementation of this section or any penalty that may be imposed therefore.

C. Deferred Compensation

Confidential Management Unit employees shall be eligible to participate in both a City-sponsored 457 deferred compensation plan and a City-sponsored 401(a) deferred compensation plan.

Confidential Management Unit employees who have completed three (3) years of service with the City shall be eligible for a City matching contribution to their 401(a) deferred compensation plan of up to four percent (4%) of his/her annual salary. **The City match will be based on employee contributions towards their 401(a) deferred compensation plan.**

Those Confidential Management Unit employees who have completed six (6) years of service with the City shall be eligible for a City matching contribution to their 401(a) deferred compensation plan of up to five percent (5%) of his/her annual salary. **The City match will be based on employee contributions towards their 401(a) deferred compensation plan.**

A fully executed Personnel Action Form shall establish eligibility for all deferred compensation contributions for Confidential Management Unit employees, which must be approved by both the Department Head and City Manager.

D. Management and Professional Development Benefit

The Management Benefit of \$960 per calendar year will be utilized at the discretion of each individual employee for job related expenses or for professional development. The monies will be allocated per pay period and may be utilized for a wide variety of job related expenses, training, association memberships, computer hardware and software, conference registration and attendance, and other miscellaneous job expenses or professional development opportunities.

E. Uniform Allowance

The City shall provide the Deputy Chief of Police and Division Fire Chiefs a uniform allowance in the amount of \$1,000 1,100 per year.

F. Annual Physical

An annual physical examination shall be provided by the City, if desired and requested by a Confidential Management Unit employee.

G. Educational Expense Reimbursement

Educational expenses, up to a maximum of \$2,500 per calendar year, shall be paid, but are limited to the cost of a State College or State University's fees, books, and tuition. A grade of "C" or better is required for reimbursement. The Department Head must approve enrollment.

Section 6: Miscellaneous

A. Retiree Health Savings Account

The City agrees to explore a tax-deferred vehicle for employees to contribute towards a Retiree Health Savings Account (RHSA) through payroll deduction or contribution of paid leaves. **The City agrees to report back to Confidential Management Unit employees under this section within twelve (12) months following adoption of this Compensation and Benefits Plan by the City Council.**

B. Establishment of Additional Deferred Compensation Vehicles

The City agrees to explore establishing additional 457 and/or 401(k) plans for employee contribution, provided there is no additional cost to the City.

**Exhibit A
Confidential Management Unit
Salary Schedule (TO BE UPDATED)**

Class Code	Position Title...		Semi-Mon Salary	Monthly Salary	Annual Salary	Hourly Rate
25101	Human Resources Analyst I	A	2,609.42	5,218.84	62,626.08	30.1087
	VACANT	B	2,739.89	5,479.78	65,757.36	31.6141
		C	2,876.88	5,753.76	69,045.12	33.1948
		D	3,020.72	6,041.44	72,497.28	34.8545
		E	3,171.76	6,343.52	76,122.24	36.5972
25102	Human Resources Analyst II	A	3,000.75	6,001.50	72,018.00	34.6240
		B	3,150.79	6,301.58	75,618.96	36.3553
		C	3,308.33	6,616.66	79,399.92	38.1730
		D	3,473.75	6,947.50	83,370.00	40.0817
		E	3,647.44	7,294.88	87,538.56	42.0858
25103	Sr Human Resources Analyst	A	3,289.34	6,578.68	78,944.16	37.9539
		B	3,453.81	6,907.62	82,891.44	39.8517
		C	3,626.50	7,253.00	87,036.00	41.8442
		D	3,807.82	7,615.64	91,387.68	43.9364
		E	3,998.21	7,996.42	95,957.04	46.1332
25151	Information Systems Manager	A	4,206.58	8,413.16	100,957.92	48.5375
	VACANT	B	4,416.91	8,833.82	106,005.84	50.9643
		C	4,637.76	9,275.52	111,306.24	53.5126
		D	4,869.65	9,739.30	116,871.60	56.1883
		E	5,113.13	10,226.26	122,715.12	58.9977

25152	Information Systems Administrator	A	3,824.19	7,648.38	91,780.56	44.1253
	See 25153	B	4,015.40	8,030.80	96,369.60	46.3315
		C	4,216.17	8,432.34	101,188.08	48.6481
		D	4,426.98	8,853.96	106,247.52	51.0805
		E	4,648.33	9,296.66	111,559.92	53.6346
25153	Information Technology Manager	A	4,015.40	8,030.80	96,369.60	46.3315
	Reso 2012-018	B	4,216.17	8,432.34	101,188.08	48.6481
	Eff: 01/17/12	C	4,426.98	8,853.96	106,247.52	51.0805
		D	4,648.33	9,296.66	111,559.92	53.6346
		E	4,880.75	9,761.50	117,138.00	56.3163
25171	Deputy City Attorney I	A	4,013.40	8,026.80	96,321.60	46.3085
	VACANT	B	4,214.07	8,428.14	101,137.68	48.6239
		C	4,424.77	8,849.54	106,194.48	51.0550
		D	4,646.01	9,292.02	111,504.24	53.6078
		E	4,878.31	9,756.62	117,079.44	56.2882
25172	Deputy City Attorney II	A	4,414.75	8,829.50	105,954.00	50.9394
	VACANT	B	4,635.49	9,270.98	111,251.76	53.4864
		C	4,867.26	9,734.52	116,814.24	56.1607
		D	5,110.62	10,221.24	122,654.88	58.9687
		E	5,366.15	10,732.30	128,787.60	61.9171
25173	Assistant City Attorney	A	5,111.76	10,223.52	122,682.24	58.9818
		B	5,367.35	10,734.70	128,816.40	61.9310
		C	5,635.72	11,271.44	135,257.28	65.0275
		D	5,917.51	11,835.02	142,020.24	68.2790
		E	6,213.39	12,426.78	149,121.36	71.6930

25201	Executive Assistant to City Manager	A	2,504.06	5,008.12	60,097.44	28.8930
		B	2,629.26	5,258.52	63,102.24	30.3376
		C	2,760.72	5,521.44	66,257.28	31.8545
		D	2,898.76	5,797.52	69,570.24	33.4472
		E	3,043.70	6,087.40	73,048.80	35.1196
25215	Public Affairs Officer	A	3,000.75	6,001.50	72,018.00	34.6240
	VACANT	B	3,150.79	6,301.58	75,618.96	36.3553
		C	3,308.33	6,616.66	79,399.92	38.1730
		D	3,473.75	6,947.50	83,370.00	40.0817
		E	3,647.44	7,294.88	87,538.56	42.0858
25302	Deputy Director of Pub Wks/Utilities	A	4,858.30	9,716.60	116,599.20	56.0573
		B	5,101.22	10,202.44	122,429.28	58.8602
		C	5,356.28	10,712.56	128,550.72	61.8032
		D	5,624.09	11,248.18	134,978.16	64.8933
		E	5,905.29	11,810.58	141,726.96	68.1380
25311	Deputy Police Chief	A	5,592.10	11,184.20	134,210.40	64.5242
	VACANT	B	5,871.70	11,743.40	140,920.80	67.7504
		C	6,165.28	12,330.56	147,966.72	71.1378
		D	6,473.54	12,947.08	155,364.96	74.6947
		E	6,797.22	13,594.44	163,133.28	78.4295
25312	Police Support Operations Manager	A	4,544.86	9,089.72	109,076.64	52.4407
	new 11/15/11 Reso 2011-217	B	4,772.10	9,544.20	114,530.40	55.0627
		C	5,010.70	10,021.40	120,256.80	57.8158
		D	5,261.24	10,522.48	126,269.76	60.7066
		E	5,524.30	11,048.60	132,583.20	63.7419

25351	Fire Division Chief	A	4,881.94	9,763.88	117,166.56	56.3301
		B	5,126.04	10,252.08	123,024.96	59.1466
		C	5,382.34	10,764.68	129,176.16	62.1039
		D	5,651.46	11,302.92	135,635.04	65.2092
		E	5,934.03	11,868.06	142,416.72	68.4696
25352	Fire Marshal (Includes 7.5% incentive) VACANT	A	3,513.92	7,027.84	84,334.08	40.5452
		B	3,689.62	7,379.24	88,550.88	42.5725
		C	3,874.10	7,748.20	92,978.40	44.7012
		D	4,067.81	8,135.62	97,627.44	46.9363
		E	4,271.20	8,542.40	102,508.80	49.2831
25505	Arts Program Manager VACANT	A	3,642.69	7,285.38	87,424.56	42.0310
		B	3,824.82	7,649.64	91,795.68	44.1325
		C	4,016.06	8,032.12	96,385.44	46.3392
		D	4,216.86	8,433.72	101,204.64	48.6561
		E	4,427.70	8,855.40	106,264.80	51.0888
25601	Assistant Director DES/City Engineer	A	5,114.83	10,229.66	122,755.92	59.0173
		B	5,370.57	10,741.14	128,893.68	61.9681
		C	5,639.10	11,278.20	135,338.40	65.0665
		D	5,921.06	11,842.12	142,105.44	68.3199
		E	6,217.11	12,434.22	149,210.64	71.7359
25602	Assistant Director DES	A	4,716.97	9,433.94	113,207.28	54.4266
		B	4,952.82	9,905.64	118,867.68	57.1479
		C	5,200.46	10,400.92	124,811.04	60.0053
		D	5,460.48	10,920.96	131,051.52	63.0055
		E	5,733.50	11,467.00	137,604.00	66.1558

30405	Deputy Director Pub Wks/Maintenance	A	4,635.75	9,271.50	111,258.00	53.4894
	VACANT	B	4,867.54	9,735.08	116,820.96	56.1639
		C	5,110.92	10,221.84	122,662.08	58.9722
		D	5,366.47	10,732.94	128,795.28	61.9208
		E	5,634.79	11,269.58	135,234.96	65.0168
30519	Deputy Director, Parks & Community Services	A	4,256.32	8,512.64	102,151.68	49.1114
	VACANT	B	4,469.14	8,938.28	107,259.36	51.5670
		C	4,692.60	9,385.20	112,622.40	54.1454
		D	4,927.23	9,854.46	118,253.52	56.8527
		E	5,173.59	10,347.18	124,166.16	59.6953

AGENDA ITEM 1.N

REQUEST

ADOPT THE COMPENSATION AND BENEFITS PLAN FOR THE TECHNICAL AND SUPPORT SERVICES UNIT (TSSU)

EXECUTIVE SUMMARY

The TSSU Compensation and Benefits Plan expired on June 30, 2015. Representatives from the City and TSSU met and consulted on the various elements covered by the Plan. Agreement was reached on a new Plan covering a period of 39 months, from July 1, 2015 through September 30, 2018.

DISCUSSION

There are four notable changes in the TSSU Compensation and Benefits Plan. These include the following:

1. Salary Adjustment for all classifications effective:

July 2016	3% salary adjustment (COLA)
July 2017	2% salary adjustment (COLA)

2. One time payments:

December 2015	8% lump sum of base salary
July 2016	6% lump sum of base salary
July 2017	3% lump sum of base salary

3. Employees pay a portion of Employer's CalPERS obligation:

Effective as soon as administratively possible, each employee in this unit shall pay three percent (3%) towards the employer's share of CalPERS pension regardless of what CalPERS pension formula is applicable to the employee. In exchange, the City shall pay the corresponding salary increase that represents the three percent (3%) contribution. This is a cost neutral item for the City

4. Deferred Compensation:

Eligibility for an existing benefit of 2% City match towards deferred compensation was lowered from 10 years to 5 years of City service and an increase in the match from two percent (2%) to three percent (3%) at 10 years of service, was added.

Also, Police Records Assistants will receive a \$100 increase to their uniform allowance and will cease being paid holiday in-lieu pay and will in turn be paid procedurally similar to other members of this Unit.

STRATEGIC PLAN

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

Governance Strategy

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

Objective 1b: Affirm organizational values.

FISCAL IMPACT

The general fund fiscal impact for approving this Compensation and Benefits Plan package is estimated at \$760,000 during the term of the contract with approximately \$171,000 in ongoing costs. For FY 2015/16, \$225,000 is being requested to be appropriate from fund balance to cover the cost of the Compensation and Benefit Plan. Future year costs will be incorporated into the appropriate departmental operational budgets.

RECOMMENDATION

That the City Council, by resolution, adopt the Compensation and Benefit Plan for the Technical and Support Services Unit.

Prepared by: Midori Lichtwardt, Human Resources Manager

Reviewed by: V. Rachele McQuiston, Administrative Services Director
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

Attachment: Technical and Support Services Unit (TSSU) Compensation and Benefit Plan

COMPENSATION AND BENEFITS PLAN

BETWEEN

THE CITY OF TRACY

AND

THE TECHNICAL AND SUPPORT SERVICES UNIT
(TSSU)

July 1, 2015 Through September 30, 2018 ~~July 1, 2012~~
~~Through June 30, 2015~~



Think Inside the Triangle™

Human Resources Divisionepartment
333 Civic Center Plaza
Tracy, CA 95376
(209) 831-6150
www.ci.tracy.ca.us

TECHNICAL AND SUPPORT SERVICES UNIT (TSSU)
July 1, 2015~~2~~ through September~~June 30, 2018~~~~5~~

Table of Contents

<u>Section</u>	<u>Topic</u>	<u>Page</u>
1	Purpose and Intent	1
2	Unit Membership	1
3	Compensation	2
	A. Salary Ranges	2
	B. Out-of-Class Pay.....	2
4	Leaves	3
	A. Definition.....	3
	B. Overtime and Compensatory Time.....	3
	C. Floating Holidays	3
	D. Maximum Accrual of Leave	3
	E. Leave Buy-Back.....	3
	F. Sick Leave Accrual.....	3
	G. Bereavement Leave	4
	H. Sick Leave Conversion at Retirement.....	4
	I. Paid Holidays for Police Dept. Employees.....	4
5	Benefits	5
	A. Determined by City Manager	5
	B. CalPERS Retirement	5
	1. CalPERS	
	Formula.....	5
	2. Payment of CalPERS Retirement	
	Benefit.....	5
	C. Flexible	
	Leave.....	6
	D. Short Term Disability Insurance.....	7
	E. Workers' Compensation	7
	F. Annual Physical Exam	8
	G. Education Expense Reimbursement	8

TECHNICAL AND SUPPORT SERVICES UNIT (TSSU)
July 1, 2015~~2~~ through September ~~June~~ 30, 2018~~5~~

Table of Contents

H. Insurance	8
1. Medical	8
2. Dental	8
3. Vision	9
4. Life Insurance	9
5. Cafeteria Plan	9
6. Flexible Benefit Plan (IRS Section 125).....	10
I. Deferred Compensation	10
J. Retention Incentive	11
6 Allowances.....	11
A. Travel Expense Reimbursement.....	11
B. Meal Allowance	11
C. Bilingual Pay	11
D. Uniform Allowance	11
7 Conditions of Service.....	12
Exhibit A: Salary Schedules	13

CITY OF TRACY
TECHNICAL AND SUPPORT SERVICES UNIT (TSSU)
COMPENSATION AND BENEFITS PLAN
EFFECTIVE July 1, 2015~~2~~ through September~~June~~ 30, 2018~~5~~

Section 1: Purpose and Intent

The City of Tracy, through Resolution No. 90-510 and Resolution No. 90-511, adopted December 18, 1990, established a Confidential Employees Unit Compensation and Benefit Plan and a Clerical Employees Unit Compensation and Benefit Plan respectively.

In January 2000, the two units' employees were combined into one unit to receive compensation and benefits. The new unit is referred to as the Technical and Support Services Unit.

Employees covered under this Plan are non-exempt from the Fair Labor Standards Act (FLSA) and are covered by the authority of the Personnel Rules & Regulations and Classification Plan.

Section 2: Unit Membership

Employees covered by the Plan are in the following positions and classifications:

Accounting Assistant

Accounting Coordinator

Accounting Technician

Administrative Assistant I

Administrative Assistant II (HR)*

Administrative Assistant III

Airport Coordinator

Box Office Assistant

Box Office Coordinator

Building Permit Technician

Crime Analyst

Deputy City Clerk

Executive Assistant (HR)*

GIS Technician

Human Resources Technician*

Information **Technology** Systems Technician

Legal Secretary

Payroll Coordinator*

Police Assistant

Police Records Assistant I

Police Records Assistant II

Recreation Program Coordinator I

Recreation Program Coordinator II

Senior Accounting Assistant

Theatre Operations and Technical Assistant

*Incumbents in these classifications may be designated as confidential.

Confidential employees are considered employees who are privy to information that affects employee relations and excludes those employees from being represented in any employee organization that represents other employees in the agency. Incumbents designated as confidential employees shall receive the same level of benefits as outlined in this Plan.

Section 3: Compensation

A. Salary Ranges

The salary ranges for each classification in effect on ~~July 1, 2012~~ **December 16, 2015** is shown in Exhibit A.

The salary ranges for the classifications identified in Section 2 ~~above~~ have five (5) steps, with five percent (5%) separation between each step. Step A is the minimum and Step E is the maximum of the range.

All rates of pay set forth in this Section represent the standard rate of pay for full-time employment for each classification. Employees occupying a position in a classification covered by this Plan shall be paid at a base salary within the range established for the position's classification.

Effective the beginning of the first full pay period following adoption by the City Council, employees who are employed by the City at the time of adoption of this agreement shall receive a one-time lump sum payment representing 8.0% of the employee's base salary on the salary schedule at the time of the payment.

Effective the beginning of the first full pay period of July 2016, employees shall receive a wage increase equal to 3.0%.

Effective the beginning of the first full pay period in July 2016, employees who are employed by the City at the time of adoption of this agreement shall receive a one-time lump sum payment representing 6.0% of the employee's base salary on the salary schedule at the time of the payment.

Effective the first pay period of July 2017, employees shall receive a wage increase equal to 2.0%.

Effective the beginning of the first full pay period in July 2017, employees who are employed by the City at the time of ratification and adoption of this agreement shall receive a one-time lump sum payment representing 3.0% of the employee's base salary on the salary schedule at the time of the payment

~~There shall be no Cost of Living Adjustments (COLAs) for the employees covered under this Compensation and Benefits Plan for the duration of the plan.~~

There shall be no equity increases for the employees covered under this Compensation and Benefits Plan for the duration of the plan.

B. Out-of-Class Pay

When an employee is assigned, by the appropriate supervisor, the work of a position in a higher classification for all consecutive work hours in a full day, the employee is entitled to out-of-class pay from the first hour of such work. An employee may be considered to be working out-of-class if the employee is assigned the duties of the higher classification and held accountable for performing those duties.

Intermittent or occasional performance of duties of a higher classification is not sufficient to qualify for higher pay. Pay for out-of-class work shall be computed at the rate of Step A of the appropriate higher class position, provided that the differential in pay is at least six percent (6%) greater than the employee's regular pay rate. If the six percent (6%) increase causes the salary to fall between two steps, the appointment will be made at the higher step. Further details relating to the payment of out-of-class pay are contained in the City's Administrative Procedure Section O: Out-of-Class Pay.

Section 4: Leave

A. Definition

Leave will be granted as provided for in the Personnel Rules. Leave may be used during the first six (6) months of service in accordance with supervisory approval and in accordance with City Administrative Procedures.

B. Overtime and Compensatory Time

Technical and Support Services Unit employees are non-exempt from the provisions of the Fair Labor Standards Act (FLSA) with regard to compensation for overtime worked. With the approval of their supervisor and the Department Head, they will earn overtime or compensatory time for additional hours worked as assigned (recorded in 15 minute increments). Compensatory time accrual may not exceed 1200 hours. Employees shall receive pay for overtime hours worked in excess of the 1200 hour compensatory time maximum accrual.

Overtime is defined as hours worked in excess of the employee's regular work shift that has the prior approval of the Department Head or designee.

C. Floating Holidays

16 hours of floating holiday leave per calendar year shall be granted to employees.

D. Maximum Accrual of Leave

The maximum accrual for employees for vacation and floating holidays shall not exceed a total of 400 hours for employees on the 9/80 schedule.

E. Leave Buy-Back

Employees are allowed an optional buy-back of accumulated leave. They may, twice in a calendar year, buy-back up to fifty percent (50%) of the accumulated leave, but

not more than the equivalent of one year's earning rate for vacation and floating holidays. The hourly rate is the annual salary divided by 2080 hours of work.

F. Sick Leave Accrual

Employees shall be eligible to accrue sick leave at the following rates:
One (1) working day or eight (8) hours for employees on the 9/80 schedule for each month of service during the first 20 years of employment.

For employees hired prior to January 1, 1987, two working days or 16 hours for employees on the 9/80 schedule for each month of service beginning the 21st year of employment and thereafter.

Unlimited accrual of sick leave is allowed. Employees may take unlimited days of sick leave for family sick leave.

G. Bereavement Leave

In the event of a death in the immediate family of an employee, the employee shall be allowed to take paid bereavement leave not to exceed five (5) workdays within two (2) weeks of the date of death of the family member. The employee may, with his/her Department Head's permission, use vacation leave if additional leave is required. Such permission shall not be unreasonably refused. In the event of the death of a relative, not a member of the immediate family, absence from duty shall be allowed not to exceed one (1) day. Such absences shall not be charged to sick leave.

The immediate family of an employee is defined as: parents, step-parents, parents-in-law, spouse, child, step child, son/daughter-in-law, brother, sister, brother/sister-in-law, grandparents, grandchildren, legal guardian or a person who is at least fifty percent (50%) dependent on an employee.

In special cases, with the approval of the Department Head, the Personnel Officer may grant a bereavement leave in other circumstances.

H. Sick Leave Conversion at Retirement

Upon retirement, employees may elect to convert all accrued sick leave to a medical insurance bank. The value of the medical insurance bank shall be determined by multiplying the number of accrued sick leave hours by the employee's hourly rate of pay. The retired employee and his/her dependents shall be entitled to continued group health insurance coverage, dental and/or vision coverage in effect at the time, with premiums for such coverage being deducted from the medical insurance bank until said bank is exhausted. Thereafter, the employee and his/her dependents may continue to participate in the City's group health, dental and/or vision plans provided the City receives the employee's payment for the premium by the 10th of each month for the following month's coverage.

Subject to approval by the City, retirees may elect to utilize funds in their medical insurance bank to purchase alternate medical coverage.

Terms of the Policy Agreement with the City's insurance carrier regarding coverage and eligibility shall apply to the employee and his/her dependents.

~~I. Paid Holidays for Employees at the Police Department~~

~~Employees who work at the Police Department in the Records Division shall be credited with four (4) holidays from January 1 to June 30 and seven (7) holidays from July 1 to December 31. Employees shall be compensated for holidays not used during a given six (6) month period at the holiday pay rate. Request for use of holidays shall be subject to the supervisor's approval. The holiday pay rate shall be calculated as follows:~~

~~Annual Salary divided by 2,080 hours = hourly rate x 8 = holiday pay.~~

~~Holiday checks will be paid on separate checks on the regular pay day June 30 and December 15. Holidays will be paid at the pay rate during the period in which the holidays were earned.~~

~~Employees who are assigned work on any City holiday, excluding floating holidays, shall be paid one and one half (1 ½) time the straight time hourly rate for each hour worked on a holiday. Holiday hours begin and end at midnight on each holiday observed.~~

Section 5: Benefits

A. Determined by City Manager

Employees shall receive benefits based upon the maximum granted to represented employees, or other reasonable basis, as determined by the City Manager.

B. CalPERS Retirement

1. CalPERS Formula

Miscellaneous employees hired on or before December 16, 2010 shall receive the single highest year and 2.5% at 55 benefit formula provided through the California Public Employees' Retirement System (CalPERS).

Miscellaneous employees hired on or after December 17, 2010 **and on or before December 31, 2012** shall receive average of three (3) consecutive highest years and 2% at 55 benefit formula provided through the California Public Employees' Retirement System (CalPERS).

Miscellaneous employees hired on or after January 1, 2013 and who qualify as "new employees" under the Public Employees' Pension Reform Act shall receive average of three (3) consecutive highest years and 2% at 62 benefits formula provided through the Public Employees' Retirement System (PERS)

2. Payment of CalPERS Retirement Benefit

The City agrees to continue to pay the employer contribution for the City's CalPERS retirement benefit.

Effective as soon as administratively possible in accordance with the California Government Code section 20516 contract amendment process, each employee in this unit shall pay 3% towards the employers share of CalPERS pension regardless of what CalPERS pension formula employee is applicable to employee. In exchange, the City shall pay the corresponding salary increase that represents the 3% contribution. The parties agree that should the parties negotiate elimination of the 3% contribution towards the employers share or such contribution becomes contrary to any subsequent rules, regulations and/or law rendering the contribution null and void that the equivalent salary increase conferred in this section shall also cease and become null and void.

Employees hired on or before December 16, 2010 and under the first tier CalPERS retirement formula (2.5 at 55) shall pay the 8% of employee's contribution towards employee statutory share of CalPERS retirement during the term of this agreement.

Employees hired after December 16, 2010 and on or before December 31, 2012 under the 2% at 55 benefit formula shall pay the 7% employee salary contribution towards employee statutory share of CalPERS retirement.

Employees who receive the CalPERS retirement formula of [2% at 62](#) shall pay the employee contribution required by the Public Employees' Pension Reform Act, currently calculated at fifty percent (50%) of the normal cost.

~~For employees hired on or before December 16, 2010 and under the first tier CalPERS retirement formula (2.5% at 55) the City and employees shall share payment of the 8% of employee contribution during the term of this Compensation and Benefits Plan as follows:~~

~~Fiscal Year 2012-2013 — Effective the pay period including July 1, 2012, each employee shall pay 2.66% of salary and the City shall pay 5.34% of salary to fund the employee contribution for the CalPERS retirement benefit.~~

~~Fiscal Year 2013-2014 — Effective the pay period including July 1, 2013, each employee shall pay 5.33% of salary and the City shall pay 2.67% of salary to fund the employee contribution for the PERS retirement benefit.~~

~~Fiscal Year 2014-2015 — Effective the pay period including July 1, 2014, each employee shall pay 8% of salary to fund the employee contribution for the CalPERS benefit.~~

~~For employees hired after December 16, 2010 and under the second tier CalPERS retirement formula (2% and 55), the City and employees shall share payment of the 7% of employee contribution during the term of this Compensation and Benefits Plan as follows:~~

~~Fiscal Year 2012-2013 — Effective the pay period including July 1, 2012, each employee shall pay 2.66% of salary and the City shall pay 4.34% of salary to fund the employee contribution for the CalPERS retirement benefit.~~

~~Fiscal Year 2013-2014 — Effective the pay period including July 1, 2013, each employee shall pay 5.33% of salary and the City shall pay 1.67% of salary to fund the employee contribution for the CalPERS retirement benefit.~~

~~Fiscal Year 2014-2015 — Effective the pay period including July 1, 2014, each employee shall pay 7% of salary to fund the employee contribution for the CalPERS benefit.~~

Employee payments of the employee portion of the CalPERS retirement benefit cost shall be made as a payroll deduction on a pre-tax basis to the extent allowed by law.

~~The parties may reopen negotiations to discuss the impact of any changes to the California Public Employment Retirement Law which occur during the term of this Compensation and Benefits Plan.~~

C. Flexible Leave Hours

~~The City shall credit each employee with a block of paid leave hours each fiscal year of this Compensation and Benefits Plan. These hours shall be labeled Flexible Leave. Each employee may use these leave hours subject to the conditions for use of vacation or sell-back the Flexible Leave hours during the fiscal year. Each employee will receive the Flexible Leave hours for that fiscal year on July 1st of each year. Each employee has the option of using such hours as leave in the same manner as vacation leave, or periodically selling the hours. A code will be set up for each option and employees can note the use of or selling of such hours on each time card throughout the fiscal year. Employees must use the current fiscal year hours by June 15th of each year and hours cannot be carried over to a new fiscal year. If an employee terminates before June 30th of any fiscal year, the employee is only eligible for a proration of hours for the period of July 1st to the date of termination and hours used in excess of the prorated amount will be deducted accordingly from the employee's final pay.~~

~~Amount: During fiscal year 2012-2013, each employee shall receive 44 hours of Flexible Leave during the pay period beginning July 1, 2012. During fiscal year 2013-2014, each employee shall receive 88 hours of Flexible Leave during the pay period beginning July 1, 2013. During fiscal year 2014-2015, each employee hired on or before December 16, 2010 and under the first tier CalPERS retirement formula (2.5% at 55), shall receive 132 hours of Flexible Leave. Each employee~~

~~hired after December 16, 2010 and under the second tier CalPERS retirement formula (2% at 55) shall receive 122 hours of Flexible Leave.~~

~~The parties acknowledge that the block of paid leave hours labeled Flexible Leave is credited to each full time, regular employee at the beginning of each fiscal year of this Compensation and Benefits Plan and ends when this Compensation and Benefits Plan expires on June 30, 2015.~~

~~Sell Back: An employee may sell back some or all of the employee's accrued Flexible Leave balance with any pay period during the fiscal year, so long as it does not generate a separate paycheck. If a separate paycheck is desired, the leave hours will be paid on a separate paycheck on June 30th and/or December 15th of each contract year.~~

~~City Buy Back of Accumulated Leave: Should an employee not utilize Flexible Leave as time off during a fiscal year, or should an employee not sell back his/her Flexible Leave during the fiscal year, the City shall cash out each employee's Flexible Leave balance at the end of the fiscal year in which it was provided and pay it to the employee. There shall be no carry over of Flexible Leave hours from one fiscal year to the next, and no Flexible Leave balance shall be allowed to remain after the expiration of this Compensation and Benefits Plan.~~

D. Short Term Disability Insurance (STD)

Short Term Disability Insurance payments are available to employees who cannot work because of sickness or non-work related injury. STD payments shall be integrated with accumulated sick and vacation leave balances unless the employee elects in writing, at the time of disability, to retain STD payments and receive no supplemental income (paid leave) from the City.

To the extent accumulated sick leave or vacation leave are available, the employee will continue to receive normal paychecks. Payments received from the insurance carrier shall be turned in to the City. When such checks are received by the City, a portion of the employee's next paycheck, equal to the amount turned in, shall be recorded as nontaxable pay and sick leave shall be charged only for the amount of the City's share of the paycheck.

In no case may an employee receive more income than the amount of his/her normal pay. Employees must turn in checks received from the insurance carrier for the City, unless the employee elected in writing, at the time of disability, of the employee's choice not to receive paid leave.

E. Workers' Compensation

An employee receiving disability payments under Workers' Compensation Laws shall be entitled to industrial accident leave in accordance with state laws and employment status.

Three (3) consecutive calendar days following the last day worked constitutes a waiting period before Workers' Compensation starts. The time the employee is scheduled to work during this waiting period will not be charged to the employee's

sick leave and/or vacation accruals. In order to qualify for Workers' Compensation, the employee must be under the care of a physician. Temporary compensation is payable on the first three (3) days of disability when the injury necessitates hospitalization, or when the disability exceeds 14 days.

Temporary disability payments under Workers' Compensation Laws will be integrated with the employee's accumulated sick leave and vacation leave. In such circumstances, the employee shall be paid the difference between the disability payments and his/her full salary. Payments from the insurance carrier for disability arising out of, and in the course of employment, shall be paid to the employee and forwarded to the City. The amount of such payment or payments shall be deducted from the monies that the employee would otherwise receive from the City.

Payments from the insurance carrier plus the monies paid to the employee by the City shall be equivalent to the employee's regular full pay. In no case may an employee receive more income than the amount of his/her normal pay. Employees must turn in checks received from the insurance carrier to the City.

F. Annual Physical Exam

An annual physical examination shall be provided by the City, if desired and requested by a TSSU employee.

G. Education Expense Reimbursement

An employee who completes a course of study and receives a grade of "C" or better may be reimbursed for books, supplies, and tuition up to a maximum of \$2,500 dollars per fiscal year, for courses taken at public colleges or universities in California, or for the California tuition equivalent for courses that must be taken at colleges or universities outside of the California public education system. The employee must obtain pre-approval for the course from the Department Director.

Mileage reimbursement shall only be provided for those courses the City directs the employee to attend.

H. Insurance

1. Medical

a. Plans Provided

The City offers medical insurance through Kaiser and Health Net. During the term of this Agreement, the City reserves the right to change medical providers and the parties shall meet regarding any such change.

2. Dental

The City shall offer dental insurance coverage for full-time employees and their eligible dependents through the existing providers.

3. Vision

The City shall offer vision care benefits for full-time employees and their eligible dependents through the existing providers.

4. Life Insurance

Employees shall receive City-paid life insurance coverage in the amount of \$25,000 dollars. Supplemental life insurance may be purchased, at the same premium rate, at the employees own expense up to an additional \$25,000 dollars or up to the employee's annual salary, whichever is less.

5. Cafeteria Plan

a. City Contribution

The City shall maintain an account for each full-time employee in regular or probationary status within the City's cafeteria plan. The City shall make monthly payments of no more than the annual maximum amount for the employee's benefit level, either family, employee plus one, or employee only to each employee's account.

b. Cash Out Options

For employees hired before July 1, 2007, the maximum cash payment shall be set at \$996 dollars per month for employees who do not elect a medical, dental, and/or vision plan. For employees hired after July 1, 2007, each employee shall be required to select a medical plan and the cash payment shall be limited to the minimum required by law (if any).

c. Future Contributions

If premiums increase in the plans to which City employees subscribe effective January 1, 201~~6~~³, and each January thereafter during the term of this Compensation and Benefits Plan, the City will increase the City's monthly contribution for employees by 75% of the average of the dollar increase of the family HMO plan premiums for employees electing family coverage.

For employees who elect employee only or employee plus one coverage, any City increase to the Employee's account shall be limited to the amount necessary to fully cover the plan selected or up to a maximum of the dollar amount increase allocated to employees who elect family coverage. There shall be no increase for employees who do not elect health insurance coverage.

In the event the above listed amounts are insufficient to fully pay the premiums required of employees enrolled in any one of the medical insurance plans, the City shall make a payroll deduction from the employee's pay to cover the difference in cost.

d. Approved Account Uses

The monies in an employee's account shall be used for one or more of the following purposes only: 1) payment of premium charges for the medical insurance programs in which the employee is enrolled, 2) payment of premium charges for the dental insurance programs which the employee is enrolled, and/or 3) payment of premium charges for vision

insurance program which the employee is enrolled. The City also independently funds life insurance premiums through each employee's account.

Each employee shall provide the Personnel Officer or Human Resources designee in writing on a form provided, and at times designated by the City each year, all information necessary to administer the Cafeteria Plan during the 12 month period beginning the first day of each plan benefit year. Thereafter, no changes to designations so made will be allowed until the following open enrollment period without a qualifying event.

Each employee shall be responsible for providing immediate written notification to the Personnel Officer or Human Resources designee of any change to the number of his/her dependents which affects the amount of the City payment on behalf of the employee. Changes in Cafeteria Plan payments required because of a change in an employee's number of dependents shall take effect at the start of the first pay period in the month following the month in which advice from the employee is received by the Personnel Officer or HR designee. No retroactive payments shall be allowed.

6. Flexible Benefits Plan (IRS Section 125)

The City has implemented an Internal Revenue Code Section 125 Plan to redirect employees' pre-selected amount of base salary to pay employee paid insurance premiums and other approved expenses. The City will not treat these monies as compensation subject to income tax withholding unless the Internal Revenue Service or the Franchise Tax Board indicates that such contributions are taxable income subject to withholding. Each employee shall be solely and personally responsible for any federal, state or local tax liabilities of the employee that may arise out of the implementation of this section or any penalty that may be imposed therefore.

I. Deferred Compensation

TSSU employees who have completed five (5) years of service with the City of Tracy shall be eligible for up to two percent (2%) City matching contribution to their Deferred Compensation Plan. The TSSU employee will receive a City matching contribution of up to two percent (2%) of his/her annual salary to his/her Deferred Compensation Plan, contingent upon the TSSU employee also contributing up to two percent (2%) of salary to his/her Deferred Compensation Plan and upon satisfactory performance. Continued eligibility for the City matching contribution is contingent on the employee maintaining satisfactory performance.

TSSU employees who have completed ten (10) years of service with the City of Tracy shall be eligible for up to ~~three~~ percent (~~3~~2%) City matching contribution to their Deferred Compensation Plan. The TSSU employee will receive a City matching contribution of up to ~~three~~ percent (~~3~~2%) of his/her annual salary to his/her Deferred Compensation Plan, contingent upon the TSSU employee also

contributing up to ~~three~~ percent (~~32~~%) of salary to his/her Deferred Compensation Plan and upon satisfactory performance. Continued eligibility for the City matching contribution is contingent on the employee maintaining satisfactory performance.

~~The City and TSSU will meet to discuss the options of adding a retiree health-savings account.~~

J. Retention Incentive

All TSSU employees who have completed five (5) years of service with the City of Tracy will receive 40 hours of vacation added to their vacation accruals.

Subsequent 40 hours will be added on the next closest five (5) year anniversary date (10th, 15th, 20th, 25th, etc.) to come.

Section 6: Allowances

A. Travel Expense Reimbursement

City Administrative Procedure Section T - Travel Expense, shall be used to reimburse mileage expenses incurred when using a personal vehicle on City business.

B. Meal Allowance

If an employee is required to perform unanticipated overtime of two (2) hours or more, the City shall pay a meal allowance of seven dollars (\$7) to the employee. "Unanticipated overtime" means that the affected employee did not receive notice of the overtime until the same day as the overtime assignment occurred. The two (2) hour minimum must occur at a time which would normally include the employee's regular mealtime.

C. Bilingual Pay

Employees who are required to communicate in languages other than English, as part of their regular assigned duties, may be compensated with an additional two percent (2%) of the employee's base salary, if the following criteria are met:

1. Approval from the Department Head that a particular assignment requires the need for the specific alternate language
2. Certification by the City that the employee has successfully demonstrated the ability to communicate fluently in the language that the Department Head has determined is required.

Qualifying languages are Spanish, American Sign Language, and any other language designated by the Department Head as beneficial to the City.

D. Uniform Allowance

The City shall provide the Police Records Assistant I and II an increase to the annual uniform allowance from ~~\$6550~~ dollars to ~~\$7650~~ dollars per year effective July 1, 201~~62~~ for the duration of this Compensation and Benefits plan. The uniform

allowance shall be paid annually on the regular payday for the pay period that includes June 30, by separate check. In the case of a newly appointed employee, the employee shall receive the initial allowance the regular payday following the date of their appointment, and subsequent annual allowances as specified.

Section 7: Conditions of Service

- A. Service with the City of Tracy shall be regulated by the Personnel Rules & Regulations and Classification Plan for the positions covered by this Compensation and Benefits Plan.
- B. The Personnel Rules & Regulations and Classification Plan are generally implemented through the City's Administrative Procedures and Departmental Guidelines.

1. Reclassification

If an employee requests a reclassification study, and the Department Head does not agree, the employee shall have the opportunity to appeal the reclassification request to the Personnel Officer or designee. The decision of the Personnel Officer or designee shall be final and not subject to the grievance procedure.

- C. The governing documents for the resolution of any disputes over conditions of service are the Personnel Rules & Regulations and Classification Plan.
- D. Employees have the right to appeal conditions of service through the grievance procedure contained in the Personnel Rules & Regulations.

Attachments: Exhibit A - Salary Ranges

TECHNICAL AND SUPPORT SERVICES UNIT (TSSU)
July 1, 2015~~2~~ through September~~June 30, 2018~~5
EXHIBIT A: TSSU SALARY SCHEDULES

**TECHNICAL SUPPORT & SERVICES UNIT
SALARY SCHEDULES**

**Effective upon CalPers Contract Amendment
2.38%
COLA**

Class Code	Position Title...		Semi-Mo Salary	Monthly Salary	Annual Salary	Hourly Rate
40101	Administrative Assistant I	A	1,662.10	3,324.20	39,890.40	19.1781
		B	1,745.21	3,490.42	41,885.04	20.1370
		C	1,832.47	3,664.94	43,979.28	21.1439
		D	1,924.09	3,848.18	46,178.16	22.2010
		E	2,020.29	4,040.58	48,486.96	23.3110
40102	Administrative Assistant II	A	1,845.31	3,690.62	44,287.44	21.2920
		B	1,937.58	3,875.16	46,501.92	22.3567
		C	2,034.46	4,068.92	48,827.04	23.4745
		D	2,136.18	4,272.36	51,268.32	24.6482
		E	2,242.99	4,485.98	53,831.76	25.8807
40103	Police Records Assistant I	A	1,873.11	3,746.22	44,954.64	21.6128
		B	1,966.77	3,933.54	47,202.48	22.6935
		C	2,065.11	4,130.22	49,562.64	23.8282
		D	2,168.37	4,336.74	52,040.88	25.0197
		E	2,276.79	4,553.58	54,642.96	26.2707
40104	Police Records Assistant II	A	1,966.75	3,933.50	47,202.00	22.6933
		B	2,065.09	4,130.18	49,562.16	23.8280
		C	2,168.34	4,336.68	52,040.16	25.0193
		D	2,276.76	4,553.52	54,642.24	26.2703
		E	2,390.60	4,781.20	57,374.40	27.5838
40106	Administrative Assistant III	A	1,956.62	3,913.24	46,958.88	22.5764
		B	2,054.45	4,108.90	49,306.80	23.7052
		C	2,157.17	4,314.34	51,772.08	24.8904
		D	2,265.03	4,530.06	54,360.72	26.1350
		E	2,378.28	4,756.56	57,078.72	27.4417
40108	Executive Assistant	A	2,244.75	4,489.50	53,874.00	25.9010
		B	2,356.99	4,713.98	56,567.76	27.1960
		C	2,474.84	4,949.68	59,396.16	28.5558
		D	2,598.58	5,197.16	62,365.92	29.9836
		E	2,728.51	5,457.02	65,484.24	31.4828

40109	Legal Secretary	A	2,448.42	4,896.84	58,762.08	28.2510
		B	2,570.84	5,141.68	61,700.16	29.6635
		C	2,699.38	5,398.76	64,785.12	31.1467
		D	2,834.35	5,668.70	68,024.40	32.7040
		E	2,976.07	5,952.14	71,425.68	34.3393
40112	Accounting Assistant	A	1,853.52	3,707.04	44,484.48	21.3868
		B	1,946.20	3,892.40	46,708.80	22.4562
		C	2,043.51	4,087.02	49,044.24	23.5790
		D	2,145.69	4,291.38	51,496.56	24.7580
		E	2,252.97	4,505.94	54,071.28	25.9958
40113	Sr Accounting Assistant	A	2,043.00	4,086.00	49,032.00	23.5731
		B	2,145.15	4,290.30	51,483.60	24.7517
		C	2,252.41	4,504.82	54,057.84	25.9893
		D	2,365.03	4,730.06	56,760.72	27.2888
		E	2,483.28	4,966.56	59,598.72	28.6532
40116	Deputy City Clerk	A	2,448.42	4,896.84	58,762.08	28.2510
		B	2,570.84	5,141.68	61,700.16	29.6635
		C	2,699.38	5,398.76	64,785.12	31.1467
		D	2,834.35	5,668.70	68,024.40	32.7040
		E	2,976.07	5,952.14	71,425.68	34.3393
40201	Accounting Technician	A	2,279.48	4,558.96	54,707.52	26.3017
		B	2,393.45	4,786.90	57,442.80	27.6167
		C	2,513.12	5,026.24	60,314.88	28.9975
		D	2,638.78	5,277.56	63,330.72	30.4475
		E	2,770.72	5,541.44	66,497.28	31.9698
40202	Payroll Coordinator	A	2,649.18	5,298.36	63,580.32	30.5675
		B	2,781.64	5,563.28	66,759.36	32.0958
		C	2,920.72	5,841.44	70,097.28	33.7006
		D	3,066.76	6,133.52	73,602.24	35.3857
		E	3,220.10	6,440.20	77,282.40	37.1550
40203	Accounting Coordinator <i>Reso 2014-054</i> <i>Eff: 04/15/2014</i>	A	2,649.18	5,298.36	63,580.32	30.5675
		B	2,781.64	5,563.28	66,759.36	32.0958
		C	2,920.72	5,841.44	70,097.28	33.7006
		D	3,066.76	6,133.52	73,602.24	35.3857
		E	3,220.10	6,440.20	77,282.40	37.1550
40205	Information Systems Technician	A	2,486.95	4,973.90	59,686.80	28.6956

		B	2,611.30	5,222.60	62,671.20	30.1304
		C	2,741.86	5,483.72	65,804.64	31.6368
		D	2,878.95	5,757.90	69,094.80	33.2187
		E	3,022.90	6,045.80	72,549.60	34.8796
40206	GIS Technician	A	2,486.95	4,973.90	59,686.80	28.6956
	<i>Reso 2015-065</i>	B	2,611.30	5,222.60	62,671.20	30.1304
	<i>Eff 05/05/2015</i>	C	2,741.86	5,483.72	65,804.64	31.6368
		D	2,878.95	5,757.90	69,094.80	33.2187
		E	3,022.90	6,045.80	72,549.60	34.8796
40301	Human Resources Technician	A	2,134.13	4,268.26	51,219.12	24.6246
		B	2,240.84	4,481.68	53,780.16	25.8558
		C	2,352.88	4,705.76	56,469.12	27.1486
		D	2,470.52	4,941.04	59,292.48	28.5060
		E	2,594.05	5,188.10	62,257.20	29.9313
40401	Recreation Prgm Coordinator I	A	2,197.45	4,394.90	52,738.80	25.3552
	<i>Reso 2012-018, Eff: 01/17/12</i>	B	2,307.32	4,614.64	55,375.68	26.6229
		C	2,422.69	4,845.38	58,144.56	27.9541
	<i>3/4 Position in FY14-15 Budget</i>	D	2,543.82	5,087.64	61,051.68	29.3518
	<i>Reso 2014-104, Eff: 06/17/14</i>	E	2,671.01	5,342.02	64,104.24	30.8193
40402	Recreation Prgm Coordinator II	A	2,417.19	4,834.38	58,012.56	27.8907
	<i>Reso 2012-018</i>	B	2,538.05	5,076.10	60,913.20	29.2852
	<i>Eff: 01/17/12</i>	C	2,664.95	5,329.90	63,958.80	30.7494
	<i>(Re-creation of position)</i>	D	2,798.20	5,596.40	67,156.80	32.2869
		E	2,938.11	5,876.22	70,514.64	33.9013
40425	Airport Coordinator	A	2,197.45	4,394.90	52,738.80	25.3552
		B	2,307.32	4,614.64	55,375.68	26.6229
		C	2,422.69	4,845.38	58,144.56	27.9541
		D	2,543.82	5,087.64	61,051.68	29.3518
		E	2,671.01	5,342.02	64,104.24	30.8193
40451	Box Office Assistant	A	1,662.10	3,324.20	39,890.40	19.1781
	VACANT	B	1,745.21	3,490.42	41,885.04	20.1370
		C	1,832.47	3,664.94	43,979.28	21.1439
		D	1,924.09	3,848.18	46,178.16	22.2010
		E	2,020.29	4,040.58	48,486.96	23.3110
40455	Box Office Coordinator	A	2,197.45	4,394.90	52,738.80	25.3552

	<i>Reso 2013-165</i>	B	2,307.32	4,614.64	55,375.68	26.6229
	<i>Reinstated: 11/05/13</i>	C	2,422.69	4,845.38	58,144.56	27.9541
		D	2,543.82	5,087.64	61,051.68	29.3518
		E	2,671.01	5,342.02	64,104.24	30.8193
40461	Theatre Operations & Tech Asst	A	1,845.31	3,690.62	44,287.44	21.2920
	<i>new Reso 2012-175</i>	B	1,937.58	3,875.16	46,501.92	22.3567
	<i>effective 8/21/12</i>	C	2,034.46	4,068.92	48,827.04	23.4745
		D	2,136.18	4,272.36	51,268.32	24.6482
		E	2,242.99	4,485.98	53,831.76	25.8807
40502	Building Permit Technician I	A	2,014.06	4,028.12	48,337.44	23.2392
		B	2,114.76	4,229.52	50,754.24	24.4011
		C	2,220.50	4,441.00	53,292.00	25.6212
		D	2,331.53	4,663.06	55,956.72	26.9023
		E	2,448.11	4,896.22	58,754.64	28.2474
40601	Police Assistant	A	1,662.10	3,324.20	39,890.40	19.1781
	VACANT	B	1,745.21	3,490.42	41,885.04	20.1370
		C	1,832.47	3,664.94	43,979.28	21.1439
		D	1,924.09	3,848.18	46,178.16	22.2010
		E	2,020.29	4,040.58	48,486.96	23.3110
40605	Crime Analyst	A	2,486.95	4,973.90	59,686.80	28.6956
		B	2,611.30	5,222.60	62,671.20	30.1304
		C	2,741.86	5,483.72	65,804.64	31.6368
		D	2,878.95	5,757.90	69,094.80	33.2187
		E	3,022.90	6,045.80	72,549.60	34.8796
40902	Administrative Assistant II	A	922.67	1,845.34	22,144.08	10.6462
	(Job Share)	B	968.80	1,937.60	23,251.20	11.1785
	VACANT	C	1,017.24	2,034.48	24,413.76	11.7374
		D	1,068.10	2,136.20	25,634.40	12.3242
		E	1,121.51	2,243.02	26,916.24	12.9405
40905	Administrative Assistant III	A	978.30	1,956.60	23,479.20	11.2881
	(Job Share)	B	1,027.22	2,054.44	24,653.28	11.8525
	VACANT	C	1,078.58	2,157.16	25,885.92	12.4452
		D	1,132.51	2,265.02	27,180.24	13.0674
		E	1,189.14	2,378.28	28,539.36	13.7208

RESOLUTION 2015 - _____

ADOPTING THE COMPENSATION AND BENEFITS PLAN FOR THE TECHNICAL AND SUPPORT SERVICES UNIT (TSSU)

WHEREAS, The TSSU Compensation and Benefits Plan expired on June 30, 2015, and

WHEREAS, Representatives from the City and TSSU met and consulted on the various elements of the Plan, and

WHEREAS, Agreement was reached on a new TSSU Compensation and Benefits Plan covering the period of July 1, 2015 through September 30, 2018, and

WHEREAS, The TSSU Compensation and Benefits Plan directly supports one of the four Council Strategic Priorities: the Governance Strategy, Goal 1: Further develop an organization to attract, motivate, develop, and retain a high-quality, engaged, high-performing, and informed workforce,

NOW, THEREFORE, BE IT RESOLVED, that the City Council adopt the Compensation and Benefit Plan for the Technical and Support Services Unit.

The foregoing Resolution 2015 - _____ was adopted by the Tracy City Council on the 1st day of December, 2015 by the following vote:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

ABSTAIN: COUNCIL MEMBERS

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.O

REQUEST

ADOPT THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF TRACY AND THE TRACY MID-MANAGERS BARGAINING UNIT (TMMBU)

EXECUTIVE SUMMARY

The Memorandum of Understanding between the City of Tracy and the Tracy Mid-Managers Bargaining Unit expired on June 30, 2015. Representatives from the City and the Tracy Mid-Managers Bargaining Unit (TMMBU) met and conferred in good faith and negotiated a new Memorandum of Understanding. The attached agreement covers a period of 36 months (three years), effective on July 1, 2015, and expires June 30, 2018.

DISCUSSION

There are four notable changes in the Tracy Mid-Managers Bargaining Unit (TMMBU) Memorandum of Understanding. These include the following:

1. Salary Adjustments for all classifications:

July 2016	3% salary adjustment (COLA)
July 2017	2% salary adjustment (COLA)

2. One time payments:

December 2015	8% lump sum of base salary
January 2016	6% lump sum of base salary
January 2017	3% lump sum of base salary

3. Employees pay a portion of Employer's CalPERS obligation:

Effective as soon as administratively possible, each employee in this unit shall pay three percent (3%) towards the employer's share of CalPERS pension regardless of what CalPERS pension formula is applicable to the employee. In exchange, the City shall pay the corresponding salary increase that represents the three percent (3%) contribution. This is a cost neutral item for the City.

4. Increased Management Leave Hours:

FLSA exempt members of this unit will receive an additional 16 hours of management leave per year in recognition of the work performed outside of regular business hours.

Other provisions of the MOU were modified to reflect statutory changes in the regulations governing CalPERS with respect to employee contributions towards retirement and to capture current practice.

STRATEGIC PLAN

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

Governance Strategy

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

Objective 1b: Affirm organizational values.

FISCAL IMPACT

The fiscal impact for approving this MOU package is estimated at \$1,122,900 during the term of the contract with approximately \$252,500 in ongoing costs. For FY 2015/16, \$315,000 is being requested to be appropriate from fund balance to cover the cost of the MOU. Future year costs will be incorporated into the appropriate departmental operational budget.

RECOMMENDATION

That the City Council, by resolution, adopt the Memorandum of Understanding between the City of Tracy and the Tracy Mid-Managers Bargaining Unit (TMMBU).

Prepared by: Midori Lichtwardt, Human Resources Manager

Reviewed by: V. Rachelle McQuiston, Administrative Services Director
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

Attachment: Tracy Mid-Managers Bargaining Unit (TMMBU) Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE CITY OF TRACY

AND

THE TRACY MID-MANAGERS
BARGAINING UNIT
(TMMBU)

~~July 1, 2012 Through June 30, 2015~~

~~Amended Per Council Resolution 2012-204~~

July 1, 2015 Through June 30, 2018



Think Inside the Triangle®

Human Resources Division
333 Civic Center Plaza
Tracy, CA 95376
(209) 831-6150
www.ci.tracy.ca.us

TRACY MID-MANAGEMENT BARGAINING UNIT (TMMBU)

July 1, 2015 through June 30, 2018

July 1, 2012 through June 30, 2015

~~Amended Per Council Resolution 2012-204~~

Table of Contents – **NEED TO UPDATE**

<u>Section</u>	<u>Topic</u>	<u>Page</u>
1	Recognition.....	1
	1.1. Tracy Mid-Managers Bargaining Unit Recognition.....	1
	1.2. City Recognition.....	1
2	No Discrimination	1
3	TMMBU Security	2
	3.1. Maintenance of Membership.....	2
	3.2. TMMBU Dues.....	2
	3.3. Revocation of Authorization.....	2
	3.4. Hold Harmless.....	3
	3.5. Use of City Facilities and Bulletin Boards.....	3
4	TMMBU Representatives.....	3
	4.1. Attendance at Meetings by Employees.....	3
	4.2. TMMBU Representatives.....	3
	4.3. Access to Work Locations.....	4
	4.4. Access to Personnel Files.....	4
	4.5. List of Employees.....	4
	4.6. Advance Notice.....	5
5	Salary.....	5
	5.1. Salary Plan – Cost of Living Adjustments.....	5
	5.2. Market/Equity Adjustments.....	5
	5.3. Recruitment and Retention Adjustments.....	5
6	Benefits	5
	6.1. Out-of-Class Pay.....	5
	6.2. Deferred Compensation.....	6
	6.3. Education Expense Reimbursement.....	6
	6.4. Travel Expense Reimbursement.....	6

TRACY MID-MANAGEMENT BARGAINING UNIT (TMMBU)

~~July 1, 2012 through June 30, 2015~~

July 1, 2015 through June 30, 2018

Table of Contents

<u>Section</u>	<u>Topic</u>	<u>Page</u>
	6.5. Management and Professional Development Benefits.....	6
7	Hours of Work, Overtime and Call-Back for Non-Exempt Employees	7
	7.1. Workweek.....	7
	7.2. Overtime	7
	7.3. Overtime Compensation.....	7
	7.4. Compensatory Time.....	7
	7.5. Call-Back Pay.....	7
8	Leave	8
	8.1. Personnel Rules & Regulations	8
	8.2. Floating Holidays.....	8
	8.3. Management Leave	8
	8.4. Maximum Accrual of Leave.....	8
	8.5. City Buy-Back of Accumulated Leave.....	8
	8.6. Sick Leave Accrual	8
	8.7. Conversion of Sick Leave Balance Upon Retirement	9
	8.8. Conversion of Sick Leave Balance Upon Death/Termination	9
	8.9. Bereavement Leave	9
9	CalPERS Retirement.....	10f
	9.1. CalPERS Formula.....	10
	9.2. CalPERS Retirement.	10
	9.3. Flexible Leave Hours.....	11
10	Insurance	12
	10.1. Medical Plans Provided	12
	10.2. Dental	12
	10.3. Vision	12
	10.4. Life Insurance.....	12
	10.5. Cafeteria Plan	13
	10.5.1 City Contribution	13
	10.5.2 Cash Out Options.....	13

TRACY MID-MANAGEMENT BARGAINING UNIT (TMMBU)

~~July 1, 2012 through June 30, 2015~~

July 1, 2015 through June 30, 2018

10.5.3 Future Contributions	13
10.5.4 Approved Account Uses.....	13
10.6. Flexible Benefits Plan (IRS Section 125).....	14
11 Annual Physical Exam	14
12 Conditions of Service	14
12.1. Probation Period.....	14
12.2. Governing Documents for Resolution of Disputes	15
12.3. Right to Appeal	15
13 Miscellaneous.....	15
Exhibit A – Benchmarks (Amended).....	16
Exhibit B – 2012 <u>2015</u> TMMBU Cafeteria Plan	
Rates.....	17
Side Letter of Agreement – Incentive Plan For Associate Engineers with a Professional Engineers (PE) License	18
Side Letter of Agreement – Compensation Review for Crime Scene Supervisor And Animal Services Supervisor	19
Side Letter of Agreement – FLSA	20
Side Letter of Agreement – Management Leave for Planning Manager	21

CITY OF TRACY
TRACY MID-MANAGERS BARGAINING UNIT (TMMBU)
MEMORANDUM OF UNDERSTANDING
~~**July 1, 2012 – June 30, 2015**~~
July 1, 2015 – June 30, 2018

Tracy Mid-Managers Bargaining Unit and representatives of the City of Tracy have met and conferred in good faith regarding wages, hours and other terms and conditions of employment, have freely exchanged information, opinions and proposals, and have endeavored to reach agreement on all matters relating to the employment conditions and employer-employee relations of such employees.

This Memorandum of Understanding, hereinafter referred to as "The Agreement," is entered into pursuant to the Meyers-Milias-Brown Act (Government Code Sections 3500, et. seq.) and has been jointly prepared by the parties.

This Agreement shall be presented to the City Council as the joint recommendations of the undersigned for salary and employee benefit adjustments for the period commencing ~~July 1, 2012 and ending June 30, 2015~~ **July 1, 2015 and ending June 30, 2018.**

Section 1. Recognition

1.1 Tracy Mid-Managers Bargaining Unit Recognition

Tracy Mid-Managers Bargaining Unit, hereinafter referred to as the "TMMBU," is recognized as the exclusive representative as provided in the City's Employer-Employee Relations Resolution for all employees assigned to the classifications set forth in Exhibit A.

1.2 City Recognition

The City Manager or, where the authority has been delegated by the City Manager, the City Manager's representative, is the representative of the City of Tracy, hereinafter referred to as the "City."

Section 2. No Discrimination

The City agrees not to discriminate against any employee because of membership in the TMMBU or because of any activities on behalf of the TMMBU. TMMBU activities shall not interfere with the normal operation of the City. Neither the City nor the TMMBU shall discriminate for or against any employee or applicant for employment on account of race, color, creed, national origin, age, marital status, sex, sexual orientation, physical handicap, or mental handicap which does not prevent an employee from meeting the minimum standards established.

Section 3. TMMBU Security

3.1 Maintenance of Membership

Employees in representative classifications referred to in Exhibit A hereof who are members of the TMMBU on the date upon which this Agreement is executed or who become members of the TMMBU during the term of this Agreement shall remain members during the term of this Agreement and while in City employment in a job classification represented by the TMMBU, except that such employees may withdraw from membership pursuant to Section 3.3.

3.2 TMMBU Dues

The TMMBU shall be entitled to have the regular dues of its members deducted from their paychecks in accordance with the procedures set forth herein.

Employees shall be entitled to have dues deducted by filling out, signing, and filing with the City, an authorization form provided by the City.

The employee's earnings must be regularly sufficient, after other legal and required deductions are made, to cover the amount of the dues check-off authorized. When an employee, in good standing of the TMMBU, is in a non-pay status, for the pay period when his dues would normally be withheld, no dues deduction will be made from future earnings to cover that withholding; nor will the employee deposit the amount with the City which would have been withheld if the employee had been in a pay status during that period. In the case of an employee who is in a non-pay status during only a part of the pay period and the salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions have priority over TMMBU dues.

Dues withheld by the City shall be transmitted monthly to the party designated in writing by the employee organization as the party authorized to receive the funds, at the address specified.

3.3 Revocation of Authorization

Any employee desiring to revoke his/her TMMBU membership and authorization for TMMBU dues may do so in the 60-day period before the expiration of this Agreement. Said employee shall forward a written request to the Employee Relations Officer or designee setting forth his/her desire to revoke said membership and dues authorization. The Employee Relations Officer or designee shall promptly forward a copy of said request to the TMMBU. No authorization shall be revoked for a period of two semi-monthly pay periods following transmittal of said request to the TMMBU.

3.4 Hold Harmless

TMMBU shall indemnify and hold the City and the Employee Relations Officer or designee harmless from any and all claims, demands, suits, or any other action arising from the maintenance of membership dues deductions.

3.5 Use of City Facilities and Bulletin Boards

The TMMBU may, with the prior approval of the City Manager or designee, use City facilities during non-work hours for meetings of City employees, provided space is available.

The use of City equipment normally used in the conduct of business meetings, such as desks, chairs, and blackboards, will be made available to the TMMBU.

The TMMBU may use portions of City bulletin boards under the following conditions:

Copies of materials must be sent to the department or division head in charge of the department bulletin board.

All materials must be dated and must identify the organization that published them.

The City reserves the right to determine where bulletin boards shall be placed.

Section 4. TMMBU Representatives

4.1 Attendance at Meetings by Employees

Any bargaining unit member, who is directed to attend a meeting at which one of the issues is the proposed discipline of said employee, shall be entitled to TMMBU representation at such meeting provided, however, such representation shall include no more than one City employee in addition to the employee being disciplined. The limitation of this Section shall apply to employees on paid release time and not to TMMBU staff or witnesses who may be necessary to the meeting.

4.2 TMMBU Representatives

The TMMBU may appoint a reasonable number of representatives. Grievances which may arise and which cannot be adjusted on the job shall be reported to the TMMBU by the representative, provided, however, in no event shall the representative or the TMMBU order any changes, and no changes shall be made except with the consent of the City.

If an aggrieved employee desires the assistance of a bargaining unit representative as provided in the grievance procedure, the City shall afford said representative reasonable time off during work hours without loss of compensation or other benefits to investigate and take up said grievance. The representative shall obtain the approval of the department head, or designee, before leaving his/her duties or work assignment for the purpose of investigating and/or processing a grievance. Such approval shall not be unreasonably denied.

4.3 Access to Work Locations

Reasonable access to employee work locations shall be granted to officers of the TMMBU and officially designated representatives, for the purpose of contacting members of the bargaining unit concerning business within the scope of representation. Such officers or representatives shall not enter any work location without the consent of the Department Head or the Personnel Officer. Such consent shall not be unreasonably denied. Access shall be restricted so as not to interfere with the normal operations of the department or with established or security requirements.

Solicitation of membership and activities concerned with the internal management of an employee organization, such as collecting dues, holding membership meetings, campaigning for office, conducting elections or distributing literature, shall not be conducted during on-duty hours.

The TMMBU shall designate in writing to the Personnel Officer, the names of the representatives referenced above.

4.4 Access to Personnel Files

An employee, or upon presentation of written authorization from the employee, an employee's representative, shall have access to the employee's personnel file upon request. No written reprimand or performance evaluation shall be placed in an employee's personnel file until that employee has seen and has had opportunity to review the document.

4.5 List of Employees

Twice a year, the City shall furnish the TMMBU with the names, classifications and date of hire of employees assigned to classifications in the bargaining unit; however, the City shall not be required to provide such information in any format other than one already used by the City.

4.6 Advance Notice

Except in cases of emergency, TMMBU shall be given reasonable advance written notice of any ordinance, resolution, rule or regulation proposed to be adopted by the City and directly relating to matters within the scope of representation and shall be given the opportunity to meet with City management representatives prior to adoption.

Section 5. Salary

5.1 Salary Plan – Cost of Living Adjustments

~~There shall be no Cost of Living Adjustments (COLAs) for the duration of this Agreement.~~

Effective the beginning of the first full pay period following ratification of this agreement by TMMBU and adoption by the City Council, employees who are employed by the City at the time of ratification and adoption of this agreement shall receive a one-time lump sum payment representing 8.0% of the employee's base salary on the salary schedule at the time of the payment. Employees shall have the option to make an irrevocable election to rollover this one-time lump sum payment into a deferred compensation account, subject to Internal Revenue Code limits on deferred compensation amounts. This election must be made no later than December 15, 2015 and the rollover will be completed no later than December 31, 2015. Absent such an election, this one-time bonus will be payable to employees during the last pay period of December 2015.

As set forth in section 9.2, effective as soon as administratively possible in accordance with the California Government Code section 20516 contract amendment process, each employee in this unit shall pay 3% towards the employers share of CalPERS pension regardless of what CalPERS pension formula employee is applicable to employee. In exchange, the City shall pay the corresponding salary increase that represents the 3% contribution, which is equal to 2.38% of salary. The parties agree that should the parties negotiate elimination of the 3% contribution towards the employers share or such contribution becomes contrary to any subsequent rules, regulations and/or law rendering the contribution null and void, or CalPERS find that the salary increase does not constitute pensionable compensation that the equivalent salary increase conferred in this section shall also cease and become null and void.

Effective the beginning of the first full pay period in January 2016, employees who are employed by the City at the time of ratification and adoption of this agreement shall receive a one-time lump sum payment representing 6.0% of the employee's base salary on the salary schedule at the time of the payment. Employees shall have the option to make an irrevocable election to rollover this one-time lump sum payment into a deferred compensation account, subject to Internal Revenue Code limits on deferred compensation amounts. This election must be made no later than December 31, 2015 and the rollover will be completed no later than January 31, 2016. Absent such an election, this one-time bonus will be payable to employees during the last pay period of January 2016.

Effective the beginning of the first full pay period of July 2016, employees shall receive a wage increase equal to 3.0%.

Effective the beginning of the first full pay period in January 2017, employees who are employed by the City at the time of ratification and adoption of this agreement shall receive a one-time lump sum payment representing 3.0% of the employee's base salary on the salary schedule at the time of the payment. Employees shall have the option to make an irrevocable election to rollover this one-time lump sum payment into a deferred compensation account, subject to Internal Revenue Code limits on deferred compensation amounts. This election must be made no later than December 31, 2016 and the rollover will be completed no later than January 31, 2017. Absent such an election, this one-time bonus will be payable to employees during the last pay period of January 2017.

Effective the first pay period of July 2017, employees shall receive a wage increase equal to 2.0%.

5.2 Market/Equity Adjustments

There shall be no Market/Equity increases for the duration of the Agreement.

5.3 Recruitment and Retention Adjustments

In recognition of a competitive labor market, the City Personnel Officer may offer additional compensation or benefits on a case by case basis for a challenging recruitment and/or retention circumstances.

The City further agrees that if market conditions affect an identified classification, any such pay adjustment(s) shall be made to all employees within the classification.

Section 6. Benefits

6.1 Out-of-Class Pay

When a Mid-Manager is appointed to fill a Department Head vacancy caused by paid leave of absence or separation, compensation will be paid at entry level of Department Head position or at ten percent (10%) over the Mid-Manager's current classification salary, whichever is greater, after ten consecutive calendar days, retroactive to the first day of such appointment. Other out-of-class pay will be as provided in the Administrative Procedures. TMMBU employees or Department Heads may annually initiate the evaluation of a reclassification of a position based on changes of duties and responsibilities. The reclassification process of TMMBU employees is managed by the Human Resources Department and guided by Section 8.10 of the City of Tracy Personnel Rules and Regulations.

6.2 Deferred Compensation

TMMBU employees who have completed 12 months of service at Step E or have served more than five years with the City, shall be eligible for a City matching contribution to their deferred compensation plan. The TMMBU employee will receive a City matching contribution of two to four percent (2% – 4%) of his/her annual salary to his/her deferred compensation plan, contingent upon satisfactory performance of duties. The amount of the City's matching contribution will depend on the amount of the employee's contribution. For instance, a 2% employee contribution will be matched with a 2% City contribution; a 4% employee contribution will be matched with a 4% City contribution.

The written performance evaluation establishing eligibility for the deferred compensation contribution shall be approved by both the Department Head and City Manager.

Continued eligibility for the City matching contribution is contingent on the employee maintaining satisfactory performance. An employee promoted from within the TMMBU shall be entitled to retain the two to four percent (2% - 4%) matching contribution, provided the employee maintains acceptable performance in the new assignment/classification.

The City and TMMBU will meet to discuss the options of adding a Retirement Health Savings Account.

6.3 Education Expense Reimbursement

Educational expenses, up to a maximum of \$2,500 per calendar year, shall be paid to reimburse the cost of fees, tuition, books and supplies of a State College, State University, or other recognized professional organization or institution offering accredited, degreed, certified or continuing professional development beneficial to the career advancement and skill level of TMMBU employees. Successful completion of the course is required for reimbursement. The Department Head must approve enrollment.

6.4 Travel Expense Reimbursement

Administrative Procedure entitled "Travel Expense", shall be used to reimburse mileage expenses incurred when using a personal vehicle on City business.

6.5 Management and Professional Development Benefits

The allocation for Management Benefits is \$960 per calendar year and is to be utilized at the discretion of each individual employee for job related expenses or for professional development. The monies will be allocated per pay period and may be utilized for a

wide variety of job related expenses, training, association memberships, computer hardware and software, conference registration and attendance and other miscellaneous job expenses or professional development opportunities.

Section 7. Hours of Work, Overtime and Call-Back for Non-Exempt Employees

7.1 Workweek

The workweek shall be from Sunday through the following Saturday, unless otherwise designated by the Department Head. For employees permitted to work on the 9/80 schedule, the workweek shall be midway through the Friday the employee works to the following Friday noon.

7.2 Overtime

Overtime is work in excess of the employee's regular workweek and which has the prior approval of the Department Head or designated representative.

7.3 Overtime Compensation

Overtime shall be compensated at the rate of one and one-half (1-1/2) times the hourly rate of pay.

7.4 Compensatory Time

An employee may request, through the Department Head, compensatory time off or overtime pay for overtime worked. Accrual of compensatory time shall be at the discretion of the Department Head. No employee may accrue more than 80 hours of compensatory time. An employee shall receive paid overtime for all hours worked in excess of 80 hours.

7.5 Call-Back Pay

An employee called to work outside of, and not continuous with, regularly scheduled hours shall be paid a minimum of two (2) hours at the rate of one and one-half (1-1/2) times the employee's hourly rate of pay.

All work (other than employee's regularly scheduled work hours) performed under the call-back provision shall be compensated at one and one-half (1 1/2) times the hourly rate of pay. Approved and appropriate leave time taken during the employee's regular work schedule prior to or after call-back shall not preclude payment of overtime during call-back.

Section 8. Leave

8.1 Personnel Rules & Regulations

Leave will be granted as provided for in the Personnel Rules. Leave may be used during the first six (6) months of service.

8.2 Floating Holidays

16 hours of floating holiday leave per calendar year shall be granted to TMMBU employees.

8.3 Management Leave

For those employees represented by TMMBU that are exempt from overtime compensation under the FLSA, the City provides management leave in recognition of the need to devote more than 40 hours per week to their duties. The City shall provide management leave in the amount of 72 hours per calendar year to eligible TMMBU employees **through December 31, 2015. Beginning January 1, 2016 through the term of this agreement, the City shall provide management leave in the amount of 88 hours per calendar year to eligible TMMBU employees.**

8.4 Maximum Accrual of Leave

The maximum accrual for TMMBU employees for vacation, management leave (for eligible employees), and compensatory time off (for eligible employees) and floating holidays shall be the total accrual for each type of leave, not to exceed 488 hours.

In the event a new payroll system is adopted, the cap for non-public safety employees will decrease to 400 hours. At that time, employees who reach the cap, shall be paid the continuing monthly accrual of vacation each pay period until the employee reduces his/her combined leave balance below the accrual cap. However, TMMBU employees may request the City Manager extend the accrual cap for a specified period of time.

8.5 City Buy-Back of Accumulated Leave

TMMBU employees are allowed an optional buy back of accumulated leave. They may, twice in a calendar year, buy back up to 50 percent (50%) of accumulated leave, but not more than the equivalent of one year's earning rate for vacation, management leave, and floating holidays. The hourly rate is the annual salary divided by the annual hours of work.

8.6 Sick Leave Accrual

All TMMBU employees shall be eligible to accrue sick leave at the following rates:

One day, eight (8) hours, for each month of service.

Anyone employed prior to January 1, 1987 shall be entitled to the following: two (2) days, 16 hours for each month of service beginning the 21st year of employment and thereafter.

Unlimited accrual of sick leave is allowed.

Employees may utilize up to one-half (1/2) of their annual accrual of sick leave for the care of their immediate family. Immediate family is defined as child, parent or spouse.

8.7 Conversion of Sick Leave Balance Upon Retirement

Upon retirement, employees may elect to convert all accrued sick leave to a medical insurance bank. The value of the medical insurance bank shall be determined by multiplying the number of accrued sick leave hours by the employee's hourly rate of pay. The retired employee and his/her dependents shall be entitled to continued group health insurance coverage, dental and/or vision coverage currently in effect, with premiums for such coverage being deducted from the medical insurance bank until said bank is exhausted. Thereafter, the employee and his/her dependents may continue to participate in the City's group health plan provided the City receives the employee's payment for the premium by the 10th of each month for the following month's coverage.

Subject to approval by the City, retirees may elect to utilize funds in their medical insurance bank to purchase alternate medical coverage.

Terms of the Policy Agreement with the City's insurance carrier regarding coverage and eligibility shall apply to the employee and his/her dependents.

8.8 Conversion of Sick Leave Balance Upon Death/Termination

Upon death, the employee's estate shall receive straight-time pay for all accrued sick leave in excess of 960 hours

If a TMMBU employee terminates or is terminated for any reason, all accumulated sick leave shall be canceled. Such accumulated sick leave, however, shall be credited to such employee if he/she returns to City employment within two years of such termination.

8.9 Bereavement Leave

In the event of a death in the immediate family of an employee, the employee shall be allowed to take paid bereavement leave not to exceed five (5) workdays within two (2) weeks of the date of death of the family member. The employee may, with his/her

Department Head's permission, use vacation leave if additional leave is required. Such permission shall not be unreasonably refused. In the event of the death of a relative, not a member of the immediate family, absence from duty shall be allowed not to exceed one (1) day. Such absences shall not be charged to sick leave.

The immediate family of an employee is defined as: parents, stepparents, parents in-law, spouse, child, stepchild, brother, sister, grandparents, grandchildren, brother/sister in-law, son/daughter in-law, or legal guardian or a person who is at least 50 percent (50%) dependent on an employee.

In special cases, with the approval of the Department Head, the Personnel Officer may grant a bereavement leave in other circumstances.

8.10 Vacation Accrual

Each full time employee shall accrue vacation at the following rate for continuous service performed in a pay status as follows:

<u>0 through 5 years of service</u>	<u>96 hours per year of vacation</u>
<u>6 through 10 years of service</u>	<u>136 hours per year of vacation</u>
<u>11 through 15 years of service</u>	<u>176 hours per year of vacation</u>
<u>16 or more years of service</u>	<u>192 hours per year of vacation</u>

Section 9. CalPERS Retirement

9.1 CalPERS Formula

Miscellaneous employees hired on or before December 16, 2010 shall receive the single highest year and 2.5% at 55 benefit formula provided through the Public Employees' Retirement System (CalPERS).

Miscellaneous employees hired on or after December 17, 2010 **and on or before December 31, 2012** shall receive the average of three (3) consecutive highest years and 2% at 55 benefit formula provided through the California Public Employees' Retirement System (CalPERS).

Miscellaneous employees hired on or after January 1, 2013 and who qualify as "new employees" under the Public Employees' Pension Reform Act shall receive average of three (3) consecutive highest years and 2% at 62 benefit formula provided through the Public Employees' Retirement System (PERS).

9.2 CalPERS Retirement

The City agrees to continue to pay the employer contribution for the City's CalPERS retirement benefit.

Effective as soon as administratively possible in accordance with the California Government Code section 20516 contract amendment process, each employee in this unit shall pay 3% towards the employers share of CalPERS pension regardless of what CalPERS pension formula employee is applicable to employee. In exchange, the City shall pay the corresponding salary increase that represents the 3% contribution, which is equal to 2.38% of salary. The parties agree that should the parties negotiate elimination of the 3% contribution towards the employers share or such contribution becomes contrary to any subsequent rules, regulations and/or law rendering the contribution null and void, or CalPERS find that the salary increase does not constitute pensionable compensation that the equivalent salary increase conferred in this section, and referred to in section 5.1, shall also cease and become null and void.

~~For e~~Employees hired on or before December 16, 2010 and under the first tier CalPERS retirement formula (2.5% at 55), ~~the City and employees shall share payment of~~ **shall pay** the 8% of salary employee contribution **towards employee statutory share of CalPERS retirement** during the term of this Agreement, ~~as follows:~~

~~Fiscal Year 2012 2013~~ — Effective the pay period including July 1, 2012, each employee shall pay 2.66% of salary and the City shall pay 5.34% of salary to fund the employee contribution for the CalPERS retirement benefit.

~~Fiscal Year 2013 2014~~ — Effective the pay period including July 1, 2013, each employee shall pay 5.33% of salary and the City shall pay 2.67% of salary to fund the employee contribution for the CalPERS retirement benefit.

~~Fiscal Year 2014 2015~~ — Effective the pay period including July 1, 2014, each employee shall pay 8% of salary to fund the employee contribution for the CalPERS benefit.

~~For e~~Employees hired after December 16, 2010 **and on or before December 31, 2012** and under the second-tier CalPERS retirement formula (2% at 55), ~~the City and employees shall share payment of~~ **shall pay** the 7% of salary employee contribution **towards employee statutory share of CalPERS retirement** during the term of this Agreement, ~~as follows:~~

Employees who receive the CalPERS retirement formula of 2% at 62 shall pay the employee contribution required by the Public Employees' Pension Reform Act, currently calculated at fifty percent (50%) of the normal cost.

~~Fiscal Year 2012 2013~~ — Effective the pay period including July 1, 2012, each employee shall pay 2.66% of salary and the City shall pay 4.34% of salary to fund the employee contribution for the CalPERS retirement benefit.

~~Fiscal Year 2013 2014~~ — Effective the pay period including July 1, 2013, each employee shall pay 5.33% of salary and the City shall pay 1.67% of salary to fund the employee contribution for the CalPERS retirement benefit.

~~Fiscal Year 2014-2015 — Effective the pay period including July 1, 2014, each employee shall pay 7% of salary to fund the employee contribution for the CalPERS retirement benefit.~~

Employee payments of the employee portion of the CalPERS retirement benefit cost shall be made as a payroll deduction on a pre-tax basis to the extent allowed by law.

~~The parties may reopen negotiations to discuss the impact of any changes to the Public Employment Retirement Law which occur during the term of this Agreement.~~

9.3 Flexible Leave Hours

~~The City shall credit each employee with a block of paid leave hours each fiscal year of this Agreement. These hours shall be labeled Flexible Leave. Each employee may use these leave hours subject to the conditions for use of vacation or sell-back the Flexible Leave hours during the fiscal year. Each employee will receive the Flexible Leave hours for that fiscal year on July 1st of each year. Each employee has the option of using such hours as leave in the same manner as vacation leave, or periodically selling the hours. A code will be set up for each option and employees can note the use of or selling of such hours on each time card throughout the fiscal year. Employees must use the current fiscal year hours by June 15th of each year and cannot be carried over to a new fiscal year. If an employee terminates before June 30th of any fiscal year, the employee is only eligible for a proration of hours for the period of July 1st to the date of termination and hours used in excess of the prorated amount will be deducted accordingly from the employee's final pay.~~

~~Amount: During fiscal year 2012-2013, each employee shall receive 44 hours of Flexible Leave during the pay period beginning July 1, 2012. During fiscal year 2013-2014, each employee shall receive 88 hours of Flexible Leave during the pay period beginning July 1, 2013. During fiscal year 2014-2015, each employee hired on or before December 16, 2010 and under the first tier CalPERS retirement formula (2.5% at 55) shall receive 132 hours of Flexible Leave. Each employee hired after December 16, 2010 and under the second tier CalPERS retirement formula (2% at 55) shall receive 122 hours of Flexible Leave.~~

~~The parties acknowledge that the block of paid leave hours labeled Flexible Leave that is credited to each full time, regular employee at the beginning of each fiscal year of this Agreement ends when this Agreement expires on June 30, 2015. The City and/or Unit may propose to extend, cancel, enhance, reduce or otherwise change this provision during any such future negotiation.~~

~~Sell-Back: An employee may sell back some or all of the employee's accrued Flexible Leave balance with any pay period during the fiscal year, so long as it does not generate a separate paycheck. If a separate paycheck is desired, the leave hours will be paid on a separate paycheck on June 30th and/or December 15th of each contract year. Flexible Leave sell back is independent of and not subject to the limitations described in Section 8.5. City Buy Back of Accumulated Leave. Should an employee not utilize Flexible Leave as time off during a fiscal year, or should an employee not sell back his/her Flexible Leave during the fiscal year, the City~~

~~shall cash out each employee's Flexible Leave balance at the end of the fiscal year in which it was provided and pay it to the employee. There shall be no carry over of Flexible Leave hours from one fiscal year to the next, and no Flexible Leave balance shall be allowed to remain after the expiration of this Agreement on June 30, 2015.~~

Section 10. Insurance

10.1 Medical Plans Provided

The City offers medical insurance through Kaiser and Health Net. During the term of this agreement the City reserves the right to change medical providers and the parties shall meet and discuss regarding such change. New employees hired on or after December 1, 2007 shall be required to select a medical plan for at least the employee and are not eligible for cash benefits except as may be required by provisions of the IRS regulations covering Flexible Benefits plans.

10.2 Dental

The City shall offer dental insurance coverage for full-time employees and their eligible dependents through the existing providers.

10.3 Vision

The City shall offer vision care benefits for full-time employees and their eligible dependents through the existing providers.

10.4 Life Insurance

The City shall provide life insurance coverage equal to the nearest thousand dollars of annual salary, up to a maximum of \$50,000. This coverage will be mandatory for all Mid-Manager Unit employees. The City will fully pay the premium by adding the actual cost of the premium to the amount provided in the Cafeteria Plan each month.

10.5 Cafeteria Plan

10.5.1 City Contribution

The City shall maintain an account for each full-time employee in regular or probationary status within the City's cafeteria plan. The City shall make monthly payments of no more than the annual maximum amount for the employee's benefit level, either family, employee plus one, or employee only to each employee's account. See Exhibit B for TMMBU ~~2012~~ 2015 cafeteria plan rates.

10.5.2 Cash Out Options

For employees hired before July 1, 2007, the maximum cash payment shall be set at \$996 per month for employees who do not elect a medical, dental, and/or vision plan. For employees hired on or after July 1, 2007, each employee shall be required to select a medical plan and the cash payment shall be limited to the minimum required by law (if any).

10.5.3 Future Contributions

If premiums increase in the plans to which City employees subscribe effective January 1, 2013, and each January thereafter during the term of this Agreement, the City will increase the City's monthly contribution for employees by 75% of the average of the dollar increase of the family HMO plan premiums for employees electing family coverage.

For employees who elect employee only or employee plus one coverage, any City increase to the Employee's account shall be limited to the amount necessary to fully cover the plan selected or up to a maximum of the dollar amount increase allocated to employees who elect family coverage. There shall be no increase for employees who do not elect health insurance coverage.

In the event the above listed amounts are insufficient to fully pay the premiums required of employees enrolled in any one of the medical insurance plans, the City shall make a payroll deduction from the employee's pay to cover the difference in cost.

10.5.4 Approved Account Uses

The monies in an employee's account shall be used for one or more of the following purposes only: (1) payment of premium charges for the medical insurance program in which the employee is enrolled, (2) payment of premium charges for the dental insurance program in which the employee is enrolled, (3) payment of premium charges for the vision insurance program in which the employee is enrolled, and/or (4) cash-out options as provided in Section 10.5.2. The City also independently funds life insurance premiums through each employee's account.

Each employee shall provide the Personnel Officer or Human Resources designee in writing on a form provided and at times designated by the City each year all information necessary to administer the Cafeteria Plan during the 12 month period beginning the first day of each plan benefit year. Thereafter, no changes to designations so made will be allowed until the following open enrollment period without a qualifying event.

Each employee shall be responsible for providing immediate written notification to the Personnel Officer or Human Resources designee of any change to the number of his/her dependents which affects the amount of the City payment on behalf of the employee. Changes in Cafeteria Plan payments required because of a change in an employee's number of dependents shall take effect at the start of the first pay period in the month

next following the month in which advice from the employee is received by the Personnel Officer. No retroactive payments shall be allowed.

10.6 Flexible Benefits Plan (IRS Section 125)

The City has implemented an Internal Revenue Code Section 125 Plan to redirect employees' pre-selected amount of base salary to pay employee paid insurance premiums and other approved expenses. The City will not treat these monies as compensation subject to income tax withholding unless the Internal Revenue Service or the Franchise Tax Board indicates that such contributions are taxable income subject to withholding. Each employee shall be solely and personally responsible for any federal, state or local tax liabilities of the employee that may arise out of the implementation of this section or any penalty that may be imposed therefore.

Section 11. Annual Physical Exam

An annual physical examination shall be provided by the City, if desired and requested by a TMMBU employee.

Section 12. Conditions of Service

- 12.1 Probation Period - Service with the City of Tracy shall be regulated by the Personnel Rules and Regulations and Classification Plan for the positions covered by this Memorandum of Understanding as well as the City's Administrative Policies and Procedures and Departmental Guidelines. Employees hired into this bargaining unit shall serve an orientation period for a period of 12 months unless specified in writing as a longer period of time at the time of hire. TMMBU employees promoted to another TMMBU classification shall serve an orientation period of six (6) months. Supervisors of TMMBU employees shall make every effort to evaluate the employee at regular intervals during the orientation period in order to provide immediate and thorough feedback to new employees.
- 12.2 Governing Documents for Resolution of Disputes - The governing documents for the resolution of any disputes over conditions of service are the Personnel Rules and Regulations and the City's Classification Plan, unless covered specifically by provisions in this Memorandum of Understanding.
- 12.3 Right to Appeal - TMMBU employees have the right to appeal conditions of service through the grievance procedure contained in the Personnel Rules and Regulations.

Section 13. Miscellaneous

The City Manager is the Personnel Officer and the Employee Relations Officer for the City. The City Manager may assign responsibilities to a designee as he/she deems appropriate.

All of the above conditions are hereby agreed to by the City of Tracy and the TMMBU as indicated by the signatures below.

Tracy Mid-Managers Bargaining Unit

By: _____ Date _____
Stephanie Reyna-Hiestand, President TMMBU

By: _____ Date _____
Troy Brown, City Manager

Exhibit A: Benchmarks – Updated 6/25/12

~~Amended Per Council Resolution 2012-204~~

Associate Engineer

Assistant Civil Engineer
Senior Engineer
Assistant City Engineer
Engineer Program Manager

Budget Officer

Accounting Officer
Senior Accountant

Building Official

~~Planning Manager~~
Community Development Manager

Management Analyst

Assistant City Clerk
City Clerk (~~effective 12/04/12, per Reso. 2012-204~~)
Administrative Supervisor
Economic Development Mgmt. Analyst
Economic Development Manager
Community Development Analyst
Housing Program Specialist
Water Resources Coordinator
Risk Coordinator

Public Works Superintendent

Utility Lines Maintenance Superintendent
Facilities Maintenance Superintendent
Water Plant Superintendent
Waste Water Operations Superintendent
Utilities Laboratory Supervisor

Recreation Services Supervisor

Community Services Supervisor
Recreation Services Manager
Recreation Services Program Manager

Senior Planner

Associate Planner
Community Preservation Manager

- * Animal Services Supervisor
- * Crime Scene Unit Supervisor
- * Supervising Building & Fire Inspector
- * Communications Unit Supervisor
- * Supervising Plans Examiner
- * Information Technology Specialist
- * Records Unit Supervisor
- * Cultural Arts Manager–Visual Arts
- * Cultural Arts Manager–Performing Arts

* To be discussed prior to 2015

EXHIBIT B: ~~2012~~ 2015 TMMBU CAFETERIA PLAN RATES

Name of Plan	Coverage	2011 Rate	-	2012 Rate	Incr (Decr)	% of increase
Health Net HMO	3	\$ 2,250.52	Health Net HMO	\$ 2,633.11	\$ 382.59	17.00%
Kaiser	3	\$ 1,278.09	Kaiser	\$ 1,384.80	\$ 106.71	8.35%
Health Net 7Q5	3	\$ 2,142.06	Health Net 7Q5	\$ 2,506.21	\$ 364.15	17.00%
Total		\$ 5,670.67		\$ 6,524.12	\$ 853.45	-

*Divided by # of HMO Plans (3) available in 2012 \$ 284.48

* # of HMO Plans that have increases only

85% Average HMO monthly increase

\$ 241.81

TMMBU

			2011	Increase	2012	1/2 Caf
All Plans	Family		\$ 1,655.03	\$ 241.81	\$ 1,896.84	948.42
HealthNet HMO	Emp +1		\$ 1,545.89	\$ 241.81	\$ 1,787.70	893.85
HealthNet PPO	Emp +1		\$ 1,369.47	\$ 241.81	\$ 1,611.28	805.64
Kaiser	w/ DD+VSP	Emp +1	\$ 1,089.34	\$ 86.72	\$ 1,176.06	588.03
Kaiser	w/ DD	Emp +1	\$ 1,070.87	\$ 85.98	\$ 1,156.85	578.43
Kaiser		Emp +1	\$ 996.00	\$ 69.26	\$ 1,065.26	532.63
Health-Net HMO (Hi)	w/ DD+VSP	Emp only	\$ 996.00	\$ 127.51	\$ 1,123.51	561.76
Health-Net HMO (Lo)	w/ DD+VSP	Emp only	\$ 996.00	\$ 78.70	\$ 1,074.70	537.35
Kaiser		Emp only	\$ 996.00	\$ -	\$ 996.00	498.00
Opt Out Amount		Opt out	\$ 996.00	\$ -	\$ 996.00	498.00

Employees hired after 7/1/07 may have slightly different caf amounts, per MOU guidelines

Caf plans differ depending on benefit election/up to 85% of increase

Name of Plan	Coverage	2014 Rate		2015 Rate	Incr (Decr)	% of increase
Health Net - HMO	3	\$ 3,080.09	Health Net-HMO	\$ 3,349.60	\$ 269.51	8.75%
Kaiser	3	\$ 1,653.69	Kaiser	\$ 1,642.11	\$ (11.58)	-0.70%
Health Net - 7Q5	3	\$ 2,931.63	Health Net - 7Q5	\$ 3,188.15	\$ 256.52	8.75%
Total		\$ 7,665.41		\$ 8,179.86	\$ 514.45	

*Divided by # of HMO Plans (3) available in 2015

\$ 171.48

* # of HMO Plans that have changes/increases only

75% - Average HMO monthly increase

\$ 128.61

TMMBU			2014	Increase	2015	1/2 Caf
All Plans	Family		\$ 2,182.17	\$ 128.61	\$2,310.78	\$ 1,155.39
HealthNet HMO	Emp +1		\$ 2,073.03	\$ 128.61	\$2,201.64	\$ 1,100.82
HealthNet PPO	Emp +1		\$ 1,896.61	\$ 128.61	\$2,025.22	\$ 1,012.61
Kaiser	w/ DD+VSP	Emp +1	\$ 1,385.15	\$ (8.46)	\$1,376.69	\$ 688.35
Kaiser	w/ DD	Emp +1	\$ 1,364.30	\$ (7.09)	\$1,357.21	\$ 678.61
Kaiser		Emp +1	\$ 1,383.51	\$ (6.82)	\$1,376.69	\$ 688.35
Health Net HMO (Hi)	w/ DD+VSP	Emp only	\$ 1,296.07	\$ 106.50	\$1,402.57	\$ 701.29
Health Net HMO (Lo)	w/ DD+VSP	Emp only	\$ 1,240.60	\$ 99.87	\$1,340.47	\$ 670.24
Health Net PPO	w/DD+VSP	Emp only	\$ 1,106.33	\$ 89.90	\$1,196.23	\$ 598.12
Kaiser		Emp only	\$ 996.00	\$ -	\$996.00	\$ 498.00
Opt Out Amount		Opt out	\$ 996.00	\$ -	\$996.00	\$ 498.00

Employees hired after 7/1/07 may have slightly different caf amounts, per MOU guidelines

Caf plans differ depending on benefit election/up to 75% of increase

**SIDE LETTER OF AGREEMENT BETWEEN THE CITY OF TRACY
AND THE TRACY MID-MANAGERS BARGAINING UNIT**

**INCENTIVE PLAN FOR ASSOCIATE ENGINEERS WITH A PROFESSIONAL
ENGINEERS (PE) LICENSE**

In 2005, representatives from the City of Tracy and the Tracy Mid-Managers Bargaining Unit (TMMBU) met and conferred regarding the City's proposal to provide a salary incentive to Associate Engineers who possess a Professional Engineers (PE) license.

The City shall pay employees who are assigned to the position of Associate Engineer and who possess a PE license, an incentive of five percent (5%) of base salary per pay period. The salary incentive became effective October 1, 2005. Eligible employees shall submit evidence of the Professional Engineers (PE) license to the Director of Development Services and the Human Resources Director prior to the effective date of the salary incentive for inclusion in the employee's personnel file.

Employees who do not have their PE license at the time of adoption of this side letter of agreement in 2005, shall be eligible to receive the salary incentive beginning the pay period following submission of proof of possession of a Professional Engineers (PE) license to the Director of Development Services and the Human Resources Director.

This side letter was originally approved on September 20, 2005 via Resolution 2005-250.

In 2012, representatives from the City of Tracy and the Tracy Mid-Managers Bargaining Unit agreed to continue and include this side letter into the Agreement.

FOR THE City Of Tracy
THE Tracy Mid-Managers Bargaining Unit

FOR

/Signed/ _____
Denyce Holsey
Interim HR Director

/Signed/ _____
Don Mason
President, TMMBU

Date: August 29, 2005

Date: August 29, 2005

**~~SIDE LETTER OF AGREEMENT BETWEEN THE CITY OF TRACY
AND THE TRACY MID-MANAGERS BARGAINING UNIT~~**

~~CLASSIFICATION AND COMPENSATION REVIEW~~

The City of Tracy and the Tracy Mid-Managers Bargaining unit agree to the following:

The City agrees to conduct a salary survey and compensation analysis of the Crime Scene Unit Supervisor and Animal Services Supervisor classifications within six (6) months of the signing of this side letter.

FOR THE City Of Tracy _____ FOR
THE Tracy Mid-Managers Bargaining Unit _____

R. Leon Churchill, Jr. _____ Scott Claar
City Manager _____ President, TMMBU

Date: _____ Date: _____

SIDE LETTER OF AGREEMENT

FLSA

The City is engaging an outside law firm to conduct a review of all City positions to determine that the City is in full compliance with the Fair Labor Standards Act regarding exempt versus non-exempt status. Upon conclusion of the review, the City will share the contents and conclusions and will meet and confer upon request regarding the impact (if any) of any change in status.

By: /Signed/ _____ 6/12/07 _____
Scott Claar _____ Date

By: /Signed/ _____ 6/12/07 _____
Maria Olvera, HR Director _____ Date

SIDE LETTER OF AGREEMENT

MANAGEMENT LEAVE FOR PLANNING MANAGER

During the term of this agreement, the City agrees to provide the Planning Manager a total of ninety-six (96) hours for management leave.

By: /Signed/ _____ 6/12/07 _____
Scott Claar, TMMBU President Date

By: /Signed/ _____ 6/12/07 _____
Maria Olvera, HR Director Date

RESOLUTION 2015 - _____

APPROVING A NEW MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF TRACY AND THE TRACY MID-MANAGERS BARGAINING UNIT (TMMBU)

WHEREAS, The Memorandum of Understanding (MOU) between the City of Tracy and the Tracy Mid-Managers Bargaining Unit (TMMBU) expired on June 30, 2015, and

WHEREAS, Representatives from the City and the Tracy Mid-Managers Bargaining Unit (TMMBU) have met and conferred in good faith to negotiate a new MOU, and

WHEREAS, Agreement has been reached on a new MOU covering the period of July 1, 2015 through June 30, 2018, and

WHEREAS, All parties agreed to the newly negotiated Memorandums of Understanding covering the period of July 1, 2015 to June 30, 2018, and

WHEREAS, The provisions of the TMMBU MOU directly supports one of the four Council Strategic Priorities: the Governance Strategy, Goal 1: Further develop an organization to attract, motivate, develop, and retain a high-quality, engaged, high-performing, and informed workforce,

NOW, THEREFORE, BE IT RESOLVED, That City Council approves a new Memorandum of Understanding between the City of Tracy and the Tracy Mid-Managers Bargaining Unit.

* * * * *

The foregoing Resolution 2015 - _____ was adopted by the Tracy City Council on the 1st day of December, 2015 by the following vote:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

ABSTAIN: COUNCIL MEMBERS

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.P

REQUEST

ADOPT A RESOLUTION AUTHORIZING THE APPROVAL OF (1) THE MODIFICATION OF THE LOAN SECURED BY MOUNTAIN VIEW TOWNHOMES, (2) THE ASSIGNMENT AND ASSUMPTION FOR THE LOAN BETWEEN SUTTER VILLE SJC HOLDING COMPANY LLC AND THE TRACY MOUNTAIN VIEW ASSOCIATES, LP AND (3) THE SUBORDINATION OF THE LOAN TO NEW CONSTRUCTION AND PERMANENT FINANCING

DISCUSSION

In November, 1994, the former Tracy Community Development Agency (CDA) entered into an Owner Participation Agreement (OPA) with Mountain View Townhomes Associates (MVTA), a limited partnership. MVTA is comprised of a nonprofit corporation affiliated with Visionary Home Builders of California, Inc. (Visionary). The purpose of the agreement was to assist in the construction of low & moderate income housing in the City of Tracy, comprised of 37 residential rental units, 36 of which were available to low income families, plus a manager's unit. The low & moderate housing is covered by an Affordable Housing Covenant.

In the OPA, the CDA agreed to loan MVTA \$609,000 in Low and Moderate Income Housing Funds (City Loan). This loan is secured by a second deed of trust, recorded October 31, 1997, payments are deferred until 2027, with interest accruing at 3% per annum. As of October 31, 2015, principal and accrued interest totaled \$934,815 on the City Loan. Construction of Mountain View Townhomes was completed in 1997 and the property is located at 377 W Mount Diablo Ave in Tracy.

The original financing plan to construct Mountain View Townhomes was comprised of several funding sources:

- A short-term construction loan which was subsequently converted to long-term permanent financing (Primary Loan)
- Low Income Housing Tax Credits
- County of San Joaquin Community Development Department Neighborhood Preservation Division loan in the amount of \$740,000
- Former CDA loan in the amount of \$609,000

Additionally, the former CDA agreed to subordinate the City Loan to the construction loan and subsequent permanent financing, essentially taking a junior lien position behind the Primary Loan. Also part of the OPA, the former CDA granted MVTA an option to transfer the property to another entity after about 15 years. In 2013, MVTA exercised their option, and the property was transferred to Sutter Ville SJC Holding Company, LLC (Sutter), and an affiliate of Visionary. The City approved the assignment of the City loan to Sutter in November 2013.

The property is now in need of major rehabilitation to maintain the quality of the housing and help ensure its long-term sustainability. If a major renovation is not completed, the on-going maintenance costs will affect the viability of the project. In order to accomplish

the necessary improvements, Visionary applied for new Low Income Housing Tax Credits. In June 2015, Visionary was notified that the project had been awarded the credits and that Mountain View Townhomes received points in the tax credit award process for having the City's funds committed to the project.

In order to pay the costs of the rehabilitation work, Visionary needs to:

- transfer the property to a new Low Income Housing Tax Credit limited partnership,
- obtain new tax credits,
- obtain a new construction loan and subsequent permanent financing,
- restructure both the City Loan and the County Loan.

The City Loan is currently structured so that fixed payments begin in 2027 with a final payment in 2054; however, the project income cannot support full payments on the City loan. Visionary is requesting that the City loan terms be modified to begin payments in 2018 but limited to a pro-rata share of "net residual cash flow" equal to 22.57% of residual receipts. The County Loan will be modified to similar terms and will also receive a pro-rata portion of residual cash flow equal to 27.43%. MVTA will retain 50% of residual receipts. This is typical for tax credit transactions and the County is also agreeing to modify its loan to match these same terms. Staff has reviewed cash flow information provided by Visionary and agrees with this conclusion. Based on this review, while payments could begin earlier, it is not likely that there will be net residual cash flow for at least fifteen years. All unpaid principal and interest on the City Loan remains due and payable in 2054.

In addition to the modification to the repayment terms, Visionary is also requesting that the City subordinate to new financing. This new financing will pay off the existing Primary Loan and will include a construction loan not to exceed \$4,500,000. At the end of rehabilitation, the construction loan will be converted to a permanent loan, which is expected to not exceed \$750,000. As the existing Primary Loan will be paid off with the refinancing and be replaced with either a construction loan or the conversion of the construction loan to a new primary loan, the City's lien position will not change. The City Loan is currently in third lien position behind both the Primary Loan and the County Loan. The City Loan will remain junior to both of these loans. The request that the City subordinate to other financing is typical for this type of project. Private lenders are not willing to provide financing if their loans are not in first lien position.

Lastly, Visionary has requested authorization for a new limited partnership to assume the City's loan. A new limited partnership, Tracy Mountain View Associates, L.P., has been created for the project and Visionary will remain part of the ownership entity, as the sole member of the managing general partner. Tracy Mountain View Associates, L.P. will assume all the obligations and requirements of the City's loan from Sutter Ville SJC Holding Company, LLC.

FISCAL IMPACT

The repayment terms will change from payments commencing in 2027 to a pro rata share of 50% of residual net cash flow commencing in 2018; however, it is unlikely that any substantive payments will be received over the next 15 years. The City Loan will be

repaid or refinanced on or before its scheduled maturity date in 2054 and will remain secured by the underlying real property and will remain in its current lien position.

RECOMMENDATION

It is recommended that the City Council adopt a resolution authorizing the approval of (1) the modification of the loan secured by Mountain View Townhomes, (2) the assignment and assumption for the loan between Sutter Ville SJC Holding Company LLC and the Tracy Mountain View Associates, LP, and (3) the subordination of the loan to new construction and permanent financing, and authorize the Mayor to sign all necessary documents.

Prepared by: Robert Harmon, Senior Accountant

Reviewed by: V. Rachelle McQuiston, Administrative Services Director
Daniel Sodergren, City Attorney
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment A – Loan Modification Agreement

Attachment B – Assignment and Assumption Agreement

Attachment C – Subordination Agreement

RESOLUTION _____

ADOPTING A RESOLUTION AUTHORIZING THE APPROVAL OF (1) THE MODIFICATION OF THE LOAN SECURED BY MOUNTAIN VIEW TOWNHOMES, (2) THE ASSIGNMENT AND ASSUMPTION FOR THE LOAN BETWEEN SUTTER VILLE SJC HOLDING COMPANY LLC AND THE TRACY MOUNTAIN VIEW ASSOCIATES, LP AND (3) THE SUBORDINATION OF THE LOAN TO NEW CONSTRUCTION AND PERMANENT FINANCING

WHEREAS, In November, 1994, the former Tracy Community Development Agency entered into an Owner Participation Agreement with Mountain View Townhomes Associates, a limited partnership to construct low & moderate income housing in in the City of Tracy; and

WHEREAS, the former Tracy Community Development Agency agreed to loan Mountain View Townhomes Associates \$609,000 in Low and Moderate Income Housing Funds; and

WHEREAS, On February 1, 2012, the former Tracy Community Development Agency was dissolved by AB1 X26 and the City assumed the housing functions of the former agency; and

WHEREAS, the Loan was transferred from Mountain View Townhomes Associates to Sutter Ville SJC Holding Company LLC, both of which are affiliates of Visionary Home Builders of California, Inc., in connection with the exercise of an option granted pursuant to the original tax credit partnership documents; and

WHEREAS Sutter Ville SJC Holding Company LLC will transfer the property to a new tax credit limited partnership, Tracy Mountain View Associates, L.P., of which Visionary, is the sole member of the general partner; and

WHEREAS, Tracy Mountain View Associates, L.P. will obtain new tax credits and construction and permanent financing to pay the costs of performing a major rehabilitation of the property; and

WHEREAS, Visionary has requested certain modifications to the repayment terms of the loan, has requested that City approve the assignment of the loan from Sutter Ville SJC Holding Company LLC to Tracy Mountain View Associates, L.P., and has requested that the City subordinate the loan to the new construction and permanent lender; and

WHEREAS, THE City has determined that the requested changes will not affect the City's security interest in the underlying property; and

WHEREAS, the City must consent to the modification, assignment, and assumption and subordination of the loan;

NOW, THEREFORE, BE IT RESOLVED, That City Council does hereby approve the modification of the loan secured by Mountain View Townhomes, the assignment and assumption of the loan between Sutter Ville SJC Holding Company LLC and Tracy Mountain View Associates, L.P. and the subordination of the loan to new construction and subsequent permanent financing, and authorize the Mayor to execute the agreements.

* * * * *

The foregoing Resolution 2015-_____ was adopted by City Council on the 1st day of December, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST

CITY CLERK

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

The City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

AMENDMENT TO LOAN DOCUMENTS
Mountain View Townhomes
Community Development Agency of the City of Tracy Loan Documents

This Amendment to Loan Documents (the “Agreement”) is entered into as of December ____, 2015, by and among **the City of Tracy** (the “Lender”) and **Sutter Ville SJC Holding Company LLC**, a California limited liability company (the "Borrower").

RECITALS

A. Borrower is the fee owner of the real property described on Exhibit A attached hereto (the “Property”).

B. The Community Development Agency of the City of Tracy (“Community Development Agency”) made a loan to Mountain View Townhomes Associates ("MVTA") in the original principal amount of \$609,000 (the “Loan”). The Loan is evidenced by a promissory note, as amended (the “Note”), and an Owner Participation Agreement dated November 18, 1994 and a Memorandum of Agreement recorded on November 28, 1994, as Instrument No. 94127211 (collectively, the “OPA”). The Loan is secured by a Deed of Trust executed by MVTA, as Trustor, in favor of the Community Development Agency, as Beneficiary, recorded on October 31, 1997, as Instrument No. 97108247 and re-recorded on November 4, 1997, as Instrument No. 97109348 and an Affordable Housing Covenant Agreement recorded on November 28, 1994, as Instrument No. 94127210 (the “Regulatory Agreement”). MVTA assigned the Loan to Borrower pursuant to an Assignment and Assumption Agreement recorded on November 13, 2013, as Instrument No. 2013-141751 (the “Assignment”). The Note, OPA, Deed of Trust, Regulatory Agreement, and the Assignment, together with all other documents evidencing the Loan, are referred to as the “Loan Documents.”

C. The Community Development Agency was dissolved pursuant to state law. Lender has elected to retain the housing assets and functions previously performed by the Community Development Agency (City of Tracy Resolution No. 2012-021).

D. The Borrower and Lender desire to make certain modifications to the Loan Documents, as set forth herein.

NOW THEREFORE, in consideration of the foregoing, of the mutual promises of the parties hereto and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Lender and Borrower mutually agree as follows:

Attachment A – Loan Modification Agreement

1. Modification to Loan Documents. The Loan Documents are hereby amended as follows:

a. Residual Receipts. Notwithstanding anything to the contrary set forth in the Loan Documents, payments on the Loan shall be made as follows:

Commencing no later than 120 days following the end of the 2017 calendar year and for each calendar year thereafter until the Maturity Date, the Borrower shall make repayments of the Loan for the prior calendar year based on the available amount of Residual Receipts (as defined below). Fifty percent (50%) of the Residual Receipts shall be retained by the Borrower. Twenty Two and Fifty Seven One Hundredth percent (22.57%) of Residual Receipts shall be paid to Lender, with the balance of the Residual Receipts paid to the County of San Joaquin. The payments to Lender shall be credited first against accrued interest and then against outstanding principal of the Loan, and shall be accompanied by the Borrower's report of Residual Receipts (including an independent auditor's report regarding the auditor's review of Gross Revenue and Annual Operating Expenses). The Borrower shall provide the Lender with any documentation reasonably requested by the Lender to substantiate the Borrower's determination of Residual Receipts.

The following definitions shall apply for purposes of this section:

"Annual Operating Expenses", with respect to a particular calendar year during the term of the Loan, means the following costs reasonably and actually incurred for operation and maintenance of the Project to the extent that they are consistent with an annual independent audit performed by a certified public accountant using generally accepted accounting principles: property taxes and assessments imposed on the Project; debt service currently due on a non-optional basis (excluding debt service due from residual receipts or surplus cash of the Project); property management fees and reimbursements, excluding incentive management fees, not to exceed fees and reimbursements which are standard in the industry; premiums for property damage and liability insurance; utility services not paid for directly by tenants, including water, sewer, and trash collection; maintenance and repair; any annual license or certificate of occupancy fees required for operation of the Project; security services; advertising and marketing; cash deposited into reserves for capital replacements of the Project in the amount required by senior lenders or investor limited partner; cash deposited into an operating reserve for the Project in an amount required by senior lenders or investor limited partner; extraordinary operating costs specifically approved by the Lender; payments of deductibles in connection with casualty insurance claims not normally paid from reserves, the amount of uninsured losses actually replaced, repaired or restored, and not normally paid from reserves; general partner asset management fees not-to-exceed Twenty Thousand Dollars (\$20,000) subject to annual increases of three percent (3%), which fee shall accrue if not paid in a given year; limited partner asset management fees not-to-exceed Three Thousand Dollars (\$3,000)

Attachment A – Loan Modification Agreement

which fee shall accrue if not paid in a given year; deferred developer fees; and other ordinary and reasonable operating expenses approved by the Lender and not listed above. Annual Operating Expenses shall not include the following: depreciation, amortization, depletion or other non-cash expenses or any amount expended from a reserve account.

"Gross Revenue," with respect to a particular calendar year during the term of the Loan, means all revenue, income, receipts, and other consideration actually received from operation and leasing of the Project. "Gross Revenue" shall include, but not be limited to: all rents, fees and charges paid by tenants, Section 8 payments or other rental subsidy payments received for the dwelling units, deposits forfeited by tenants, all cancellation fees, proceeds from vending and laundry room machines; the proceeds of business interruption or similar insurance; subject to the rights of senior lenders, the proceeds of casualty insurance to the extent not utilized to repair or rebuild the Project (or applied toward the cost of recovering such proceeds) and not payable to the senior lenders; and condemnation awards for a taking of part or all of the Project for a temporary period. "Gross Revenue" shall not include tenants' security deposits, loan proceeds, capital contributions or similar advances.

"Residual Receipts", with respect to a particular calendar year during the term of the Loan, means the amount by which Gross Revenue (as defined above) exceeds Annual Operating Expenses (as defined above).

- b. Transfers. Notwithstanding anything to the contrary in the Loan Documents, the following transfers shall not constitute an event of default and shall not require the consent of the Lender: (i) transfers of limited partner interests to an investor limited partner, and the future transfer of limited partner interests for the purpose of syndicating the low income housing tax credits; (ii) the removal of Borrower's general partner by the limited partner in accordance with the terms of Borrower's partnership agreement, and the replacement of the general partner with an affiliate of the limited partner or with another entity approved by the Lender in its reasonable discretion; (iii) the grant and exercise of an option and/or right of first refusal for the general partner or an affiliate thereof to purchase the Project or the limited partner interests in Borrower.
- c. Limited Partner Notice and Cure Rights. Upon the happening of an event of default, Lender shall first notify Borrower in writing, with a copy of such notice to Borrower's limited partner, of Borrower's purported event of default. In the event Borrower fails to cure within the cure period provided in the applicable Loan Document, or if such breach is of a nature that it cannot be cured within such period, and Borrower fails to commence to cure within said period and diligently complete such cure within a reasonable time thereafter but in no event later than ninety (90) days, Borrower's limited partner may remove and replace the general partner with a substitute general partner, subject to Section 5(b) of this Amendment, who shall effect a cure within a reasonable time thereafter. Any

Attachment A – Loan Modification Agreement

cure tendered by Borrower’s limited partner shall be accepted or rejected on the same basis as if such cure had been tendered by Borrower.

- d. Limited Partner Address for Notices. A copy of all notices sent to Borrower under the Loan Documents shall be sent to Borrower’s limited partner at the following address:

Wincopin Circle LLLP
c/o Enterprise Community Asset Management, Inc.
70 Corporate Center
11000 Broken Land Parkway, Suite 700
Columbia, MD 21044
Attention General Counsel

- e. Subordination. Notwithstanding anything to the contrary set forth in the Loan Documents, Lender agrees to subordinate the Loan and the lien of the Deed of Trust and Regulatory Agreement to a construction loan made by Wells Fargo Bank, N.A. in the amount not to exceed \$4,500,000, and a permanent loan made by California Community Reinvestment Corporation in the amount not to exceed \$750,000, pursuant to the terms of a subordination agreement to be entered into among the lenders upon terms and conditions acceptable to Lender.

- f. Exhibits.

- (i) Exhibit B of the Note is hereby deleted in its entirety.
- (ii) Attachment No. 8 to the OPA is hereby amended by deleting references to Bank of America as the primary lender and the construction and permanent loan from Bank of America, and replacing them with the following:

Construction primary lender:	Wells Fargo Bank, National Association Community Lending and Investment 333 Market Street, 18th Floor MAC# A0119-183 San Francisco, California 94105 Attn: Jean Hembree Facsimile: 415-801-8640 Telephone: 415-801-8525
------------------------------	--

Loan Amount:	up to \$4,500,000
Terms:	3.05%; 24 months

Permanent primary lender:	California Community Reinvestment Corporation
---------------------------	---

Attachment A – Loan Modification Agreement

225 West Broadway, Suite 120
Glendale, California 91204
Attn: President
Facsimile: (818) 550-9806
Telephone: (818) 550-9800

Loan Amount: up to \$750,000
Terms: 5.25%; 15 yr term

6. No Duplication of Performance Intended. The parties hereto expressly agree that it is not their intention in executing this Agreement to obtain or require any duplication or re-performance of any term, condition or provision of the Loan Documents which, at the time of execution of this Agreement, has been fully performed by the Seller or its predecessor-in-interest, including, but not limited to, those provisions set forth in Attachments 3 and 4 to the OPA relating to construction of the Project and the timing therefor.
7. Effective Date. This Agreement shall be effective as of the date of recordation of this Agreement in the Official Records of San Joaquin County (the “Effective Date”).
8. Attorney’s Fees/ Enforcement. If any attorney is engaged by any party hereto to enforce or defend any provision of this Agreement, the prevailing party or parties shall be entitled to costs and reasonable attorneys’ fees.
9. California Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California.
10. Invalidity. Any provision of the Agreement which is determined by a court to be invalid or unenforceable shall be deemed severed herefrom, and the remaining provisions shall remain in full force and effect as if the invalid or unenforceable provision had not been a part hereof.
11. Counterparts. This Agreement may be signed in counterparts, each of which shall constitute one and the same instrument.

Signatures on Following Page

Attachment A – Loan Modification Agreement

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

BORROWER:

Sutter Ville SJC Holding Company LLC,
a California limited liability company

By: Visionary Home Builders of California, Inc.,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Carol J. Ornelas
Chief Executive Officer

LENDER:

The City of Tracy

By: _____

Title: _____

Approved as to Form:

City Attorney

Signatures Must Be Notarized

Attachment A – Loan Modification Agreement

Exhibit A
Legal Description of the Property

The land referred to is situated in the County of San Joaquin, City of Tracy, State of California, and is described as follows:

All that certain real property being all of Lot 12 and portions of Lots 13, 14 and 15 of Mountain View Acres, Division A, according to the Official Map thereof, filed in Book of Maps and Plats, Volume 10, Page 19, San Joaquin County Records, City of Tracy, County of San Joaquin, State of California, being more particularly described as follows:

Beginning at the Southwesterly corner of said Lot 12; thence along the Westerly line thereof North 00° 29' 18" East 707.67 feet to the Northwesterly corner of said Lot 12, said Northwesterly corner also being a point in the Southerly line of Fourth Street, 60 feet in width; thence along the Northerly line of said Lot 12 North 64° 46' 35" East 73.27 feet to the Northeasterly corner of said Lot 12; thence along the Easterly line of said Lot 12 South 00° 29' 23" West 201.74 feet to the Southwesterly corner of the land described in Instrument No. 92141532 San Joaquin County Records; thence along the Southerly line of said Instrument No. 92141532 crossing said Lot 13 along a line parallel with the Northerly line of Mt. Diablo Avenue, 60 feet in width, South 89° 32' 05" East 66.01 feet to a point in the Easterly line of said Lot 13 in the Southeasterly corner of said Instrument No. 92141532; thence along said Easterly line South 00° 29' 28" West 164.00 feet to a point in the Southerly boundary of the City of Tracy as shown on said Map of Mountain View Acres, Division A; thence leaving said Easterly line of Lot 13 along said Southerly boundary South 89° 32' 35" East 132.02 feet to a point in the Easterly line of said Lot 15; thence leaving said Southerly boundary along the Easterly line of said Lot 15 South 00° 29' 37" West 373.68 feet to the Southeasterly corner of said Lot 15; thence along the Southerly line of said Lots 12 through 15 also being the Northerly line of Mount Diablo Avenue, 60 feet in width, North 89° 32' 35" West 264.00 feet to the point of beginning as per Lot Adjustment recorded March 26, 1996 as Instrument No. 96032728.

EXCEPTING THEREFROM that portion as conveyed to the City of Tracy, a municipal corporation by Deed recorded March 28, 1996 as Instrument No. 96032729

APN: 235-420-15

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

The City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

ASSIGNMENT AND ASSUMPTION AGREEMENT
Mountain View Townhomes
Community Development Agency of the City of Tracy Loan Documents

This Assignment and Assumption Agreement (the “Agreement”) is entered into as of December ___, 2015, by and among **the City of Tracy** (the “Lender”), **Tracy Mountain View Associates, L.P.**, a California limited partnership (the "Borrower" or “Buyer”) and **Sutter Ville SJC Holding Company LLC**, a California limited liability company (the "Seller").

RECITALS

A. Seller is the fee owner of the real property described on Exhibit A attached hereto (the “Property”).

B. The Community Development Agency of the City of Tracy (“Community Development Agency”) has made a loan to the Seller in the original principal amount of \$609,000 (the “Loan”). The Loan is evidenced by a promissory note, as amended (the “Note”), and an Owner Participation Agreement dated November 18, 1994 and a Memorandum of Agreement recorded on November 28, 1994, as Instrument No. 94127211 (collectively, the “OPA”). The Loan is secured by a Deed of Trust executed by Seller’s predecessor-in-interest, as Trustor, in favor of the Community Development Agency, as Beneficiary, recorded on October 31, 1997, as Instrument No. 97108247 and re-recorded on November 4, 1997, as Instrument No. 97109348 and an Affordable Housing Covenant Agreement recorded on November 28, 1994, as Instrument No. 94127210 (the “Regulatory Agreement”). The Loan was assigned to Seller from the previous owner of the Property pursuant to an Assignment and Assumption Agreement recorded on November 13, 2013, as Instrument No. 2013-141751 (the “Assignment”). The Note, OPA, Deed of Trust, Regulatory Agreement, Assignment, together with all other documents evidencing the Loan, are referred to as the “Loan Documents.”

C. The Community Development Agency was dissolved pursuant to state law. Lender has elected to retain the housing assets and functions previously performed by the Community Development Agency (City of Tracy Resolution No. 2012-021).

D. Seller intends to transfer the Property to Borrower. In connection with that transfer, Seller desires to assign all of its right, title and interest in and to the Loan Documents to Borrower, and Borrower desires to assume all of Seller’s right, title and interest in and to the Loan Documents. The Lender desires to consent to the assignment of Seller’s right, title and interest in the Loan Documents to Borrower, as set forth herein.

Attachment B – Assignment and Assumption Agreement

NOW THEREFORE, in consideration of the foregoing, of the mutual promises of the parties hereto and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Lender, Seller and Buyer mutually agree as follows:

1. Assignment by Seller. Seller hereby assigns to Buyer all of Seller's right, title, and interest in and obligations under the Loan and the Loan Documents.
2. Acceptance of Assignment and Assumption by Buyer. Buyer accepts the above assignment of Seller's right, title and interest in, and assumes all obligations under, the Loan and the Loan Documents, and agrees to perform all of Seller's obligations and covenants under the Loan and the Loan Documents as if Buyer were the original signatory thereto.
3. Representations.
 - (a) Buyer represents and warrants that it is a duly formed, validly existing limited partnership in good standing under the laws of the State of California, and has the power and authority to execute this Agreement and perform Seller's obligations under the Loan Documents.
 - (b) Seller represents and warrants that it has not previously assigned, pledged, hypothecated or otherwise transferred any of its rights or obligations under the Loan Documents.
4. Lender Consent. The Lender hereby consents to the assignment to and assumption of Seller's rights and obligations under the Loan and the Loan Documents by Buyer. From and after the Effective Date, the Lender agrees to look solely to Buyer for the performance of Seller's obligations under the Loan Documents.
5. No Duplication of Performance Intended. The parties hereto expressly agree that it is not their intention in executing this Agreement to obtain or require any duplication or re-performance of any term, condition or provision of the Loan Documents which, at the time of execution of this Agreement, has been fully performed by the Seller or its predecessor-in-interest, including, but not limited to, those provisions set forth in Attachments 3 and 4 to the OPA relating to construction of the Project and the timing therefor.
6. Effective Date. This Agreement shall be effective as of the date of recordation of this Agreement in the Official Records of San Joaquin County (the "Effective Date").
7. Attorney's Fees/ Enforcement. If any attorney is engaged by any party hereto to enforce or defend any provision of this Agreement, the prevailing party or parties shall be entitled to costs and reasonable attorneys' fees.
8. California Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California.

Attachment B – Assignment and Assumption Agreement

9. Invalidity. Any provision of the Agreement which is determined by a court to be invalid or unenforceable shall be deemed severed herefrom, and the remaining provisions shall remain in full force and effect as if the invalid or unenforceable provision had not been a part hereof.
10. Counterparts. This Agreement may be signed in counterparts, each of which shall constitute one and the same instrument.

[Signatures on following page.]

Attachment B – Assignment and Assumption Agreement

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

BORROWER:

Tracy Mountain View Associates, L.P., a California limited partnership

By: Tracy Mountain View Development LLC,
a California limited liability company,
its general partner

By: Visionary Home Builders of California, Inc.,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Carol J. Ornelas
Chief Executive Officer

SELLER:

Sutter Ville SJC Holding Company LLC,
a California limited liability company

By: Visionary Home Builders of California, Inc.,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Carol J. Ornelas
Chief Executive Officer

Attachment B – Assignment and Assumption Agreement

LENDER:

The City of Tracy

By: _____

Title: _____

Approved as to Form:

City Attorney

Signatures Must Be Notarized

Attachment B – Assignment and Assumption Agreement

Exhibit A
Legal Description of the Property

The land referred to is situated in the County of San Joaquin, City of Tracy, State of California, and is described as follows:

All that certain real property being all of Lot 12 and portions of Lots 13, 14 and 15 of Mountain View Acres, Division A, according to the Official Map thereof, filed in Book of Maps and Plats, Volume 10, Page 19, San Joaquin County Records, City of Tracy, County of San Joaquin, State of California, being more particularly described as follows:

Beginning at the Southwesterly corner of said Lot 12; thence along the Westerly line thereof North 00° 29' 18" East 707.67 feet to the Northwesterly corner of said Lot 12, said Northwesterly corner also being a point in the Southerly line of Fourth Street, 60 feet in width; thence along the Northerly line of said Lot 12 North 64° 46' 35" East 73.27 feet to the Northeasterly corner of said Lot 12; thence along the Easterly line of said Lot 12 South 00° 29' 23" West 201.74 feet to the Southwesterly corner of the land described in Instrument No. 92141532 San Joaquin County Records; thence along the Southerly line of said Instrument No. 92141532 crossing said Lot 13 along a line parallel with the Northerly line of Mt. Diablo Avenue, 60 feet in width, South 89° 32' 05" East 66.01 feet to a point in the Easterly line of said Lot 13 in the Southeasterly corner of said Instrument No. 92141532; thence along said Easterly line South 00° 29' 28" West 164.00 feet to a point in the Southerly boundary of the City of Tracy as shown on said Map of Mountain View Acres, Division A; thence leaving said Easterly line of Lot 13 along said Southerly boundary South 89° 32' 35" East 132.02 feet to a point in the Easterly line of said Lot 15; thence leaving said Southerly boundary along the Easterly line of said Lot 15 South 00° 29' 37" West 373.68 feet to the Southeasterly corner of said Lot 15; thence along the Southerly line of said Lots 12 through 15 also being the Northerly line of Mount Diablo Avenue, 60 feet in width, North 89° 32' 35" West 264.00 feet to the point of beginning as per Lot Adjustment recorded March 26, 1996 as Instrument No. 96032728.

EXCEPTING THEREFROM that portion as conveyed to the City of Tracy, a municipal corporation by Deed recorded March 28, 1996 as Instrument No. 96032729

APN: 235-420-15

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

Wells Fargo Bank, National Association
Community Lending and Investment
MAC A0119-183
333 Market Street, 18th Floor
San Francisco, CA 94105
Attn: Jean Hembree
Loan No.: 1015234

SUBORDINATION AGREEMENT

(City Loan)

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

This SUBORDINATION AGREEMENT (“**Agreement**”) is made as of November 24, 2015, but effective as of _____, 2015, by TRACY MOUNTAIN VIEW ASSOCIATES, L.P., a California limited partnership (“**Borrower**”), and the CITY OF TRACY, a municipal corporation (“**Subordinate Lender**”), in favor of WELLS FARGO BANK, NATIONAL ASSOCIATION and any successors or assigns (“**Senior Lender**”).

- A. Borrower owns the real property described on Exhibit A, attached hereto and incorporated herein by reference, as well as a fee interest in the improvements thereon (the “**Property**”).
- B. Pursuant to that certain Owner Participation Agreement dated November 18, 1994 and a Memorandum of Agreement recorded on November 28, 1994, as Instrument No. 94127211 (collectively, the “**OPA**”), the Community Development Agency of the City of Tracy (“**Agency**”) has made a loan to Mountain View Townhomes Associates, A California Limited Partnership (“**MVTA**”) in the original principal amount of \$609,000 (the “**Subordinate Loan**”). The Subordinate Loan is evidenced by a promissory note in the original principal amount of \$609,000.00 made by MTVA to the order of Agency, dated November 18, 1994, as amended (the “**Subordinate Note**”), and is secured by (i) that certain Deed of Trust executed by MVTA, as trustor, in favor of the Agency, as Beneficiary, which was recorded on October 31, 1997, as Instrument No. 97108247 and re-recorded on November 4, 1997, as Instrument No. 97109348 in the Official Records of the County of San Joaquin, California (the “**Official Records**”) (the “**Subordinate Deed of Trust**”); and (ii) that certain Affordable Housing Covenant Agreement recorded on November 28, 1994, as Instrument No. 94127210 in the Official Records (the

“Regulatory Agreement”). The Subordinate Loan was assigned by MVTA to Sutter Ville SJC Holding Company LLC, a California limited liability company (**“Seller”**) pursuant to an Assignment and Assumption Agreement recorded on November 13, 2013, as Instrument No. 2013-141751 in the Official Records (the **“2013 Assignment”**). The Agency was dissolved pursuant to state law, and Subordinate Lender has elected to retain the housing assets and functions previously performed by the Agency (City of Tracy Resolution No. 2012-021). Pursuant to that certain Amendment to Loan Documents dated as of _____, 2015, executed by and between Seller and Subordinate Lender, the Subordinate Loan was modified as more fully set forth therein (the **“2015 Amendment”**). Pursuant to that certain Assignment and Assumption Agreement dated as of _____, 2015, executed by and among the Subordinate Lender, Borrower and Seller and to be recorded in the Official Records concurrently herewith (the **“2015 Assignment”**), the Seller is assigning the Subordinate Loan to the Borrower. The Subordinate Note, the OPA, the Subordinate Deed of Trust, the Regulatory Agreement, the 2013 Assignment, the 2015 Amendment and the 2015 Assignment, together with all other documents evidencing the Loan, are referred to as the **“Subordinate Loan Documents.”**

- C. Pursuant to that certain Construction/Permanent Loan Agreement dated as of even date herewith (the **“Senior Loan Agreement”**), executed by and between Borrower and Senior Lender, Senior Lender has agreed to make a loan to Borrower in the total principal amount of [\$4,255,550.00] (the **“Senior Loan”**), in order to enable Borrower to finance the construction of an affordable multifamily housing community on the Property. The obligations of the Borrower in connection with the Senior Loan Agreement are evidenced by that certain Promissory Note dated as of even date herewith (the **“Senior Note”**) made by Borrower to the order of Senior Lender, and are secured by, among other things, that certain Construction and Permanent Deed of Trust, with Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of even date herewith (the **“Senior Deed of Trust”**) by Borrower as Trustor, naming American Securities Company, a California corporation, as Trustee and Senior Lender as Beneficiary. The Senior Deed of Trust shall be recorded concurrently herewith in the Official Records. The Senior Loan Agreement, the Senior Deed of Trust, the Senior Note and all other documents defined in the Senior Loan Agreement as **“Loan Documents”** are hereinafter referred to as **“Senior Loan Documents.”** Any capitalized terms used but not defined herein shall have the meaning set forth in the Senior Loan Agreement.
- D. Pursuant to that certain Loan Purchase Agreement dated as of even date herewith (the **“Loan Purchase Agreement”**) by and among Senior Lender, Borrower and California Community Reinvestment Corporation, a California nonprofit public benefit corporation (**“CCRC”**) and upon the satisfaction of certain terms and conditions contained therein, (i) CCRC has agreed to purchase up to [\$594,600.00] in principal amount of the Senior Loan from Senior Lender on the Conversion Date (as defined in the Loan Purchase Agreement) and thereupon become the **“Senior Lender”** under the Senior Loan Agreement, (ii) Senior Lender has agreed to assign its rights under the Senior Loan Agreement, Senior Note, Senior Deed of Trust and certain of the other Senior Loan Documents to CCRC on the Conversion Date, and (iii) Borrower has agreed to execute certain additional documents in connection with such purchase and assignment.

- E. As a condition to Senior Lender making the Senior Loan secured by the Senior Deed of Trust, Senior Lender requires that the Senior Deed of Trust be unconditionally and at all times remain a lien or charge upon the Property, prior and superior to all the rights of Subordinate Lender secured by the Regulatory Agreement, the Subordinate Deed of Trust, the repayment of the Subordinate Loan and Subordinate Lender's rights under the Subordinate Loan Documents (notwithstanding any language to the contrary contained in the Subordinate Loan Documents) and, subject to the terms hereof, that Subordinate Lender specifically and unconditionally subordinates the Regulatory Agreement, the Subordinate Deed of Trust, the repayment of the Subordinate Loan and Subordinate Lender's rights under the Subordinate Loan Documents to the lien or charge of the Senior Deed of Trust, the repayment of the Senior Loan and the other Senior Loan Documents.
- F. Subordinate Lender and Borrower agree to the above-referenced subordination in favor of Senior Lender.

THEREFORE, for valuable consideration and to induce Senior Lender to make the Senior Loan, Borrower, Subordinate Lender, and Senior Lender hereby agree as follows:

- 1. The Senior Deed of Trust securing the Senior Note in favor of Senior Lender, and any modifications, renewals or extensions thereof which do not increase the principal balance, or interest rate, decrease the term, or change other material economic terms of the Senior Loan, together with Senior Lender's right to repayment of the Senior Loan and Senior Lender's rights under any other Senior Loan Documents shall unconditionally be and at all times remain a lien or charge on the Property prior and superior to the the Regulatory, the Subordinate Deed of Trust and the other Subordinate Loan Documents, the repayment of the Subordinate Loan and Subordinate Lender's rights under the Subordinate Loan Documents (notwithstanding any language to the contrary contained in the Subordinate Loan Documents) subject to the terms of this Agreement.
- 2. This Agreement shall be the whole agreement with regard to the subordination of the Subordinate Loan Documents, the repayment of the Subordinate Loan and Subordinate Lender's rights under the Subordinate Loan Documents as such relate specifically to the lien or charge of the Senior Deed of Trust together with Senior Lender's right to repayment of the Senior Loan and Senior Lender's rights under any other Senior Loan Documents and shall supersede and cancel, but only insofar as would affect the priority of the Senior Deed of Trust, any prior agreements as to such subordination, including, without limitation, those provisions, if any, contained in the Subordinate Loan Documents which provide for the subordination of the Subordinate Deed of Trust or any other Subordinate Loan Documents to a deed or deeds of trust or to a mortgage or mortgages.
- 3. Borrower and Subordinate Lender each make the following representations and warranties to Senior Lender:
 - a. The Subordinate Loan is evidenced by the Subordinate Note and Subordinate Loan Agreement and is secured by the Subordinate Deed of Trust and other Subordinate Loan Documents;

- b. The term of the Subordinate Note does not end before the stated term of the Senior Note;
 - c. The executed Subordinate Loan Documents are substantially in the same forms as those submitted to, and approved by, Senior Lender prior to the date of this Agreement. Upon execution and delivery of the Subordinate Loan Agreement, Subordinate Note, Subordinate Deed of Trust, and City Regulatory Agreement, Borrower shall deliver to Senior Lender an executed copy of each of the foregoing, certified to be true, correct and complete; and
 - d. Upon execution and delivery of the Senior Loan Documents, Borrower shall deliver to Subordinate Lender an executed copy of each of the Senior Loan Documents, certified to be true, correct and complete.
4. Subject to the provisions of Sections 2 and 6 hereof, Subordinate Lender and Borrower further declare, agree and acknowledge for the benefit of Senior Lender, that:
- a. Senior Lender, in making disbursements pursuant to the Senior Loan Agreement, is under no obligation or duty to, nor has Senior Lender represented that it will, see to the application of such proceeds by the person or persons to whom Senior Lender disburses such proceeds, and any application or use of such proceeds for purposes other than those provided for in such agreement or agreements shall not defeat the subordination herein made in whole or in part;
 - b. Subordinate Lender intentionally and unconditionally subordinates the liens of the Regulatory Agreement and the Subordinate Deed of Trust against the Property to the lien or charge of the Senior Deed of Trust upon the Property and understands that in reliance upon, and in consideration of, this subordination, specific loans and advances are being and will be made by Senior Lender and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this waiver, relinquishment and subordination;
 - c. Subordinate Lender consents to any agreement or arrangement in which Senior Lender waives, postpones, extends, reduces or modifies any provisions of the Senior Loan Documents, including any provision requiring the payment of money, other than any such change that would increase the principal balance, or interest rate, decrease the term, or change other material economic terms of the Senior Loan. Subordinate Lender further agrees that its agreement to subordinate hereunder shall extend to any new mortgage debt which is for the purpose of refinancing all or any part of the Senior Loan (including reasonable and necessary costs associated with the closing and/or the refinancing); and that all the terms and covenants of this Agreement shall inure to the benefit of any holder of any such refinanced debt; and that all references to the Senior Loan, the Senior Note, the Senior Loan Agreement, the Senior Deed of Trust, the Senior Loan Documents and Senior Lender shall mean, respectively, the refinance loan, the refinance note, the refinance loan agreement, the mortgage securing the refinance note, all documents evidencing securing or otherwise pertaining to the refinance note and the holder of the refinance note;

d. Borrower and Subordinate Lender each agree that, until the principal of, interest on and all other amounts payable under the Senior Loan Documents have been paid in full, it will not, without the prior written consent of Senior Lender in each instance, increase the amount of the Subordinate Loan, increase the required payments due under the Subordinate Loan, decrease the term of the Subordinate Loan, increase the interest rate on the Subordinate Loan, or otherwise amend the Subordinate Loan terms in a manner that creates a material adverse effect upon Senior Lender under the Senior Loan Documents. Any unauthorized amendment of the Subordinate Loan Documents without Senior Lender's consent shall be void ab initio and of no effect whatsoever;

e. In an Event of Default or default of Borrower under the Subordinate Loan Documents (each, a "**Subordinate Loan Default**"), Subordinate Lender shall deliver to Senior Lender a copy of any notice of default delivered to Borrower in connection therewith (each, a "**Subordinate Loan Default Notice**"), concurrently with delivery to Borrower of the same. In such event, Senior Lender has the right, but not the obligation, to cure the noticed Subordinate Loan Default by thirty (30) days after the date Senior Lender receives a copy of the notice of default (the "**Senior Lender Cure Period**"), provided that Subordinate Lender shall have the continuing right to declare and record a notice of default and/or obtain a court-ordered receiver and the Senior Lender Cure Period shall not toll or extend the statutory cure period after Subordinate Lender's recordation of a notice of default. Borrower and Subordinate Lender agree that a Subordinate Loan Default shall constitute a Senior Loan Default (as defined in Section 7 below) under the Senior Loan Documents and Senior Lender shall have the right to exercise all rights or remedies under the Senior Loan Documents in the same manner as in the case of any other Senior Loan Default. If Subordinate Lender notifies Senior Lender in writing that any Subordinate Loan Default of which Senior Lender has received a Subordinate Loan Default Notice has been cured or waived, as determined by Subordinate Lender in its sole discretion, then provided that Senior Lender has not conducted a sale of the Property pursuant to its rights under the Senior Loan Documents, any Senior Loan Default under the Senior Loan Documents arising solely from such Subordinate Loan Default shall be deemed cured, and the Senior Loan shall be reinstated, provided, however, that Senior Lender shall not be required to return or otherwise credit for the benefit of Borrower any default rate interest or other default related charges or payments received by Senior Lender during such Senior Loan Default;

f. Borrower agrees that, after it receives a Senior Loan Default Notice (or otherwise acquires knowledge) of a Senior Loan Default, it will not make any payments under or pursuant to the Subordinate Loan Documents (including but not limited to principal, interest, additional interest, late payment charges, default interest, attorneys' fees, or any other sums secured by the Subordinate Loan Documents) without Senior Lender's prior written consent. Subordinate Lender agrees that, after it receives a Senior Loan Default Notice from Senior Lender with written instructions directing Subordinate Lender not to accept payments from Borrower on account of the Subordinate Loan, it will not accept any payments under or pursuant to the Subordinate Loan Documents (including but not limited to principal, interest, additional interest, late payment charges, default interest, attorneys' fees, or any other sums secured by the Subordinate Loan Documents) without Senior Lender's prior written consent. If Subordinate Lender receives written notice

from Senior Lender that the Senior Loan Default which gave rise to Subordinate Lender's obligation not to accept payments has been cured, waived, or otherwise suspended by Senior Lender, the restrictions on payment to Subordinate Lender in this Section 4(f) shall terminate, and Senior Lender shall have no right to any subsequent payments made to Subordinate Lender by Borrower prior to Subordinate Lender's receipt of a new Senior Loan Default Notice from Senior Lender in accordance with the provisions of this Section 4(f);

g. If, after Subordinate Lender receives a Senior Loan Default Notice from Senior Lender in accordance with Section 7 below, Subordinate Lender receives any payments under the Subordinate Loan Documents, Subordinate Lender agrees that such payment or other distribution will be received and held in trust for Senior Lender and, unless Senior Lender otherwise notifies Subordinate Lender in writing, will be promptly remitted in kind to Senior Lender and properly endorsed to Senior Lender to be applied to the principal of, interest on and other amounts due under the Senior Loan Documents in accordance with the provisions of the Senior Loan Documents. By executing this Agreement, Borrower specifically authorizes Subordinate Lender to endorse and remit any such payments to Senior Lender, and specifically waives any and all rights to have such payments returned to Borrower or credited against the Subordinate Loan. Borrower and Senior Lender acknowledge and agree that payments received by Subordinate Lender and remitted to Senior Lender under this Section 4(g) shall not be applied or otherwise credited against the Subordinate Loan, nor shall the tender of such payment to Senior Lender waive any Event of Default or other default under the Subordinate Loan Documents which may arise from the inability of Subordinate Lender to retain such payment or apply such payment to the Subordinate Loan;

h Subordinate Lender agrees that during the term of this Agreement it will not commence, or join with any other creditor in commencing any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings (any of the foregoing, an "**Insolvency Proceeding**") against or with respect to Borrower, without Senior Lender's prior written consent. Subordinate Lender hereby assigns to Senior Lender any and all claims that Subordinate Lender may now or hereafter have as a secured or unsecured creditor in any Insolvency Proceeding with respect to the Subordinate Lender Loan or otherwise relating to the Borrower or Property, and authorizes Senior Lender to take or forego any and all actions deemed necessary by Senior Lender in its sole discretion with respect to any such claim or claims; and

i. To the extent that Borrower makes a payment to Senior Lender or Senior Lender receives any payment or proceeds of the collateral securing the Senior Loan for Borrower's benefit, which payment or proceeds or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, state or federal law, common law or equitable doctrine, then, to the extent of such payment or proceeds received and not retained by Senior Lender, Subordinate Lender's obligations intended to be satisfied thereby and this Agreement shall be reinstated and continue in full force and effect until full and final payment shall have been made to Senior Lender. Subordinate Lender agrees to hold in trust for Senior Lender and promptly remit to Senior Lender any

payments received by Subordinate Lender after such invalidated, rescinded or returned payment was originally made.

5. Subordinate Lender hereby consents to the Senior Loan, the terms and provisions of the Senior Loan Documents and the execution and delivery by Borrower to Senior Lender of the Senior Loan Documents. Subordinate Lender specifically acknowledges that subject to completion of certain improvements on the Property and the satisfaction by Borrower of certain other conditions within the time set forth in the Loan Purchase Agreement, CCRC shall purchase the Senior Loan from Senior Lender. Upon such purchase, the Senior Loan will become nonrecourse with certain exceptions and will automatically convert from an interest only construction loan into an amortizing term loan, all as more particularly set forth in the Senior Note. Subordinate Lender acknowledges that upon the purchase of the Senior Note by CCRC, the following Senior Loan Documents shall terminate:
 - a. Pledge and Security Agreement;
 - b. UCC-1 Financing Statement (Tax Credits);
 - c. Completion Guaranty; and
 - d. Repayment Guaranty.

Subordinate Lender acknowledges that if CCRC should become the owner and holder of the Senior Loan and the Senior Note, then CCRC shall become the “Senior Lender” hereunder and this Agreement shall continue to inure to the benefit of CCRC and its successors and assigns.

6. In consideration of Subordinate Lender’s covenants and agreements contained in this Agreement, Senior Lender hereby agrees as follows:
 - a. That in the event of any default of Borrower under the Senior Loan Documents (each, a “**Senior Loan Default**”), Senior Lender shall deliver to Subordinate Lender a copy of any notice of default delivered to Borrower in connection therewith (each, a “**Senior Loan Default Notice**”), concurrently with delivery to Borrower of the same. In such event, Subordinate Lender has the right, but not the obligation, to:
 - (i) Cure the noticed default by thirty (30) days after the date Subordinate Lender receives a copy of the Senior Loan Default Notice, or such longer cure periods given to junior lienholders under California law (the “**Subordinate Lender Cure Period**”), provided that Senior Lender shall have the continuing right to record a notice of default and/or obtain a court-ordered receiver and the Subordinate Lender Cure Period shall not toll or extend the statutory cure period after Senior Lender’s recordation of such a notice of default. If, however, Senior Lender elects to record a notice of default prior to expiration of the Subordinate Lender Cure Period, then Senior Lender shall not have the right to demand from Subordinate Lender any fees or costs incurred by Senior Lender in pursuing its foreclosure or judicial remedies unless Senior Lender has first obtained the written consent of Subordinate Lender to Senior Lender’s action. With respect to any right of cure provided herein, performance of a cure by Subordinate Lender shall have the same effect as would like performance by Borrower. In the event

that Subordinate Lender cures such default within the time provided above and pays for all costs to rescind any notice of default or to dismiss the receiver (including, without limitation, Senior Lender's attorneys' fees and court costs), Senior Lender shall rescind the Senior Loan Default Notice, shall accept all payments and all acts by Subordinate Lender on behalf of Borrower as though the same had been done and performed by Borrower, and shall not accelerate the Senior Loan, or shall reinstate the Senior Loan if acceleration has already taken place.

(ii) After Conversion, purchase or otherwise acquire title to or possession of the Property from Borrower (a "**Subordinate Lender Acquisition**") without acceleration of the Senior Loan by Senior Lender. Upon a Subordinate Lender Acquisition, Subordinate Lender shall be entitled to assume and succeed to Borrower's obligations under the Senior Loan on the terms and conditions set forth in the Senior Loan Documents, and Senior Lender shall recognize Subordinate Lender as "Borrower" on the condition that Subordinate Lender assume, in writing, and agree to perform, all of Borrower's obligations under the Senior Loan Documents and timely cure all outstanding defaults of Borrower under the Senior Loan, including, without limitation, all outstanding principal and interest due and owing under the Senior Note. As a condition of such assumption, Subordinate Lender shall pay or reimburse to Senior Lender the reasonable administrative and/or legal costs actually incurred by Senior Lender in connection with such assumption.

The provisions of this Section are not intended to limit, waive, modify or replace, those provisions of law pertaining to notice and cure rights of junior lenders, including, without limitation, those set forth in California Civil Code Sections 2924b and 2924c.

7. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute and be construed as one and the same instrument.

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN A LOAN A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

IT IS RECOMMENDED THAT, PRIOR TO THE EXECUTION OF THIS AGREEMENT, THE PARTIES CONSULT WITH THEIR ATTORNEYS WITH RESPECT HERETO.

[Signature Pages to Follow]

IN WITNESS WHEREOF, Borrower, Subordinate Lender and Senior Lender have executed this Agreement as of the date appearing on the first page of this Agreement.

“BORROWER”

TRACY MOUNTAIN VIEW ASSOCIATES, L.P.,
a California limited partnership

By: Tracy Mountain View Development LLC,
a California limited liability company,
Its General Partner

By: Visionary Home Builders of California, Inc.,
a California nonprofit public benefit corporation
Its Sole Member/Manager

By: _____
Carol J. Ornelas
Chief Executive Officer

“SUBORDINATE LENDER”

THE CITY OF TRACY,
a municipal corporation

By: _____
Name: _____
Title: _____

Approved as to form and legality:

By: _____
City Attorney

“SENIOR LENDER”

WELLS FARGO BANK, NATIONAL ASSOCIATION

By: _____
Eric Leimbach
Vice President

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 _____)

On _____, before me, _____, a Notary Public, personally appeared _____, 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 _____

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 _____)

On _____, before me, _____, a Notary Public, personally appeared _____, 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 _____

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 _____)

On _____, before me, _____, a Notary Public, personally appeared _____, 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 _____

EXHIBIT A

DESCRIPTION OF PROPERTY

All that certain real property located in the City of Tracy, County of San Joaquin, State of California, described as follows:

All that certain real property being all of Lot 12 and portions of Lots 13, 14 and 15 of Mountain View Acres, Division A, according to the Official Map thereof, filed in Book of Maps and Plats, Volume 10, Page 19, San Joaquin County Records, City of Tracy, County of San Joaquin, State of California, being more particularly described as follows:

Beginning at the Southwesterly corner of said Lot 12; thence along the Westerly line thereof North 00° 29' 18" East 707.67 feet to the Northwesterly corner of said Lot 12, said Northwesterly corner also being a point in the Southerly line of Fourth Street, 60 feet in width; thence along the Northerly line of said Lot 12 North 64°46' 35" East 73.27 feet to the Northeasterly corner of said Lot 12; thence along the Easterly line of said Lot 12 South 00° 29'23" West 201.74 feet to the Southwesterly corner of the land described in Instrument No. 92141532 San Joaquin County Records; thence along the Southerly line of said Instrument No. 92141532 crossing said Lot 13 along a line parallel with the Northerly line of Mt. Diablo Avenue, 60 feet in width, South 89° 32'05" East 66.01 feet to a point in the Easterly line of said Lot 13 in the Southeasterly corner of said instrument number 92141532; thence along said Easterly line South 00° 29' 28" West 164.00 feet to a point in the Southerly boundary of the City of Tracy as shown on said Map of Mountain View Acres, Division A; thence leaving said Easterly line of Lot 13 along said Southerly boundary South 89° 32'35" East 132.02 feet to a point in the Easterly line of said Lot 15; thence leaving said Southerly boundary along the Easterly line of said Lot 15 South 00° 29' 37" West 373.68 feet to the Southeasterly corner of said Lot 15; thence along the Southerly line of said Lots 12 through 15 also being the Northerly line of Mount Diablo Avenue, 60 feet in width, North 89°32'35" West 264.00 feet to the point of beginning as per Lot Adjustment Recorded March 26, 1996 as Instrument No. 96032728.

EXCEPTING THEREFROM that portion as conveyed to the City of Tracy, a municipal corporation by Deed Recorded March 28, 1996 as Instrument No. 96032729.

APN: 235-420-15

AGENDA ITEM 3

REQUEST

INTRODUCTION OF AN ORDINANCE ADDING A NEW SECTION 10.08.3198 TO TITLE 10 OF THE TRACY MUNICIPAL CODE RELATING TO DONATION CONTAINERS – CITY INITIATED – APPLICATION NUMBER ZA15-0004

EXECUTIVE SUMMARY

City Council is being asked to introduce an ordinance relating to donation containers. This is a follow-up item in response to the 2014-2015 San Joaquin County Grand Jury Report, Charity Begins at Home: Unattended For-Profit Donation Bins Proliferate Across County (Case No. 1410), which recommended that each city in San Joaquin County adopt regulations addressing donation containers.

DISCUSSION

Background

The San Joaquin County Grand Jury issued its 2014-2015 Report, Charity Begins at Home: Unattended For-Profit Donation Bins Proliferate Across County (Case No. 1410) and recommended that each city in San Joaquin County adopt regulations addressing donation containers (Attachment A: Grand Jury Report).

On September 1, 2015, City Council approved a response letter to the Grand Jury Report (Attachment B: City Response Letter). Included in the letter were responses to each of the findings in the Grand Jury Report and a commitment from the City to enact an ordinance by December 1, 2015, to regulate donation containers.

Draft Ordinance Relating to Donation Containers

In drafting this ordinance, staff aimed to address concerns associated with donation containers such as graffiti, vandalism, overflow/dumping, litter, lack of property owner consent, and the potential proliferation of donation containers throughout the City, as has occurred in other parts of the County and the State.

The proposed draft ordinance would do the following:

- A Conditional Use Permit would be required, which would provide the City with discretionary review for the placement of donation containers and the ability to apply reasonable conditions;
- Donation containers would only be allowed on parcels zoned for non-residential use;
- Donation containers could not be located on public property, the public right-of-way, or within the 20 feet of any property line;

- Donation containers could not be located within 2,500 feet of another donation container, and there could not be more than one donation container per parcel;
- Performance standards would require that the donation container and the site be maintained free of litter and graffiti; and
- An attendant would be required to be present at the donation container at least eight hours a day, seven days a week.

The complete draft ordinance is included as Attachment C.

Staff met with Sally Wooden, Director of Marketing & Development for Goodwill Industries of San Joaquin Valley, Inc., to discuss the draft ordinance. Goodwill previously had a donation trailer at the West Valley Mall parking lot for many years. Goodwill has been a proponent for cities to enact regulations that would limit the proliferation of unattended for-profit donation bins. Ms. Wooden expressed her support for the City's draft ordinance and stated that it would address Goodwill's concerns. She also expressed appreciation that the draft ordinance would allow opportunity for Goodwill to pursue approval of a donation trailer in the future, similar to what they previously had at the Mall.

Planning Commission Discussion

The Planning Commission held a public hearing on November 4, 2015 to consider the draft ordinance. Two organizations, USAgain and Secondary Materials and Recycled Textiles Association, submitted letters to the Planning Commission in opposition to the draft ordinance (Attachment D: Comment Letters). These letters stated that the draft ordinance would essentially prohibit unattended donation bins in Tracy. The objections by these organizations were to the requirements for having an attendant at the donation container, the 2,500-foot minimum distance between donation containers, and the requirement for a Conditional Use Permit. Staff explained that it is true that unattended donation bins would not be permitted if this draft ordinance is approved and that this was done purposefully to address concerns such as dumping/overflow, litter, graffiti, vandalism, lack of property owner consent, and the proliferation of these unattended bins. Staff explained that the Goodwill donation trailer that was previously at the Mall included an attendant, which seemed to negate potential nuisances often associated with unattended bins. The Planning Commission recommended that City Council introduce and adopt the draft ordinance.

Environmental Documentation

The draft ordinance is not a project within the meaning of the California Environmental Quality Act because it does not have the potential for causing a significant effect on the environment (CEQA Guidelines, 14 California Code of Regulations, §15061(b).).

STRATEGIC PLAN

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

FISCAL IMPACT

This agenda item does not require any specific expenditure from the General Fund.

RECOMMENDATION

Staff and Planning Commission recommend that the City Council introduce an ordinance adding a new Section 10.08.3198 to Title 10 of the Tracy Municipal Code relating to donation containers.

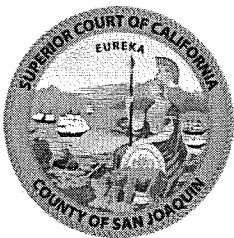
Prepared by: Scott Claar, Senior Planner

Reviewed by: Bill Dean, Assistant Development Services Director
Andrew Malik, Development Services Director
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

- A: 2014-2015 San Joaquin County Grand Jury Report, Charity Begins at Home: Unattended For-Profit Donation Bins Proliferate Across County (Case No. 1410)
- B: City Response Letter to the Grand Jury Report
- C: Ordinance Adding a New Section 10.08.3198 to Title 10 of the Tracy Municipal Code Relating to Donation Containers
- D: Comment Letters from USAgain and Secondary Materials and Recycled Textiles Association



The Superior Court
COUNTY OF SAN JOAQUIN
222 E. WEBER AVENUE, ROOM 303
STOCKTON, CALIFORNIA 95202

TELEPHONE
(209)992-5695
WEBSITE
www.sjcourts.org

FOR IMMEDIATE RELEASE
June 10, 2015

Contact: Trisa Martinez
Judicial Secretary
(209) 992-5290

SAN JOAQUIN COUNTY CIVIL GRAND JURY FINDS UNATTENDED FOR-PROFIT DONATION BINS PROLIFERATE ACROSS COUNTY

The number of unattended donation bins operated by out-of-state for-profit companies has increased dramatically in the county. They are unregulated, unmaintained, and often placed on private property without the owner's permission, an investigation by the San Joaquin County Civil Grand Jury found.

In a report released today, the Grand Jury's recommendation that San Joaquin County and its cities enact ordinances requiring owners of the bins received written permission before placing the collection bins, that they maintain the bins, and that property owners be held harmless for removing such bins placed without permission. Further, the Jury recommends that owners of the bins will be required to post signage making it clear the bins are operated by for-profit companies and not charities.

The Grand Jury's findings and recommendations are based on a months-long investigation that included interviews, tours of various sites where the for-profit bins have been placed, as well as a survey of the county and cities to determine what, if any, regulations exist to control the placement and maintenance of the unattended bins.

Only the Grand Jury foreman is allowed to comment publicly about Grand Jury investigations.

San Joaquin County and the cities of Stockton, Lodi, Tracy, Manteca, Lathrop, Ripon and Escalon are required to submit a response to each finding and recommendation in the report. Those responses must be sent to the Presiding Judge of the San Joaquin County Superior Court within 90 days.

###

San Joaquin County Grand Jury



Charity Begins at Home Unattended For-Profit Donation Bins Proliferate Across County 2014-2015 Case No. 1410

Summary

San Joaquin County residents give cash and donated goods each year valued in the millions of dollars. The United-Way of San Joaquin County alone collects nearly \$4 million in cash donations annually. County residents also give to area charities that operate retail outlets where donated goods are sold to support the agencies' local charitable programs. Often residents drop off their donations at collection points located in area parking lots.

In recent years, unattended donation bins placed by for-profit companies have been appearing in cities and unincorporated areas of San Joaquin County. These unattended donation bins are having a significant negative impact on donations to non-profit charities. There are no ordinances in San Joaquin County and its cities to enable authorities to regulate these for-profit unattended donation bins that are often simply dropped on private property without the owner's consent. In addition, there are safety



Photo of an unattended donation bin in San Joaquin County.

and liability issues that are not addressed.

The 2014-2015 Grand Jury decided to investigate the proliferation of these for-profit unattended donation bins.

Among the most important findings are:

- San Joaquin County and its cities do not have ordinances that specifically address the placement and monitoring of for-profit unattended donation bins
- These unattended donation bins are operated by for-profit companies that make millions of dollars nationwide, exporting textiles for sale at a profit in Africa and South America
- The profits go to out-of-state corporations that pay no local or state taxes and provide no benefit locally

Among the most important recommendations are:

- San Joaquin County and its seven cities should enact ordinances to regulate for-profit unattended donation bins
- Ordinances should require operators to obtain written consent from property owners before placement of any unattended donation bins, and limit the liability of property owners and their agents who remove unwanted bins from their property

Background



Unattended bin, Roselawn Avenue, east of Mission Road, Stockton

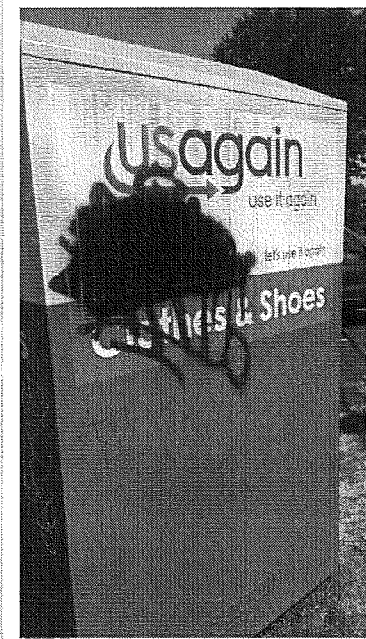
Several non-profit charities, such as Goodwill Industries of San Joaquin Valley, operate parking lot collection sites. Their sites are operated with an attendant present and with the permission of the property owner. There is little chance someone making a donation at one of these sites can be confused about who they are donating to or if that agency is a non-profit or for-profit entity.

In recent years, for-profit companies have moved into San Joaquin County. Although it is unclear exactly how many companies are involved, bins owned by two for-profit operators, USAgain and Discover Books, can be found throughout the County. Collection bins operated by the companies are unattended, often include only small signs to indicate donations are not tax deductible,

and do not spell out that donations are being exported to foreign countries.

In 2011, USAgain, according to the company's website, collected 60 million pounds of clothing from more than 10,000 donation sites in 17 states, including California. Much of the donated material was sold for a profit in Africa and Latin America.

Despite the proliferation of the for-profit unattended collection bins, the Grand Jury found no uniform city or county ordinances to regulate the placement and maintenance of for-profit bins.



Unattended bin, Country Club Boulevard, Stockton

Neither are there ordinances protecting property owners nor removal companies hired in cases where bins are placed on private property without permission and the property owner elects to have the bin removed. Unattended donation bins can attract graffiti, vandalism, and become a public nuisance. They can also be safety hazards when people crawl inside to keep warm or to remove items from the bins.

In February 2012, then-Assemblywoman and now Sen. Cathleen Galgiani, D-Stockton, introduced Assembly Bill 1978 in the California Legislature. It would have required the written consent of a property owner before a collection bin could be placed on his or her property. It also provided a mechanism for the removal of the unapproved bin without liability to the property owner.

The bill had bipartisan support. In August 2012, the bill passed the Assembly on a 70-8 vote and the Senate on a 21-13 vote, but the next month it was vetoed by Gov. Jerry Brown. "I support the author's goal of giving property owners more tools to enforce their property rights," the governor said in his veto message.

"However, I believe the language can be more narrowly crafted to avoid unintended consequences to local charities and nonprofits." Gov. Brown did not spell out what "unintended consequences" concerned him. Some non-profits, such as D.A.R.E. America and Planet Aid, had voiced opposition, arguing that the bill would have unfairly restricted their fundraising efforts.

Reasons for Investigation

The Grand Jury chose this issue because of concerns about the proliferation of unattended, for-profit collection bins in San Joaquin County and its cities. It was discovered that non-profit charities, such as Goodwill Industries and The Salvation Army, do not operate unattended donation bins. Further, they place their collection bins only with the written consent of property owners.

Witnesses testified that donations to some non-profit charities have decreased in the last few years, a change partially blamed on the proliferation of for-profit bins. The Grand Jury was told some donors believe that their donations are being made to non-profit charities. No local jobs

are created by these for-profit companies, although USAgain has many employees at its Hayward warehouse.

Donations placed in unattended bins create profits for out-of-state organizations and create problems when they are placed on private property without written consent from property owners. Many property owners want them removed, but are unable to contact the operator. They are hesitant to pay the cost of removal in case they are held liable for the bin. Other property owners choose to ignore the bin rather than pay for its removal.

U
n

Method of Investigation

Materials Reviewed

- Grand Jury surveys of code enforcement officials in San Joaquin County, Stockton, Lodi, Manteca, Lathrop, Escalon, Ripon, and Tracy
- Grand Jury survey of 12 property owners who have for-profit unattended donation bins located on their premises
- State Assembly Bill 918 (2010), now identified as Welfare and Institutions Code, §150-153 (www.leginfo.ca.gov/cgi-bin/displaycode?section=wic&group=00001-01000&file=150-153)
- State Assembly Bill 1978 (2012), vetoed by the governor
- Stockton, Lodi, and Tracy building codes
- Informational handouts from Goodwill Industries
- Elk Grove and Ceres ordinances governing the placement of unattended collection bins

Interviews Conducted

- San Joaquin County code enforcement staff
- Lathrop code enforcement staff
- Stockton Police Department code enforcement staff
- Goodwill Industries of San Joaquin Valley, Inc., and Shelter Thrift and Donation Center management staff
- Security staff at Lowe's on Hammer Lane in Stockton
- Property owners who have had for-profit donation bins on their property

Sites Visited

- Central Valley headquarters of Goodwill Industries of San Joaquin Valley, Inc.
- Shelter Thrift and Donation Center retail outlet in Stockton
- Fourteen for-profit unattended donation bin sites including locations in Tracy, Manteca, Lodi, Lathrop, Stockton, and the unincorporated county

Facts, Findings, and Recommendations

The 2014-2015 Grand Jury reviewed responses from San Joaquin County and all of its cities to a Grand Jury survey sent in October 2014. These responses show that cities and the county government have reduced staffing in their code enforcement and local police departments.

Although code enforcement officers are generally responsible for code violations, limited staff means that they only investigate when there are complaints. Some California cities, including Elk Grove, Rancho Cordova, and Ceres, have comprehensive ordinances that regulate unattended donation bins. Stockton and Lodi have ordinances directed at recycling collection sites, but not for unattended donation bins.

Different codes and policies in San Joaquin County and its cities have contributed to confusion about unattended donation bins in parking lots and on street corners. Survey responses from San Joaquin County and its cities revealed a lack of ordinances that specifically address unattended donation bins, or simply classifies them as recycling centers (see appendix). In its response to the Grand Jury survey, San Joaquin County officials, for example, said that "a donation box, whether or not for profit, placed on the site of an existing retail establishment would be considered an accessory use to the business operation." However, more than half of the property owners questioned in an informal survey found they had not given permission for the placement of unattended donation bins on their premises.

Different approaches to for-profit collection bins give a flavor of the various methods some cities have used, for example:

- Lodi ordinances refer to "recycling facilities", but do not specifically mention items often given as charitable donations such as books, shoes, household goods, and, clothing.
- Tracy cites Welfare and Institutions Code, §§150 to 153, which sets forth definition of donation bins as well as disclosure requirements that must be printed on each donation bin to provide information to consumers. That information must include the name of the organization benefiting from the donation, contact information, and how their donations would be used. Each bin also is required to have clear information on whether the donation bin is owned by a charitable or commercial (for-profit) entity.

Findings

F1.1 San Joaquin County and its cities do not have regulations that specifically address the placement, maintenance, and monitoring of unattended donation bins.

F1.2 City and county ordinances can effectively clarify who is responsible for removing unwanted donation bins and protect property owners from liability.

F1.3 Local ordinances can provide cities and the county with stronger control over unattended donation bin placement and assist to enforce them efficiently.

F1.4 Donations to out-of-state for profit operators divert donations from local not-for-profit operators, which diminishes their ability to benefit local communities.

Recommendation

R1 By December 1, 2015, San Joaquin County and its incorporated cities should enact ordinances that regulate unattended donation bins, including:

- Shall require written consent from property owners before placement of any donation bin on private property
- Shall obligate the bin owner to maintain it
- Shall obligate the bin owner to hold property owners and their agents harmless from liability who remove unwanted bins from their property
- Shall require donation bins meet or exceed the requirements found in the California Welfare and Institutions Code, §§150 to 153
- Shall adopt sanctions for any violations of the ordinance provisions
- Shall require owners of donation bins that do not have IRS Code 501(c)(3) status to pay a permit fee to generate income to help off-set ordinance enforcement efforts

Conclusion

Unattended donation bins operated by for-profit organizations are unsightly and can become safety hazards. They deprive local charities of donations that benefit our community, providing services and jobs. They generally do not make clear that the bins are placed by for-profit companies, which confuses donors making charitable donations. Understaffed code enforcement offices and confusion about whose responsibility it is to remove unwanted bins has led to lack of action. Implementation of local ordinances is an important tool in preventing this problem and will generate additional income to the county and its cities that could go toward code enforcement efforts.

Disclaimers

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon the specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Sections 911, 924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Sections 924.2 and 929).

Response Requirements

California Penal Code Sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the San Joaquin County Superior Court within 90 days of receipt of the report.

The San Joaquin County Board of Supervisors as well as the city councils of Stockton, Manteca, Tracy, Lodi, Lathrop, Ripon, and Escalon shall respond to each Finding and Recommendation contained in this Report.

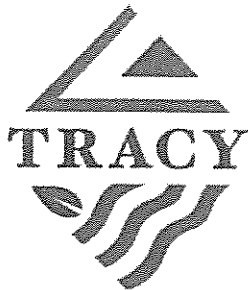
Mail or hand-deliver a hard copy of the response to:

Honorable Lesley D. Holland, Presiding Judge
San Joaquin County Superior Court
P.O. Box 201022
Stockton, CA 95201

Also, please email the response to Ms. Trisa Martinez, Staff Secretary to the Grand Jury at grandjury@sjcourts.org

Appendix

	CODE ENFORCEMENT STAFFING	ORDINANCES FOR DONATION BINS	PERMITS REQUIRED	COMPLAINT DRIVEN
SAN JOAQUIN COUNTY	2 full-time, 1 part-time	None	Yes	Yes
ESCALON	2 full-time	None	Yes	Yes
LATHROP	1 part-time	None	No	Yes
LODI	2 full-time	Yes - SEC 17.36	May require deposit	Yes
MANTECA	2 full-time, 1 part-time	None	Yes	Yes
RIPON	1 part-time	None	No	Yes
STOCKTON	26 full-time, 2 part-time	No - SMC 16.20.020, Table 2-2	Yes, on private property	Yes
TRACY	4 full-time, 1 part-time	AB918, Sec. 10.08, 1070, W&I Code §150-153	Yes, on private property	Yes.



ATTACHMENT B

City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

CITY COUNCIL

MAIN 209.831.6000

FAX 209.831.6120

www.ci.tracy.ca.us

September 2, 2015

Honorable Lesley D. Holland, Presiding Judge
San Joaquin County Superior Court
P.O. Box 201022
Stockton, CA 95201

Re: Grand Jury Report: 2014-2015 Case No. 1410 – Charity Begins at Home:
Unattended For-Profit Donation Bins Proliferate Across County

Honorable Judge Holland:

This letter responds to the above-referenced Grand Jury Report and is submitted in accordance with California Penal Code Sections 933 and 933.05. The City of Tracy's response relates to the findings and recommendations contained in the Grand Jury Report.

FINDING F1.1

San Joaquin County and its cities do not have regulations that specifically address the placement, maintenance, and monitoring of unattended donation bins.

The City partially disagrees with this finding.

The City of Tracy's zoning regulations preclude the placement of donation bins. They are not permitted or conditionally permitted in any zone in the City and, therefore, are prohibited. (Tracy Municipal Code section 10.08.1070.) Because donation bins are prohibited, the City does not have specific regulations regarding the placement, maintenance, and monitoring of donation bins.

FINDING F1.2

City and county ordinances can effectively clarify who is responsible for removing unwanted donation bins and protect property owners from liability.

The City disagrees with this finding.

The City believes that private property owners already have the authority to remove unauthorized items from their property, under California statutes and case law. (See, for example: Penal Code §602(m) (trespass), Civil Code §820 (rights of owner); Civil Code §§3501-3503 (private nuisance and abatement).) The City questions its legal

authority to impose a regulation regarding private property rights that is within the state's purview to regulate.

FINDING F1.3

Local ordinances can provide cities and the county with stronger control over unattended donation bin placement and assist to enforce them efficiently.

The City agrees with this finding.

FINDING F1.4

Donations to out-of-state for profit operations divert donations from local not-for-profit operators, which diminishes their ability to benefit local communities.

The City has no independent information to agree or disagree with this finding. In any case, the City's zoning and other regulations do not generally distinguish in-state, out-of-state, for-profit and not-for-profit uses, but instead attempt to be neutral in their effect on all property owners and users.

RECOMMENDATION R1

By December 1, 2015, San Joaquin County and its incorporated cities should enact ordinances that regulate unattended donation bins, including:

- **Shall require written consent from property owners before placement of any donation bin on private property**
- **Shall obligate the bin owners to maintain it**
- **Shall obligate the bin owner to hold property owners and their agents harmless from liability who remove unwanted bins from their property**
- **Shall require donation bins meet or exceed the requirements found in the California Welfare and Institutions Code, §§150 to 153**
- **Shall adopt sanctions for any violations of the ordinance provisions**
- **Shall require owners of donation bins that do not have IRS Code 501(c)(3) status to pay a permit fee to generate income to help off-set ordinance enforcement efforts.**

This recommendation has not yet been implemented, but the City will enact an ordinance regulating unattended donation bins by December 1, 2015. However, the contents of such an ordinance is yet to be determined.

Sincerely,



Michael Maciel, Mayor
On Behalf of the Tracy City Council

September 2, 2015
Page 3 of 3

cc: Members of the Tracy City Council
Troy Brown, City Manager
Daniel G. Sodergren, City Attorney
Via email to Ms. Trisa Martinez, Staff Secretary to the Grand Jury at
grandjury@sjcourts.org

ORDINANCE _____

AN ORDINANCE OF THE CITY OF TRACY ADDING A NEW SECTION 10.08.3198, DONATION CONTAINERS, TO THE TRACY MUNICIPAL CODE

WHEREAS, The San Joaquin County Grand Jury issued its 2014-2015 Report, Charity Begins at Home: Unattended For-Profit Donation Containers Proliferate Across County, and recommended that each city in San Joaquin County adopt regulations concerning donation containers, and

WHEREAS, The City wishes to regulate donation containers to ensure that they do not become a public nuisance, or public health and safety issue, and

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

WHEREAS, The Planning Commission considered this matter at a duly noticed public hearing held on November 4, 2015, and recommended that City Council introduce and adopt the draft ordinance, and

WHEREAS, The City Council held a duly noticed public hearing to consider the ordinance on December 1, 2015;

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

SECTION 1: A new Section 10.08.3198, Donation Containers, is added to Title 10 (Planning and Zoning) of the Tracy Municipal Code, to read as set forth in Exhibit A, attached.

SECTION 2 This Ordinance shall take effect thirty (30) days after its final passage and adoption.

SECTION 3 This Ordinance shall either (1) be published once in a newspaper of general circulation, within 15 days after its final adoption, or (2) be published in summary form and posted in the City Clerk's office at least five days before the ordinance is adopted and within 15 days after adoption, with the names of the Council Members voting for and against the ordinance. (Gov't. Code §36933.)

* * * * *

Ordinance _____
Page 2

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the 1st day of December 2015, and finally adopted on the ____ day of _____, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

Exhibit A
To Ordinance _____

A new Section 10.08.3198, Donation Containers, is added to the Tracy Municipal Code to read as follows:

“10.08.3198 Donation containers

(a) **Purpose.** The purpose of this section is to regulate donation containers to ensure that donation containers will not have a negative, blighted visual impact; impede or interfere with public access, circulation and parking; or become hazards or nuisances.

(b) **Definitions.** In this section:

Donation container means a donation or collection box, bin, trailer, or other container used for receiving donations of salvageable personal property.

Salvageable personal property means clothing, shoes, textiles, toys, personal electronic devices, media, books and other similar, small items. It does not include undesirable material, defined below.

Undesirable material means any large items that are unable to fit in the donation container, biological or organic material, or any hazardous material.

(c) **Conditional use permit required.** A property owner wishing to allow a donation container on his or her property must first obtain a conditional use permit from the City, in accordance with Sections 10.08.4250 through 10.08.4420 of Article 34.

(1) **Application.** In addition to the application requirements set forth in Section 10.08.4270 of Article 34, the application must include the following:

- (i) the property owner’s signature, indicating his or her endorsement of the application;
- (ii) the name(s), address(es), and telephone number(s) of the person or organization sponsoring the donation container. If an organization, include the name and contact information for the person managing the container;
- (iii) the proposed location;
- (iv) a detailed description and site plan of the donation container, including size, material, security features, signage, dates and times for regularly scheduled pickups and maintenance (including removal of overflow or unwanted materials); and
- (v) if the donation container will be operated for charitable purposes by a non-profit entity under Internal Revenue Code section 501(c)(3), a tax identification number and an IRS determination letter.

(2) **Findings.** In addition to the findings for a conditional use permit set forth in Section 10.08.4310 of Article 34, the Planning Commission must make the following findings before approving a conditional use permit for a donation container:

- (i) the donation container will be located on a parcel zoned for non-residential use;

- (ii) the donation container will not be located on public property, public right-of-way, or within 20 feet of any property line;
- (iii) the donation container will not be located within 2,500 feet of another donation container, and there may not be more than one donation container on a parcel;
- (iv) the location is adequate in size and shape to accommodate the donation container, allows adequate foot traffic and access by the disabled, does not encroach into or impede access to any parking space, drive aisle, trash enclosure area, landscape area or required setback area; and
- (v) the performance standards set forth in subsection (d) will apply.

(d) **Performance standards.** The following standards apply to a conditional use permit for a donation container:

- (1) Litter and graffiti. The donation container and the site will be maintained free of litter and graffiti. The property owner shall:
 - (i) remove all trash, litter, and unwanted or undesirable materials on a daily basis;
 - (ii) remove graffiti within 48 hours of written notice from the city; and
 - (iii) respond and cure within 48 hours of written notice any vandalism, damaged containers, lack of maintenance or existence of overflow materials.
- (2) Signage. The donation container shall be identified with:
 - (i) the name of the organization maintaining the container, a telephone number, address, and (if available) the internet web address;
 - (ii) the type of material that may be donated; and
 - (iii) a statement to comply with Welfare and Institutions Code sections 150-153.

The signage may be permanently painted, drawn, embedded or affixed with a film adhesive flush to the donation container. No signs shall protrude, project, or be detached from the donation container. The signage of any side may not be larger than one-half of the surface area of that side.

- (3) Attendant. The property owner will ensure that an attendant is present at the donation container at least 8 hours a day, 7 days a week. The attendant shall be fully dedicated to the donation container and not working another job on the site.
- (4) Site planning and architecture. A donation container may be subject to development review, under Section 10.08.3940 of Article 30.
- (5) Proper disposal. The property owner and container operator are responsible for disposing of undesirable material in accordance with city, state and federal laws.
- (6) Parking, Access, and Circulation. Parking, access, and circulation will be reviewed as part of the Conditional Use Permit process. Additional parking may be required.

- (7) Reporting. The container operator must report annually the tonnage collected from containers within the city, including a breakdown by material type, whether the material was reused or recycled, and any other information needed by the City to comply with AB 939 (California Integrated Waste Management Act, Public Resources Code sections 40000-49620). The operator must provide this information to the City by the end of February of each calendar year.
- (8) Insurance. The property owner must maintain a minimum general liability insurance of one million dollars to cover any claims or losses due to the placement, operation, or maintenance of the donation container.
- (e) **Enforcement.** The City may enforce this section by any means authorized in Section 1.16.010, including revocation of the conditional use permit.”



November 4, 2015

Mr. Robert Tanner
Ms. Rhodesia Ransom
Ms. Jass Sanga
Mr. Pete Mitracos
Mr. Joseph Orcutt
333 Civic Center Plaza
Tracy, CA 95376
desdirector@ci.tracy.ca.us

Via Electronic Mail

RE: Agenda Item 1-D – Proposed Ordinance Relating to Donation Containers

Dear Members of the Planning Commission,

U'SAgain, LLC ("USAgain") would like to take the opportunity to respond to the proposed ordinance to be discussed at this evening's meeting. USAgain agrees with the Grand Jury's recommendation that cities enact ordinances that regulate collection bins; however, we have concerns with the proposed ordinance as we would no longer be able to operate in the City of Tracy.

For background, USAgain is a for-profit textile recycling company with two division offices in California, one in Hayward and the other in Anaheim. We own and operate clothing collection and recycling bins on public and private property (with the permission of the municipality or property owner) for the purpose of diverting useful items from landfills and returning them to the stream of commerce. USAgain is a member of Secondary Materials and Recycled Textiles Association (SMART) and has a current business license in the City of Tracy.

USAgain believes that ordinances can effectively regulate collection bins and ensure best practices of operators. As an operator, we already meet many of the performance standards outlined in the ordinance. We meet the signage and disclosure requirements in the proposed ordinance and the Welfare and Institutions Code. We take responsibility for the cleanliness and professional appearance of our bins and within a 10 foot area of our bins. We remedy any issues within 24 hours, where practicable, and ensure the proper disposal of all materials. We maintain a minimum general liability insurance of one million dollars. Finally, we already work with municipalities to comply with AB 939 reporting.

Unfortunately, we would no longer be able to operate and provide increased textile recycling options under this proposed ordinance. This ordinance does not allow for unattended collection bins and requires that an attendant be on duty 8 hours a day, 7 days a week. Our model, in contrast, is for unattended collection bins.

Unattended collection bins offer a convenient recycling service for residents, accessible 24 hours a day and 7 days a week. The purpose of collection boxes is to divert clothing from the

waste stream by offering a convenient recycling service to local residents which is not only close to home, but also accessible 24 hours a day and 7 days a week. By locating collection boxes within strategic population areas, it is possible to effectively divert items from entering the waste stream thereby helping the environment while decreasing community disposal costs for items that are easily reusable or recyclable. It is not practical for our organization to staff each of our bins 8 hours a day, 7 hours a week when our focus is to make bins easily accessible and our mission is to reuse and recycle clothing. We also believe that the standards requiring 2,500 feet distance between bins and limiting one box per parcel are also too restrictive and limit the accessibility and convenience for residents.

In essence, this will completely prohibit USAgain from having unattended collection bins in the City of Tracy and will severely limit those operators who do have attended collection containers as well. Additionally, the Conditional Use Permit Process and the related costs (\$3,670 - \$5,905 dollars for for-profit organizations and \$390-\$608 for non-profit organizations) are quite extensive for a collection bin and cost prohibitive. We do not believe that the city wants to prohibit for-profit and non-profit organizations from having collection bins in the City of Tracy, but this ordinance may serve as a de facto ban.

We appreciate the efforts of the City of Tracy to regulate collection bins and promote best practices; however, we would like to continue to operate in Tracy and provide our convenient service to residents. We are happy to work with the Planning Commission and the Planning Department to develop an ordinance that balances the interests of the City and its residents, but still allows us to operate.

Sincerely,



Sheila Caplis
Government Relations Manager & Legal Counsel
USAgain, LLC
1555 W. Hawthorne Lane, 4W
West Chicago, IL 60185
630-293-1239 x1012 (office)
630-293-1237 (fax)
s.caplis@usagain.com

CC: Scott Claar, Senior Planner
Katerina Stephens
Henry Rogers

November 4, 2015

City of Tracy Planning Commission
333 Civic Center Plaza
Tracy, CA 95376

Dear City of Tracy Planning Commission:

I am writing on behalf of the Secondary Materials Recycled Textiles Association (SMART) to express concerns about the city of Tracy's proposed ordinance that would impose new regulations on collection bins used to capture people's unwanted clothing, shoes, household textiles and other items. While the aim of this ordinance appears well-intended, SMART is greatly concerned with several of its key provisions, including requirements that there be a 2,500 foot distance between bins, a limit of only one bin per parcel, and a requirement that there be an attendant on duty 8 hours a day, 7 days a week. Such provisions ultimately would choke off a critical source of revenue for numerous charitable non-profits and hinder critical waste reduction and economic growth objectives. To better understand why this would be the case, we will provide some background on our organization and our industry.

Background

By way of background, SMART is a non-profit trade association founded in 1932 that represents nearly 200 small and medium-sized companies involved in using, converting and recycling pre- and post-consumer textiles and other secondary materials, including for-profit collection bin operators. The activities of this nearly \$1 billion industry, which is comprised of mostly small, family-owned businesses, are very diverse.

Some SMART members recover and process "pre-consumer" by-products from the textile and fiber industries to be used in new materials for automobiles, home furnishings, and a variety of other products. Other SMART businesses buy and sell "post-consumer" second hand textiles, purchasing excess textile donations collected from various charities and commercial sources (e.g. Salvation Army, Goodwill, hospitals, hotels, industrial laundries, etc.), while others collect used textiles dropped off by the public via clothing collection bins conveniently located throughout communities. Some of these recovered textiles become wiping and polishing cloths used in institutional and industrial settings while others are reprocessed into fibers for furniture stuffing, upholstery, insulation, building and other materials. The items that can be reused as apparel are usually exported, typically to least developed and developing countries where demand for second hand clothing is especially high.

Through these business activities, bin operators and other for-profit textile recyclers create meaningful employment for some 15,000-20,000 people who drive local economies and generate much-needed tax revenue across the United States.

These companies also make vital contributions to state and national environmental goals through the recycling of nearly 4 billion pounds of used clothing and other textile waste that would have

otherwise gone to a landfill each year. Yet despite the industry's contributions, recent data shows that this figure is a mere 15 % of the total and Americans still throw away some 21 billion pounds of used textiles each year. These realities have prompted officials in Massachusetts, Rhode Island, New York State and elsewhere to investigate textile recycling opportunities and have led various local and state governments to approach the industry about helping them develop similar programs as a means towards achieving their broader waste reduction goals.

These realities have prompted officials in New York, Massachusetts, Connecticut, Washington, Rhode Island and elsewhere to adopt programs supporting textile recycling and have led various local and state governments to approach the industry about helping them develop similar programs as a means towards achieving their broader waste reduction goals. Indeed, we are proud to note that SMART's work with NYSAR3 (New York State Association for Reduction, Reuse and Recycling) on the statewide "ReClotheNY" textile recovery campaign was recently awarded the prestigious 2015 U.S. Environmental Protection Agency Environmental Champion Award for Region II.

Collection bins that our members provide are a critical piece of this growing textile recycling strategy. As we know, curbside recycling of aluminum cans, paper products, plastic and glass has dramatically increased the recycling of those materials. As it turns out, the same holds true for the recycling of clothing and household textiles which has led numerous municipalities to add curbside collection of clothing and textiles to their local recycling programs. Meanwhile, various states are encouraging the use of collection bins like those operated by our members for their textile waste reduction and recovery programs.

These businesses also create a vital stream of revenue for numerous well-respected charities. For-profit textile recyclers routinely partner with local charities to collect unwanted items through the use of convenient collection bins bearing the charity's name and logo. This partnership allows the charities to share in the profit from the proceeds of collecting unwanted clothing, shoes, textiles and other household items in communities. As a number of charities have gone on the record to state, these arrangements provide essential, risk-free funding that is difficult to secure through other sources, and this financial support is substantial and critical to their ability to fulfill their charitable missions. In addition, various small thrifts throughout the United States use collections bins for recycling their products. When bins are being pulled from communities, smaller thrifts no longer have a recycling solution for their clothing, forcing them to dispose of their products in the landfills.

Reason for Opposition

SMART member companies wholeheartedly support measures that address any potential "bad actors" in the recycling/re-use community and abide by a rigorous code of conduct (attached) that mandates transparency and responsible bin practices. This code of conduct, in fact, served as the basis of a guidance document recently issued by the Attorney General of Kentucky for communities considering such measures (attached). SMART has also adopted a "Key Elements of an Effective Clothing Collection Bin Ordinance" position paper and draft sample legislation

(attached) that support a local community's right to establish meaningful permitting, disclosure, maintenance and other requirements to manage these bins.

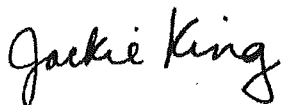
While we support measures to address concerns about bad actors, as noted, we are greatly concerned with several of the provisions in the draft ordinance you are considering including a requirement that there be 2,500 foot distance between bins and a limit of one bin per parcel, which would greatly limit the availability of these bins to the public. We are especially concerned about the proposal to require an attendant to man these bin 8 hours a day, 7 days a week. As you can imagine, this requirement would be impossible for most for-profit bin operators to meet, amounting to an effective ban of these companies.

This would have the grave consequence of stifling a much-needed source of revenue for numerous worthwhile charitable nonprofits. It would also discriminatorily ban for-profit collection bins, which would eliminate proven convenient and effective tools for diverting excess textile waste. It should be noted that other jurisdictions that have proposed or implemented similar restrictions banning for-profits have been found by the courts to be anti-competitive. This has prompted community and state officials that were considering similar measures at one time to instead develop more inclusive proposals that allow for participation by for-profit entities. Many have used the SMART draft legislation as a guideline in developing their comprehensive proposals.

It is for these reasons that SMART recommends you utilize our draft bin ordinance and other materials as you work to advance this measure and to engage affected businesses, charitable nonprofits and other stakeholders to develop an ordinance that reflects the realistic operation and use of these bins and provides for the full range of non-profit and for-profit bin options. Doing so will protect the interests of the city and its people while preserving the meaningful economic, philanthropic and environmental/waste reduction contributions being made by both non-profits and for-profits alike.

Should you have any questions or concerns, I can be reached directly at 443-640-1050, ext. 105 or via e-mail at Jackie@kingmgmt.org.

Sincerely,



Jackie King, Executive Director
Secondary Materials and Recycled Textiles Association

Enclosures



The Association of Wiping Materials, Used Clothing and Fiber Industries

Key Elements of an Effective Clothing Collection Bin Ordinance

SMART Association Recommendations

As a growing number of local governments propose measures that aim to regulate organizations operating clothing collection bins (herein referred to as bins) that collect unwanted clothing, shoes, textiles and other household items, the leading organization of the textile recycling industry, **Secondary Materials and Recycled Textiles Association (SMART)**, offers recommendations to local governments for the drafting of effective ordinances.

SMART is frequently approached by officials seeking language for clothing collection bin regulations. While every city has different methods for regulating local businesses, which makes it difficult to craft a one-size-fits-all approach, **SMART** has identified a number of key recommendations to achieve effective and community sensitive ordinances.

While some local governments look to simply clarify existing policies, others are discussing a limit or outright ban on the presence of bins provided to the community by for-profit entities. Unfortunately, those measures in the latter category have unintended consequences for the communities they serve. Banning or limiting the ability of for-profit textile recyclers to operate clothing collection bins severely limits contributions that private sector businesses are making to meet national economic, philanthropic and environmental objectives.

For-profit textile recyclers create tens of thousands of jobs throughout local and international communities and create a vital stream of revenue for numerous well-respected charities. For-profit textile recyclers routinely partner with local charities to collect unwanted items through the use of convenient collection bins bearing the charity's name and logo. This partnership allows the charities to share in the profit from the proceeds of collecting unwanted clothing, shoes, textiles and other household items in communities. As a number of charities have stated on the record, these arrangements provide essential, risk-free funding that is difficult to secure through other sources. Therefore, policy measures that limit for-profit textile recyclers from operating these bins would devastate many charities' bottom line.

Clothing collection bin operators and other for-profit textile recyclers also play a vital role in national recycling activities by diverting nearly 4 billion pounds of used clothing and other textiles from landfills each year. Unfortunately, as Environmental Protection Agency data show, the average household only recycles approximately 15% - a fraction of the total textile waste generated annually. This reality has prompted public officials in Massachusetts, New York City, Arizona and elsewhere to work with for-profit organizations to institute textile recycling programs. These officials understand that the unique efficiencies and infrastructure that the private sector offers are absolutely necessary to successful waste reduction efforts.

Below are recommendations provided by **SMART**:

RECOMMENDATIONS

➤ ***An effective clothing collection bin ordinance SHOULD NOT ban bins operated by for-profit recyclers.***

Broadly held misconceptions about the textile recycling industry have led some communities to consider banning bins provided by for-profits, with critics charging that some companies aren't as transparent in their charitable affiliation arrangements as they should be, that some fail to properly maintain their bins, and that donations create debris and clutter in public places. It is a reality that there are non-**SMART** member companies that do in fact merit the critiques of detractors. **SMART** member organizations have approved a robust Code of Conduct that is designed specifically to prevent these outcomes and believe that these non-compliant companies are the "bad actors" that should be weeded out by local government regulation. However, imposing outright bans on all for-profit recyclers actually threatens the public good. For example:

- Banning clothing collection bins operated by all for-profits will significantly increase the stream of textile waste in disposal sites and increase the cost to local governments to operate local landfills.
- For-profit textile recyclers create positive tax bases across the United States by creating thousands of jobs, and by creating much needed revenue streams for worthy charities nationwide. Banning bins operated by for-profit textile recyclers will eliminate these meaningful contributions.

We believe that communities should work with local industry representatives to craft measures that simultaneously address concerns and enable textile recycling to thrive.

➤ ***Ordinances SHOULD NOT impose artificial limits on the number of clothing collection bins per organization.***

While some local governments have moved to impose outright bans on bins, others have called for limits on the number of bins allowed per organization. Although bin operators *must* ensure that bins meet all applicable public zoning, health and safety standards, strict limits on the number of bins per organization means reducing the number of convenient locations for the public to donate and recycle their used clothing and household items.

➤ ***Ordinances SHOULD impose disclosure and transparency requirements on clothing collection bin operators.***

Ordinances should require bins to display helpful information for the public, local government, property owners and bin operators, including:

- Contact information (name/address/telephone/email; url) for person, business entity, or organization responsible for placing and maintaining the bin;
- A statement making clear that those dropping off goods may contact the appropriate local operator for additional information regarding the manner in which the items will be used, sold, or dispersed;
- A copy of the bin permit, if one is required, should be made available to local government officials, as requested.

- **Ordinances SHOULD discourage the use of deceptive or ambiguous labels/logos on clothing collection bins that falsely imply an underlying affiliation with a charitable organization when one does not exist.**
- **Ordinances SHOULD require clothing collection bin operators to obtain written consent from a property owner or owner's agent prior to placing clothing collection bins.**

Though it is imperative that a bin operator should be required to obtain consent in order to preserve the respectability of the textile recycling industry and to uphold property rights, an "owner's agent" should be broadly defined to include the authorized local agent at a chosen bin location. Many times large multinational corporations anchor sites where bin operators will choose to locate. It is nearly impossible to obtain a signed document from the CEO of these companies or their fiscal agent located at company headquarters. An owner's agent should include a local property manager/agent or authorized general store manager, so that bin operators are realistically able to obtain the consent necessary, and to avoid undo and unwieldy consent thresholds.

- **Ordinances SHOULD specify appropriate management/maintenance requirements to prevent clothing collection bins from becoming a threat to public health and safety.**

Maintenance requirements should be reasonable and realistic and should provide clothing collection bin operators the opportunity to respond to any potential issues. Requirements may be general, e.g. "Bins shall be serviced and emptied as needed or within 48 hours of a request by owner or owner's agent."

- Ordinances SHOULD require organizations to provide a Certificate of Liability Insurance of at least \$1 million.
 - Ordinance should require bin operators to secure each clothing collection bin with a tamper proof lock.
 - Ordinances should require bin operators to maintain the aesthetic presentation of the bins including fresh paint, readable signage, and general upkeep to maintain community standards.
 - ***In addition it should be clearly posted on the bin that nothing should be left outside of the bin, and provide a clear and visible phone number to follow up on maintenance issues.***
- **Ordinances SHOULD require clothing collection bin operators to provide property owners or owner's agents with an attended, working phone number and be required to respond to any bin maintenance complaints within 24 hours of receiving notification during regular business hours.**
- **Ordinances SHOULD provide both property owners and clothing collection bin operators important civil liability protections by:**
 - Giving property owners or owner's agent the right to rescind consent for a bin to be placed on their property, provided written notice of the rescission is given to the bin operator within a specified period of time prior to the bin being removed.

- Shielding property owners or owner's agents from civil liability from a clothing collection bin operator for the removal of an unauthorized bin or where removal is necessary to comply with local zoning ordinances.
- Ensuring that a property owner, owner's agent or other entity that causes the unauthorized removal of a collection bin, despite valid written consent from the property owner at the time of removal, is civilly liable to the owner/ operator of the bin.

➤ **Ordinances mandating the acquisition of permits SHOULD mandate the requirements be reasonable, affordable and manageable.**

Many communities require bin operators to obtain a permit before placing a bin. **SMART** supports the right of a community to require permits, yet the following recommendations to assure a reasonable, affordable and manageable process.

- **Information requested on a permit application SHOULD be straightforward and necessary. Examples include:**
 - Contact information (name/address/telephone/email) for person, business entity, or organization applying for the permit
 - Proposed location/address where the bin is to be placed
 - Contact information (name/address/telephone/email) for owner or owner's agent of location where bin will be placed
 - Written consent from the property owner or owner's agent to place the bin on his or her property
 - Contact information (name/address/telephone/email) for individual placing the bin
 - Information as to the manner/ schedule for which the bin is to be emptied/maintained.
- **Permitting fees SHOULD NOT be cost-prohibitive.**
 - A \$25-\$50 initial processing/application fee and \$10 for each additional bin is a standard adopted by many local governments and are fees that **SMART** supports. Keeping permitting fees at a reasonable and non-cost prohibitive level will assure the availability of donation bins and increase textile recycling.
- **Permits SHOULD remain in effect for at least one year.**
- **Permitting agencies SHOULD be required to respond to applicants within a specific amount of time and provide adequate justification if a permit is denied.**
- **Organizations applying for a permit should be required to be registered with the appropriate state corporation regulatory agency.**

➤ **Local governments SHOULD provide for enforcement and abatement when certain key obligations are not met.**

Many local governments have opted to codify clothing collection bin ordinances within jurisdictional zoning provisions. **SMART** respects the ability of local government to determine the best statutory

method for regulation, yet recommends that ordinances specifically provide for tangible enforcement and penalty provision for failure to meet ordinance provisions.

Ordinances should have enforcement provisions for:

- unlawful placement of bins
- infringement on another permittee's location
- failure to remove debris, graffiti or bulk items in allotted time
- failure to respond to maintenance requests in allotted time
- violation by property owners or bin operators to adhere to permit provisions for initial location and removal of bins
- to provide for legal protections for both property owners and bin operators

SECONDARY RECOMMENDATIONS

SMART also has the following suggestions for other less critical provisions that communities may wish to include in clothing collection bin ordinances:

➤ ***Local governments may wish to include language establishing that the purpose/intent of the measure is to establish procedures and requirements that:***

- Encourage the use of clothing collection bins to provide free, easy and convenient public solutions for community textile recycling.
- Adopt textile recycling programs to reduce the amount of textile and household waste going to landfills and reduce landfill dumping fees.
- Implement these no cost private sector recycling solutions to meet local and statewide waste reduction mandates.
- Support textile collection and recycling programs that provide funding to charitable organizations and stimulate local economies.
- Ensure transparency about how these contributions will be used.
- Promote the community's health, safety and welfare.

➤ ***Local governments may wish to specify appropriate dimensions/bin specifications.***

Officials may wish to work with local industry representatives to recommend specifications that are consistent with industry standards.

- *Local governments may wish to include a definitions section identifying key stakeholders, terminology, etc.*
- *Local governments should endeavor to harmonize ordinance terminology with that used by other local governments when at all possible.*
 - There are many cases where it is difficult to determine the applicability of an existing clothing bin ordinance because of differences in the terminology used by various local governments to describe/define these bins (e.g. some refer to bins as “temporary structures,” while others deems them “dumpsters” or “accessory units,” etc.). This ambiguity, in many cases, makes it difficult for the bin operator and often times even for local officials to identify the appropriate requirements and may result in inadvertent ordinance violations. To address this concern, local governments when at all possible should aim to harmonize terminology with that which is being most commonly used by other local governments.

Questions? Please contact the Secondary Materials Recycled Textiles Association at 443-640-1050 or via e-mail: smartinfo@kingmgmt.org or visit our website at www.smartasn.org.

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY/VILLAGE OF
[INSERT HERE]

RECYCLING COLLECTION BINS

SUMMARY

An Ordinance amending the Municipal Code of the City/Village of [INSERT HERE] establishing rules, regulations and registrations of Recycling Collection Bins.

LEGISLATIVE INTENT

The City Council/Village Board notes that the citizens of the United States disposes of more than 242.96 million tons of solid waste each year, 55%-65% of which comes from single family residences. With a national recycling rate of just 33.8% such disposal unnecessarily burdens the state's landfills and contributes to pollution and climate change by emitting greenhouse gases such as CO₂ and methane.

It is the intent of this ordinance to support and encourage, in a responsible manner, the placement and use of attended and unattended recycling collection bins. These bins are most commonly used to collect for recycling, re-sale or re-use general household goods such as clothing, shoes, books and small appliances. When enacted, this ordinance will protect the environment by increasing community recycling and reducing the burden on local landfills, and will improve the economy by creating more jobs and provide goods for reuse and recycling.

Definitions.

Recycling Collection Bin

An attended or unattended receptacle, trailer or container made of metal, wood, steel or similar material for permanent or temporary use, designed or intended for the collection of unwanted clothing, shoes, textiles, books and other household items.

Site Host

The owner or lawful occupant (or their respective representatives) of the site of a Recycling Collection Bin within the City.

Permittee

Any organization, firm or other entity that owns and receives a permit to operate a Recycling Collection Bin in the City pursuant to this Chapter.

§xxx. Permit required; dates of issuance, expiration, response

- A. It shall be unlawful to erect, place, maintain or operate any Recycling Collection Bin without first obtaining a permit issued by the City.
- B. The City shall approve permittee's application if such application fulfills the application requirements under **§xxx. Qualifications of Permittee and Form of Application.**
- C. A permit issued under this Chapter shall be valid for one year and renewable for one-year periods thereafter.
- D. Recycling collection bins owned and/or operated by one entity for the benefit of another entity require the contact information for both entities on the permit application.

§xxx. Fee required.

- A. Initial Application (one-year period) e.g. \$25.00.
- B. Renewal Applications (one-year period) e.g. \$25.00.
- C. Sticker fee (one year period) e.g. \$10.00.

§xxx. Qualifications of Permittee and Form of Application.

In order to qualify as a permittee under this Chapter, an applicant must either be (1) a public charity exempt from taxes under Section 501(c)(3) of the United States Internal Revenue Code, and in good standing with the State of xxx, or (2) a business in good standing with the State of xxx. The application for a Recycling Collection Bin permit shall require the following information from the applicant:

- A. If the applicant claims to be a qualified nonprofit entity, (1) a copy of the determination letter issued by the Internal Revenue Service stating that the applicant is a public charity exempt under Internal Revenue Code Section 501(c)(3), and (2) a certificate of good standing issued by the state office that regulates corporations.. If the applicant is a business, a certificate of good standing issued by the Office of the Secretary of State of xxx. A certificate of good standing must not be older than 3 months at the time of application for a permit.
- B. Name, address and telephone number of contact person of the applicant.
- C. Written consent from the Site Host to place the Recycling Collection Bin on the property, including name, address and telephone number of the Site Host.
- D. Permittee must provide proof to the City of a Certificate of Liability Insurance of at least \$1million covering permittee's Recycling Collection Bins.

§xxx. Proof of Permit

The City shall provide the permittee with one permit sticker for each approved permit. The permit sticker shall be placed in a conspicuous place in front of the recycling collection bin that is installed on the permitted property. The City will provide replacement stickers for (insert value) should the original sticker become damaged, fall off or disappear.

§xxx. Management, Maintenance; Requirements

- A. Permittee must maintain the aesthetic presentation of each recycling collection bin including fresh paint, readable signage and general upkeep.
- B. Permittee must provide to the Site Host a telephone number for requests to respond to recycling collection bin maintenance complaints.
- C. Permittee must respond to recycling collection bin maintenance complaints within 24 hours of receiving notification during regular business hours.
- D. Permittee must remove graffiti within 72 hours following receipt of notice of its existence.
- E. If a recycling collection bin becomes damaged or vandalized, it shall be repaired, replaced or removed within five days of receipt of notice of such condition.

§xxx. Placement of Recycling Collection Bins

- A. Recycling Collection Bins shall be placed on the site in a manner that does not impede vehicular or pedestrian traffic flow.
- B. Recycling Collection Bins shall not be placed in the right-of-way and shall adhere to the set-back standards for the site where they are placed.
- C. Recycling Collection Bins shall not be placed in a required parking space (designated for handicap/disabled parking) or reduce the number of parking spaces below the minimum number required by local zoning codes.
- D. Recycling Collection Bins placed on sidewalks must allow for five (5) feet of pedestrian walkway in front of the Recycling Collection Bin.
- E. Recycling Collection Bins shall not be placed within the sight triangle of any intersection.

§xxx. Information and Label Requirement for all Bins

The front of every Recycling Collection Bin shall conspicuously display the following:

- (a) The name, address, telephone number and the Internet Web address of the Owner and Operator the recycling collection bin;
- (b) A statement, in at least two-inch typeface, that either reads, or "this collection bin is owned and operated by a nonprofit organization" or "this collection bin is owned and operated by a for-profit organization";
- (c) If the recycling collection bin is owned by a non-profit organization, the front of the collection bin shall also conspicuously display a statement describing the charitable causes that will benefit from the donations;
- (d) If the recycling collection bin is owned by a for-profit company, the front of the collection bin shall conspicuously display a statement that reads "[name of company] is a for-profit company, deposits are not tax deductible";

Recycling collection bins operated by a for profit entity on behalf of or in conjunction with a non-profit organization shall have the name ,address, telephone number and web address of both entities on the front of the bin.

(e) Recycling collection bins operated by corporate fundraisers or any entity placing and operating collection bin(s) for the benefit of another for-profit entity or non-profit entity shall abide by the requirements of (d) above and any additional guidelines and labeling requirements required under state law.

§xxx. Reporting of Recycled Goods.

The Permittee must report the total number of tons of goods diverted from the municipal waste stream in the city. Such reporting should be done on a quarterly basis to the City Clerk by letter or e-mail.

§xxx. Violations and Penalties.

- A. In addition to any other penalties or remedies authorized by law, any permittee which violates any provision of this Chapter shall be subject to a penalty of \$250 for each violation, which includes:
1. Unpermitted placement of a Recycling Collection Bin;
 2. failure to adequately respond to maintenance request pursuant to this Chapter;
 3. failure to maintain Recycling Collection Bins pursuant to this Chapter;
 4. failure to adhere to Recycling Collection Bin placement and removal provisions pursuant to this Chapter; and
 5. Failures to adhere to all permit requirements pursuant to this Chapter.
- B. If a permittee is found to have willfully violated the provisions of this Chapter and ignores mitigation, on more than 3 occasions in a calendar year, the permittee shall, in addition, be deemed ineligible to place, use or employ a recycling collection bin within the City pursuant to this Chapter for a period of five years, and the City may remove any or all of such permittee's recycling collection bins upon 30 days advance notice.

§ xxx Liability; protections

- A. A Site Host shall have the right to rescind consent for a recycling collection bin to be placed on the property, provided written notice of the rescission is provided to the permittee, as provided in their agreement but in no event less than 10 business days prior, to the recycling collection bin being removed.
- B. The Site Host will be held harmless by the permittee for the removal of an unauthorized recycling collection bin or where removal is necessary to comply with local zoning ordinances.
- C. A Site Host that causes the unauthorized removal of a permitted recycling collection bin pursuant to this chapter is civilly liable to the permittee of that recycling collection bin.
- D. Permittees shall maintain general liability insurance that covers any claims or losses due to the placement, operation or maintenance of the recycling collection recycling collection bin.



**SECONDARY MATERIALS®
AND RECYCLED TEXTILES**

The Association of Wiping Materials, Used Clothing and Fiber Industries

Clothing Collection Bin Operator Code of Conduct

Companies that are members of the Secondary Materials and Recycled Textiles Association (SMART) are deeply committed to recycling and waste reduction, and through their business activities, are responsible for diverting billions of pounds of used textiles and other household wastes from landfills each year. They are also committed to giving back to their communities, and as a matter of course, create substantial revenue for numerous 501(c)(3) charitable nonprofit organizations by purchasing inventory donated to the charities by the public. To do this, SMART members frequently forge partnerships with charitable groups, agreeing to provide clothing collection bins and collection services and to share in related proceeds in exchange for using the charity's name/logo on their bins. These arrangements are broadly beneficial to participating charities as they provide a risk-free and effortless means of generating much needed funding without any overhead.

Yet, despite the meaningful contributions for-profit clothing collection bin operators are making to broader environmental and philanthropic goals, they have sometimes come under fire, with critics alleging that some operators do not fulfill their obligations to maintain collection bins or provide enough transparency about the intended use of contributions.

While these instances are by far the exception and not the rule, to prevent potentially negative outcomes and effectively support recycling and reputable charitable nonprofits, SMART member clothing collection bin operators abide by a stringent code of conduct. The elements of this code are detailed below.

SMART member clothing collection bin operators agree to:

1. Ensure collection bins identify the name and telephone number of the company responsible for maintaining the bin(s);
2. Clearly mark collection bins with the names and telephone numbers of the sponsoring organization and names and contact information (phone number, email address or website URL) of charities receiving benefit;
3. Refrain from using deceptive or ambiguous labels/logos on bins that imply contributions will go to support a particular cause if there is no underlying affiliation with a charitable organization and clearly disclose the for-profit nature of your business on the collection bins;
4. Obtain written consent from a property owner and/or representative prior to placing and/or moving collection bins on any private property;

5. Service collection bins as often as necessary to avoid accumulation of recycled items or debris around said bins;
6. Provide the property owner and/or representative with a working phone number and commit to responding to any complaints regarding bin maintenance within 24 hours of receiving notification during regular business hours;
7. Comply with any applicable zoning and or permitting requirements, including state, local and municipality requirements.

SMART encourages clothing collection bin operators to perform due diligence to ensure the legitimacy and good-standing of any potential 501(c)(3) charity partner. To accomplish this, collection bin operators may wish to ask charitable partners to furnish:

- A letter of determination from the Internal Revenue Service (IRS) indicating valid 501(c)(3) tax status;
- Documentation indicating satisfactory completion of an independent, third-party review verifying compliance with any applicable IRS requirements;
- A copy of the charity's completed IRS Form 990 for the most recent tax year;
- Any other form of acceptable documentation demonstrating that a nonprofit meets recognized standards for charitable accountability.

Any SMART member company found to have violated any of the numbered provisions above may face disciplinary action from the association including but not limited to revocation of any related member benefits and/or privileges up to expulsion.

Of course, SMART also encourages consumers and the general public to perform due diligence to ensure the legitimacy and good-standing of any potential clothing collection bin operator and to contact their local state Attorney General's office to determine if these organizations or their private sector partners are registered and compliant with state and local regulations. Consumers/the general public may also wish to utilize an independent, third-party review service like www.charitynavigator.org or www.charitywatch.org to assess the activities of a potential charitable recipient.



Approved by SMART Board of Directors - February 2, 2012

Revised – August 10, 2012

Revised – July 18, 2013



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

JACK CONWAY
ATTORNEY GENERAL

CAPITOL BUILDING, SUITE 118
700 CAPITAL AVENUE
FRANKFORT, KENTUCKY 40601
(502) 696-5300
FAX: (502) 564-2894

Memorandum

To: Kentucky League of Cities, Kentucky Magistrates and Commissioners Association, Kentucky Association of Counties and Kentucky County Judge Executives Association
From: Office of the Attorney General, Commonwealth of Kentucky
Re: Donated Clothing Collection Bins
Date: February 7, 2014

It has come to the attention of our office that certain communities are being asked to consider proposals that would place new or enhanced regulations on the placement of donated clothing collection bins used for charitable purposes.

Legitimate charitable organizations utilize these collection bin programs to generate revenue in support of programs that help some of our most vulnerable citizens. Without these bin programs, some of these organizations could face a funding loss that may impact programs and services they offer in your communities.

Textile (clothing) recycling doesn't just help charitable organizations, it helps your community. Nearly 5% of landfill space is taken up by textile items that could have been recycled, and it is estimated that only 15% of potentially recyclable material is currently entering the recycling system. By providing more opportunity to recycle old clothing, these bin programs can cut down on the amount of material going to landfills.

The Office of the Attorney General has the utmost respect for your authority to promulgate or enact ordinances, rules and regulations within your community. We hope you will help protect these legitimate charitable organizations' ability to carry out collection bin programs. If you have any questions or need further guidance on this issue, please feel free to contact the Consumer Protection division of our office at (502) 696-5300.

In order to maximize the benefit these bins can have in your community, the Office of the Attorney General hopes that you will consider the following best practices if your jurisdiction is faced with this issue:

Best Practices for Donated Clothing Collection Bins

1. Comply with disclosure requirements set forth in KRS 367.668.
2. Bins should clearly identify the name and phone number of the company responsible for maintaining the bin, the sponsoring organization and the charity receiving the benefit.
3. Refrain from using deceptive or ambiguous labels/logos on bins that imply donations will go to support a particular cause if there is no underlying affiliation with a charity and clearly disclose the profit nature of your business on the bins.
4. Obtain written consent from a property owner prior to placing and/or moving a collection bin on private property.
5. Service bins as often as necessary to avoid accumulation of donated items or debris around the bins.
6. Provide the property owner with contact information and commit to responding to any complaints regarding box maintenance within 24 hours of receiving notification during regular business hours.
7. Comply with applicable local, state and municipality zoning and permitting requirements.





**SECONDARY MATERIALS®
AND RECYCLED TEXTILES**

The Association of Wiping Materials, Used Clothing and Fiber Industries

Clothing Collection Bins: An Equitable Regulatory Response

Introduction

Collection bins provide a convenient recycling service. Studies and surveys have shown that the most sustainable option to increase recovery rates is to bring recycling close to where waste is generated.¹ By locating collection bins within strategic population areas, it is possible to effectively divert items from entering the waste stream.

Local communities have warmly welcomed collection bins for aluminum, plastic, glass, and paper; however, special focus must be given to clothing collection bins since recycling of textiles is missing from most curbside recycling programs. With 24 billion pounds of textiles going into landfills every year, these bins can play an important role in waste diversion.² Clothing collection bins are part of a fairly new but growing industry and they are by and large unregulated. Unfortunately, some operators have not managed their bins properly; failing to provide timely pick-ups, misrepresenting their business status, and overall misleading the public they claim to help.

State, local, and municipal governments have struggled to ensure that clothing collection bin operators properly maintain their bins to community standards and operate transparently. The increased proliferation of clothing collection bins has become a concern for local governments who have responded to the issue in various ways, from strict ordinances to outright bans. These regulations are not always without reason, but neither extreme approach is conducive to providing a convenient service to residents and increasing recycling rates.

The key issue that must be addressed is that there is not a uniform and equitable regulatory response to the placement and service of clothing collection bins across local communities. Read on to get a deeper understanding of the benefits made available by the textile recycling industry and a reasonable regulatory approach to guarantee communities continue to reap the benefits of the conveniently placed clothing collection bins, while avoiding problematic issues and costs that may impact some communities.

The Benefits of Clothing Collections Bins

Bins Provide Easy Access to Recycling

Clothing collection bins offer a convenient service for communities, accessible 24 hours a day and 7 days a week. The bins are located in high traffic areas like gas stations,

¹ Travis P. Wagner, "Examining the Concept of Convenient Collection: An Application to Extended Producer Responsibility and Product Stewardship Frameworks," Waste Management, 2012.

² <http://www.epa.gov/osw/conserves/materials/textiles.htm>

grocery stores, schools, shopping malls, and apartment buildings, allowing people to use them conveniently in the normal course of their day.

Although the common notion is that thrift stores and charities already collect most unwanted clothing, the facts do not support this line of thinking. In 2012, 28.6 billion pounds of textiles were generated, but only 15.7 percent were recovered for reuse and recycling – wasting nearly 24 billion pounds.³ This means there must be significant changes to the recycling options that are currently provided to communities. Studies and surveys show people are more likely to recycle if the opportunity is easily accessible to them.⁴ Clothing collection bins fill this void for easy access to recycling demand, encouraging more communities to help divert textile waste.

Bins Help the Environment

It is estimated that the textile industry accounts for 10 percent of the world's entire carbon impact.⁵ In the United States alone, it is the 5th largest contributor to CO₂ emissions lagging only behind primary metals, nonmetallic mineral products, petroleum, and chemicals.⁶ Further, landfilled textiles emit methane and other greenhouse gases, and may take hundreds of years to decompose.⁷

Extending the lives of textiles by putting them back in the use cycle has a high greenhouse gas reduction level of impact compared to other recyclables. A recent study by the U.S. Environmental Protection Agency found that 4.5 billion pounds of textiles were recycled in 2012.⁸ The greenhouse gas benefits associated with this diversion alone is equivalent to removing over one million cars from the road in a year.⁹ That is more than 6 times the impact of recycled yard trimmings, more than 5 times the impact of glass recycling, nearly double the impact of recycled plastics, and nearly the same impact as recycling aluminum.¹⁰ To get a better understanding of this number, the average passenger car generates around 9,700 pounds of CO₂, meaning around 10 billion pounds of emissions were prevented from entering the atmosphere by recycling textiles.¹¹

Bins Keep Community Costs Down

It costs millions to dispose of textiles in landfills, paid through curbside collection of waste and transport and tipping fees to dump materials in landfills. The average charge

³ <http://www.epa.gov/osw/consERVE/materials/textiles.htm>

⁴ Travis P. Wagner, "Examining the Concept of Convenient Collection: An Application to Extended Producer Responsibility and Product Stewardship Frameworks," Waste Management, 2012.

⁵ [http://www.textileworld.com/Issues/2010/July-](http://www.textileworld.com/Issues/2010/July-August/Dyeing_Printing_and_Finishing/Climate_Change-Carbon_Mitigation_And_Textiles)

[August/Dyeing_Printing_and_Finishing/Climate_Change-Carbon_Mitigation_And_Textiles](http://www.textileworld.com/Issues/2010/July-August/Dyeing_Printing_and_Finishing/Climate_Change-Carbon_Mitigation_And_Textiles)

⁶ <http://oecotextiles.wordpress.com/2009/05/25/carbon-footprint-of-the-textile-industry/>

⁷ <http://oecotextiles.wordpress.com/2009/05/25/carbon-footprint-of-the-textile-industry/>

⁸ http://www.epa.gov/wastes/nonhaz/municipal/pubs/2012_msw_fs.pdf

⁹ http://www.epa.gov/wastes/nonhaz/municipal/pubs/2012_msw_fs.pdf

¹⁰ http://www.epa.gov/wastes/nonhaz/municipal/pubs/2012_msw_fs.pdf

¹¹ <http://www.epa.gov/otaq/consumer/420f08024.pdf>

for unloading or dumping waste at a landfill is about \$44 per ton.¹² Keeping textiles out of landfills would save more than \$500 million per year in these fees alone.

On average, the United States generates 91 pounds of textiles per year per person with 85% percent (or 78 pounds per person) going to landfills.¹³ That means that an urban area with a population of 50,000 pays for the handling and disposal of 3.9 million pounds of textiles annually. The pounds diverted by clothing collection bins represent big savings for local governments and residents. The bins also eliminate the need for municipalities to invest in capital-intensive recycling programs exclusively for textiles.

Bins Create Green Sector Jobs

The textile reclamation industry employs 85 times more workers than do landfills and incinerators on a per-ton basis.¹⁴ The industry creates local jobs from collection, to sorting for wholesale, to the thriving second hand clothing sales business. Collection bin operators, much like any company, are widely recognized as a source of good paying jobs and a means for strengthening the community. As such, they must make a substantial investment of time, money and labor in the local community to keep their operations running effectively.

On a global scale, only 10 to 20 percent of all clothing collected in the United States is domestically sold.¹⁵ The majority of all clothing collected by charities and other organizations is an export commodity. Around 30 percent of these exported clothes are remanufactured into industrial wiping cloths, 20 percent may be converted back to raw fiber, while the remainder becomes part of the ever-growing second-hand clothing market overseas.¹⁶

Bins Can Be Employed for Charitable Use

Clothing collection bins can also be employed to solicit charitable donations. Just as clothing collection bins provide individuals convenient easy access to recycling options, they provide individuals convenient ways to support charitable organizations and causes as well.

Further, in the legal realm, two federal courts have viewed clothing collection bins as a form of charitable solicitation, which is protected as free speech under the First Amendment.¹⁷ As such, local and state governments may regulate bins, but must do so reasonably so as not to limit the recognized constitutionally protected rights of charitable organizations.

¹² http://ecocycle.org/files/pdfs/WTE_wrong_for_environment_economy_community_by_EcoCycle.pdf

¹³ <http://www.epa.gov/osw/conserves/materials/textiles.htm>

¹⁴ <http://www.ilsr.org/recycling-means-business/>

¹⁵ <http://www.smartasn.org/consumers/lifecycleofrags.pdf>

¹⁶ <http://www.smartasn.org/consumers/lifecycleofrags.pdf>

¹⁷ *Linc-Drop, Inc. v. City of Lincoln*, 4:13-CV-03133-JMG-CRZ (N.E. Feb. 18, 2014); *National Federation of the Blind of Texas v. Abbott*, 647 F.3d 202 (5th Cir. 2011).

An Equitable Regulatory Response to Clothing Collection Bins

Clothing collection bins can provide significant benefits for a community; however, local governments need to regulate clothing collections bins in order to maintain the benefits of bins and balance the other interests of the community. Municipalities need to regulate the operation of clothing collection bins to mitigate issues that arise from improper management and promote responsible operations of collection bins. An effective clothing collection bin ordinance should impose disclosure and transparency requirements, require written consent, specify maintenance requirements, and provide for enforcement.¹⁸

Impose Disclosure and Transparency Requirements

As with any public service, regulation should require operators to display helpful information on clothing collection bins including contact information (*i.e.*, name, telephone, email, URL). This will ensure that members of the community can easily contact an operator to address any questions or concerns. Additionally, for transparency, regulations should require operators to indicate whether they are a for-profit organization or a not-for-profit charitable organization to prevent operators from falsely implying an affiliation with a charitable organization.

Require Written Consent of Property Owner or Owner's Agent

Regulation should require that the clothing collection bin operators have the written consent from the property owner or the property owner's agent before placing a clothing collection bin on any property. This promotes best practices of clothing bin operators while simultaneously protecting property rights.

Specify Maintenance Requirements

Reasonable and realistic maintenance requirements within regulations provide operators the opportunity to respond to potential issues, while maintaining collection bins to community standards. Operators should be required to safely secure collections, maintain the aesthetic condition of the bins, empty the bins at necessary and appropriate time intervals, and provide a Certificate of Liability Insurance.

Provide for Enforcement and Abatement

Unfortunately, a regulation is often meaningless unless it is enforced. In order to ensure that a regulation is effective, it should include tangible enforcement provisions for failure to follow the applicable rules. These provisions may include fines and penalties and in egregious cases, removal of the clothing collection bin and criminal charges.

Conclusion

Understanding the impact we have on the environment and the need to reduce our carbon footprint, the benefits of clothing collection bins are clear. They provide communities with an easy and convenient way to recycle textiles and prevent them

¹⁸ http://www.smartasn.org/government/SMART_bin_position_documents.pdf

from ending up in landfills with the added benefit of boosting local economies and charitable organizations. However, like any public service, clothing collection bins must be regulated. A uniform and equitable regulatory response to the placement and service of clothing collection bins across local communities would balance the benefits of clothing collection bins with the needs and standards of the community.

For more information, including a model ordinance for clothing collection bins, please visit the Secondary Materials and Recycled Textile (SMART) Association's Government Affairs webpage at: <http://www.smartasn.org/government/issues.cfm>.

AGENDA ITEM 4

REQUEST

INTRODUCTION OF AN ORDINANCE AMENDING SECTION 4.16.190 OF THE TRACY MUNICIPAL CODE MAKING IT A MISDEMEANOR TO BE IN A PARK AFTER DARK; AMENDING ARTICLE 14 OF CHAPTER 4.12 DEFINING AND MAKING AGGRESSIVE AND DANGEROUS SOLICITATION A MISDEMEANOR

EXECUTIVE SUMMARY

This report requests Council's consideration of amendments to the Tracy Municipal Code redefining and making aggressive and dangerous solicitation (Section 4.12.1220), and being in a City park after dark (Section 4.16.190), misdemeanors. These amendments will allow Tracy Police to better address the nuisances associated with these activities.

DISCUSSION

On September 1, 2015, Council expressed an interest in making solicitation at Tracy intersections, as well as "camping" in City parks, subject to misdemeanor prosecution to give Police the tools needed to try to regulate the nuisances associated with these prohibited activities. The proposed Ordinance addresses these concerns so that Police can regulate trespassers and provide greater public safety for Tracy residents.

- *Being in a City Park After Dark*

City parks offer the community a place to gather together and to engage in healthy recreational activities. In some neighborhoods and communities, the aftermath of crime, negligence and vandalism which occur after hours prevent individuals from enjoying the use of their local parks during normal daytime hours. Tracy Municipal Code (TMC) section 4.16.190 prohibits persons from remaining in any City park that has posted closing times between dusk and dawn. Currently, violations of this section are infractions with an initial fine of \$100 (which increases substantially with added court penalty assessments and fees). Unfortunately, this has not been a sufficient deterrent to individuals going into City parks at night, often destroying City property as well as committing other illegal acts. The deliberate vandalism that occurs in City parks, primarily at night, includes graffiti on restrooms walls, drinking fountains, playground equipment, tables and benches; broken locks on restrooms by individuals who break into the restrooms when they are locked at night (as many as three times a week in certain parks); intentional plugging of toilets, sinks and urinals in park restrooms; deliberate strewing of garbage and litter both in the park grounds and in park restrooms; intentional damage to park irrigation systems; and damage done to park turf from vehicles being illegally driven onto park grounds after dark.

Often, the perpetrators are not caught in the act of committing the vandalism or in engaging in other illegal acts. However, even when discovered by Police in the parks after dark, if the individual does not have a proper address, a citation cannot be issued because Stockton Superior Court requires an address to provide "Notice to Appear" dates to the persons cited.

Other after dark conduct and behaviors detrimental to community, health and the environment are significant areas of concern (i.e., lack of sanitation, degradation of City open spaces, streets and parks).

In response to the above-referenced issues and for the health and well-being of park users and the neighborhoods they serve, staff is proposing a higher level of action to address the most commonly reported nuisances associated with these behaviors. Staff proposes that violations of TMC section 4.16.190 be subject to misdemeanor prosecution to deter violators, and to provide Officers with the necessary tools to encourage compliance from individuals discovered in City parks after dark. This will provide residents and park users with improved social cohesion, a decrease in crime, and a safer park overall.

As with all TMC misdemeanor violations, the City Attorney has discretion to reduce a misdemeanor citation to an infraction if the circumstances so warrant.

- *Aggressive and Dangerous Solicitation*

Tracy Police has reported an increase of individuals soliciting financial assistance (panhandling), primarily at major arterial intersections of Tracy.

For Tracy Police, solicitation of any kind at controlled intersections which can distract drivers and interfere with the flow of traffic, creates traffic hazards and accidents, making such solicitation dangerous to public safety. Such conduct subjects the solicitor, pedestrians and occupants and drivers of vehicles to an unacceptable level of danger, and can result in congestion and blockage of traffic flow when solicitors approach vehicles. The most severe impacts occur when money or other items of value are directly and immediately exchanged, hand to hand, in the public right-of-way as a result of the solicitation. Drivers become distracted and thus are more prone to be involved in auto accidents. Accidents on the public streets constitute a substantial traffic safety problem in the City.

The proposed Ordinance redefines “Aggressive Solicitation” in Section 4.12.1210 to be “Aggressive and Dangerous Solicitation,” and includes any type of solicitation at a controlled intersection or when it interferes with the flow of traffic. The amendment to Section 4.12.1220 makes violations of Aggressive and Dangerous Solicitation a misdemeanor. This will give Tracy Police the necessary tools to control and regulate the public safety hazards inherent in panhandling and soliciting at controlled intersections or in a manner that interferes with the flow of traffic.

STRATEGIC PLAN

The efforts outlined in this report align with the following Public Safety Plan Goals:

Goal 1: Partner with and engage residents to address public safety concerns.

Goal 2: Promote public health, safety, and community welfare by responding and addressing unsafe, unhealthy or blighted conditions in homes, neighborhoods and the entire community.

FISCAL IMPACT

There will be no fiscal impact to the General Fund.

RECOMMENDATION

Staff recommends City Council introduce the proposed Ordinance, amending Tracy Municipal Code Sections 4.12.1210 and 4.12.1220, Aggressive and Dangerous Solicitation, and Section 4.16.190, Being in a City Park After Dark, to be misdemeanors, in order to adequately address nuisance behaviors that negatively affect the health and safety of the community.

Prepared by: Ana Contreras, Community Preservation Manager

Reviewed by: Scott Muir, Police Corporal
Mark Duxbury, Police Captain
Jeremy Watney, Acting Police Chief
Andrew Malik, Development Services Director
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

- A -- City Council Staff Report dated September 1, 2015
- B -- Proposed Ordinance
- C -- Section 4.16.190 (redlined amendments)
- D -- Article 14, Sections 4.12.1210, 4.12.1220 and proposed 4.12.1240 (redlined amendments)

September 1, 2015

AGENDA ITEM _____

REQUEST

UPDATE AND DISCUSS RESPONSE TO COUNCIL'S REQUEST REGARDING THE HOMELESS ISSUE IN THE CITY OF TRACY

EXECUTIVE SUMMARY

This report is in response to Council's request for information regarding homelessness in the City of Tracy. This report further outlines what homelessness is in the City of Tracy, factors associated with homelessness, staff's outreach strategy, implementation, and future expansion of existing outreach efforts.

DISCUSSION

The federal Department of Housing and Urban Development (HUD) requires Continuums of Care conduct a count of sheltered, unsheltered homeless persons every other year (odd numbered years). This count, also known as the Point-in-Time (PIT) count is a count of sheltered and unsheltered homeless persons on a single night in January. These counts provide HUD with data of people living in places unfit for human habitation (such as an abandoned building, park, and other uninhabitable locations) for the purpose of funding housing and other supportive homeless services. Each jurisdiction's count is planned, coordinated, and carried out locally in cooperation with the San Joaquin County Community Development Department and the not-for-profit organization, Central Valley Housing. On January 27, 2015, the Point in Time count for Tracy was conducted. This event involved outreach to the homeless population within the City of Tracy, which included the offering of a comprehensive array of services available on a state and local level. There were 122 homeless individuals in Tracy during the count in January. The count also involved more stakeholders that yielded a better count than in previous years. Because of the count methodology, it cannot be determined to what degree Tracy's homeless have increased since the last count.

Who Are The Homeless In The City Of Tracy?

Tracy is home to many of the County's homeless population. Because the City of Tracy is a safe community, it has become a lure for homeless individuals seeking refuge in a place that is relatively free from crime and danger.

There are three types of homeless in the City of Tracy:

- Situational or Transitional. This is when an individual is forced into homelessness due to uncontrollable circumstances such as loss of employment, loss of a living unit due to fire or other natural disaster, loss of the family's main financial provider (father, husband, wife) etc. Typically, individuals in this category have a strong personal resolve and a strong support group to help them out of their circumstance.

- Intermittent or Cyclical. This type of homelessness occurs when a person repeatedly falls in and out of homelessness. This is often the case with drug or alcohol addiction and/or those experiencing mental health issues, as well as those who may experience episodes of severe depression and fall back in homelessness when these episodes occur. Individuals struggling with drug abuse may be able to stop consuming long enough to get off the street for a certain period, while being at high risk of falling back into homelessness because of relapsing into drug or alcohol addiction.
- Chronic. Chronic homelessness occurs when an individual is on the street for an extended period with little or no resources at their disposal to help them modify their lifestyle. Individuals in this category often suffer from physical and/or mental disabilities and are unable to modify their situation without the support and assistance of family, friends, or mental health service providers.

What Is Currently Being Done To Address Homelessness In The City Of Tracy?

Homelessness is an epidemic afflicting most cities across the nation. Although staff does not expect to solve the homeless crisis in Tracy, the following processes have been implemented to help change the circumstances of homelessness by bringing social service agencies to those in need.

1. Operation Helping Hands

In response to citizen concerns associated with homelessness, a team of City staff, identified as "Operation Helping Hands" (OHH) was formed to continue the dialogue established during the PIT count survey. This team initially consisted of Tracy Police Neighborhood Resource Officers and Code Enforcement staff. After rolling out the project, the team discovered that, in order to best serve this segment of the community, the OHH must expand the program and transformed the team into a multi-agency partnership to increase street-level collaboration of service providers. These providers include the San Joaquin County Homeless Social Worker Division, two paramedics representing San Joaquin County Human Services Agency, and a representative from Central Valley Housing.

The homeless population is particularly vulnerable, typically having the greatest needs, including mental health problems, substance abuse, trauma, and other disorders, but the least likely to seek services. The OHH's outreach team focused on making personal contacts with these individuals, putting names to faces, and building relationships based on trust and mutual respect. Concentrating on the "hardest-to-reach" and "service-resistant" chronically homeless population, the OHH comes together on a monthly basis to perform site visits to the various locations where the unsheltered gather, to share information on available services and to determine eligibility of other state and/or federal programs that may be available to qualifying individuals. These outreach efforts are not intended for enforcement purposes, but rather, to provide valuable information regarding social services, such as free medical clinics, social security and medical benefit eligibility, driver's license renewals, overnight shelter locations and other temporary housing options, as well as long-range assistance, including residential rehabilitation treatment facilities. During these visits, County social workers also perform mental

health screening and are able to provide on-the-spot hospital transport service for individuals requiring immediate medical or mental health care.

2. Food Distribution in Local Parks

While many cities are imposing restrictions on groups that share food with homeless individuals in public locations, the City of Tracy has pursued a more productive approach to help not-for-profit agencies continue their homeless feedings with less impact to the community. *In the latter part of 2014, the OHH organized church groups who participated in providing meals to individuals within the community to meet and discuss current homeless trends, as well as suggestions on improving their service delivery processes with the least impact on the community, while effectively carrying out their mission. These discussions successfully resolved a once disjointed food sharing system to a more systematic approach, with service providers agreeing to rotate the majority of their feedings to their local church locations rather than in City parks.*

The primary goal of the OHH is to act as an intermediary between those who want to change their current situation and service providers. This approach takes into consideration the underlying causes of homelessness for more permanent solutions rather than temporary fixes, in the hopes that a more self-sustaining lifestyle may be achieved.

To date, the OHH has successfully encouraged six individuals to enter treatment facilities provided by local church organizations.

In addition, the City has received inquiries from other cities regarding the OHH process; most recently from the City of Turlock. Tracy is garnering the attention of other local jurisdictions in its outreach efforts and earning a reputation of being progressive and forward thinking in its work towards uniting services and the homeless through the work of OHH.

3. Homeless Encampments on Public Property

Conditions surrounding homeless encampments can be dangerous to personal health. Garbage attracts rodents and other vermin. Food cannot be stored, and dishes cannot be washed properly, facilitating the spread of food-borne diseases. Lacking proper restroom facilities, some residents use makeshift toilets or public facilities; however, most are likely to use an outdoor location. Public intoxication and drug use is a common behavior in these encampments. Poor hygiene and the potential spread of disease is of particular concern. Other environmental hazards, such as batteries and fuels often used for heating and cooking are commonly used in encampments. Crimes against the homeless, such as assaults, robbery, are also of significant concern. Assaults and violence against the homeless is also present in these encampments.

Current state and local laws prohibit homeless encampments on private property; however, until recently, the City had no formal policy or procedure on how to address these encampments located on City property.

In February, 2015, the City formulated an effective strategy for proper abatement of these encampments in the form of a standard operating procedure. This procedure, titled "Operation Dignity", mandates the steps required for posting the property as substandard, removal and storage of personal property left behind, and addressing litter and debris. This policy covers all City property - public right-of-way, City facilities, and parks.

Potential New Strategies

Homelessness, as a condition, is not a crime; however, conduct and behavior detrimental to community, health and environment are areas of concern (i.e., lack of sanitation, degradation of City open spaces, streets and parks), and not necessary behaviors that revolve around only the homeless. Therefore, for the health and well-being of the unsheltered, as well as for the community, staff is considering establishing a higher level of action to address the most commonly reported nuisances associated with these behaviors:

1. Communication Strategy - Community Outreach and Education

- Financial Donations

Giving money to the homeless is an economic crisis of the heart; a personal struggle between the instinct to give to alleviate perceived suffering and the knowledge that a donation might encourage, rather than relieve, the anguish of the individual. In a 2014 report by the Department of Housing and Urban Development, statistics show that giving money to solicitors induces adverse, long-term incentives and causes solicitation to multiply. Donating provides a sense of relief to the donor rather than a lasting solution to the structural problem of homelessness.

In this spirit, the City will begin its launch of an awareness campaign to discourage people from handing out money to panhandlers in the community. The "Better Ways to Give" campaign will use public service announcements, as well as signs and posters stating: "It's OK to Say No." As part of this campaign, City staff will provide service agency information cards, free of charge, to the community and businesses to hand out to solicitors in place of financial assistance. These cards will contain information regarding medical assistance, temporary housing, long-term residential rehabilitation and other social services and other long-term local support provided by the County and not-for-profit agencies.

As an additional alternative to donating money to the homeless, staff suggests tax-deductible donations to organizations that work with individuals experiencing homelessness, such as food banks, churches that provide services, drug and/or alcohol addiction or domestic violence shelters.

- Job Placement Services

Conversations with the homeless highlight the need for something more than money as a solution. Many of the homeless population want overall personal improvement, direction, a job, and a roof over their head. The U.S. Department of Health and Human

Services Strategic Action Plan on Homelessness dated July 2014, polled the homeless about what they needed most: 42% said help finding a job; 38% said finding housing; 30% said paying rent or utilities; 13% said training or medical care.

Meaningful and sustainable employment is the key to creating and maintaining housing stability. Individuals experiencing homelessness face obstacles to finding and maintaining employment. Connecting people experiencing or at-risk of experiencing homelessness, with job training and placement programs is critical to ensure they have the tools they need for long-term stability and success. Facilitating access to work supports can help increase the likelihood that individuals will be able to retain employment.

To this end, the OHH is looking to develop an intermediary role with local employment agencies, job services and private employers for potential job opportunities for the homeless.

2. Code Revisions to Address the Nuisances Associated with Homelessness

- **Aggressive Panhandling**

Within the past several months, Tracy Police has reported an increase of individuals soliciting financial assistance (panhandling), primarily at major arterial intersections of Tracy. Contrary to what most believe, however, these panhandlers are *not* part of the local homeless population. This information was founded based on contact with individuals who were soliciting during an OHH effort. The panhandlers have been reported to arrive in Tracy from areas such as Stockton, Manteca, and other parts of San Joaquin County, as well as from the Dublin-Pleasanton area. The recent ordinance changes in these respective cities have changed the offense of panhandling from an infraction to a misdemeanor offense. As a result, these ordinance amendments have prompted the influx of panhandlers into the City of Tracy. Overall, these solicitors are spending six to eight hours per day seeking donations. These individuals have discovered, from prior court appearances for panhandling, that the judicial system does not deem advertising the need for “help” as panhandling. This group, consisting of 10-12 people, has found their solicitation for “help” within Tracy to be less dangerous and more profitable than soliciting in Stockton. The average earnings for these individuals ranges between \$35 and \$80 per day in monetary “help”.

In response to this problem, staff is currently reviewing existing policy relative to panhandling with the intent on revising the Tracy Municipal Code to make aggressive solicitation a misdemeanor violation.

- **Overnight Camping in Public Parks**

Tracy Municipal Code (TMC) section 4.16.190 prohibits persons from remaining in any City park that has posted closing times between dusk and dawn. Currently, violations of this section are infractions with an initial fine of \$100 (which increases substantially by court penalty assessments and fees). Unfortunately, this has not been a sufficient

deterrent to individuals going into City parks at night. Due to the concerns cited in this report, Tracy Police Department is recommending that violations of TMC section 4.16.190 be subject to misdemeanor prosecution, to deter violators and to provide

Officers with the necessary tools to encourage compliance from individuals discovered in City parks after dark.

Tracy Police Officers often catch individuals in the park after dark and issue citations for violations of TMC section 4.16.190. However, the issuance of these citations, which are infractions and only result in a fine, has not been a sufficient deterrent to those who improperly use and often destroy park property at night. Moreover, if the individual does not have a proper address, a citation cannot be issued, since Stockton Superior Court requires an address to provide Notice to Appear dates to the persons cited.

As a result, staff is considering amending Tracy Municipal Code Section 4.16.190 to make the above violations subject to a misdemeanor prosecution. This will allow Tracy Police Officers to arrest individuals found in the park after dark. As with all TMC misdemeanor violations, the City Attorney has discretion to downgrade a misdemeanor citation to an infraction if the circumstances so warrant.

STRATEGIC PLAN

The efforts outlined in this report align with the following Public Safety Plan Goals:

Goal 1: Partner with and engage residents to address public safety concerns.

Goal 2: Promote public health, safety, and community welfare by responding and addressing unsafe, unhealthy or blighted conditions in homes, neighborhoods and the entire community.

FISCAL IMPACT

A significant portion of code enforcement's time is currently being expended on the OHH's current efforts. Implementation of any additional strategies, programs, etc., will have an impact on staff; therefore, additional resources will be needed.

RECOMMENDATION

Staff recommends City Council approve the continuation of the OHH's outreach efforts, bringing together service providers and not-for-profit agencies to the homeless for long-term assistance. Staff further recommends Council provide direction relative to the potential strategies highlighted in this staff report dated July 21, 2015, to include a Communications Strategy, Job Placement Services, and Code Amendments Addressing Nuisances Associated with behaviors that negatively affect the health and safety of the community.

Prepared by: Ana Contreras, Community Preservation Manager

Reviewed by: Bill Dean, Interim Development Services Director
Andrew Malik, Interim Assistant City Manager
Gary Hampton, Police Chief
Scott Muir, Police Corporal
Mark Duxbury, Police Captain

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment A - 2015 Point in Time Count

Attachment B - Operation Dignity SOP dated February, 2015

ATTACHMENT B

ORDINANCE 2015-

AN ORDINANCE OF THE CITY OF TRACY AMENDING
SECTION 4.16.190 OF CHAPTER 4.16 OF TITLE 4 OF THE TRACY MUNICIPAL
CODE MAKING A VIOLATION FOR BEING IN THE PARK AFTER DARK A MISDEMEANOR;
AND AMENDING ARTICLE 14 OF CHAPTER 4.12 OF TITLE 4 DEFINING AND MAKING
VIOLATIONS OF AGGRESSIVE OR DANGEROUS SOLICITATION A MISDEMEANOR.

WHEREAS, Tracy Police have reported an increase of panhandlers soliciting financial assistance at major or controlled intersections in Tracy, and

WHEREAS, Soliciting at controlled intersections to occupants and drivers of vehicles interferes with traffic flow, distracts drivers and creates traffic hazards and accidents, making such solicitation dangerous;

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

SECTION 1: The first sentence of Section 4.16.190 of Chapter 4.16 of Title 4 of the Tracy Municipal Code is amended to read as follows:

“It is unlawful and a misdemeanor for any person to enter or remain in a City park, whose closing times have been posted pursuant to section 4.16.200, between dusk and dawn or such other time as is posted by the City Manager or his or her designee.”

SECTION 2: The subtitle of subsection (b) of Section 4.12.1210 entitled “Definitions” of Chapter 4.12 of Title 4 of the Tracy Municipal Code is amended to read as follows:

“(b) ‘*Aggressive or dangerous solicitation*’ means:”

SECTION 3: A new definition is added to the end of subsection (b) of Section 4.12.1210 of Chapter 4.12 of Title 4 of the Tracy Municipal Code to read as follows:

“7. Soliciting employment, business or contributions from the operator or occupants of vehicles stopped or about to proceed through a controlled intersection or in a manner that interferes with the vehicle’s movement in a roadway.”

SECTION 4: Section 4.12.1220 of Chapter 4.12 of Title 4 of the Tracy Municipal Code is amended to read as follows:

“4.12.1220 Aggressive or dangerous solicitation prohibited.

It shall be unlawful and a misdemeanor for any person to engage in aggressive or dangerous solicitation in any public place.”

SECTION 5: Subsection (a) of Section 4.12.1230 of Chapter 4.12 of Title 4 of the Tracy Municipal Code is amended to read as follows:

“(a) It shall be unlawful for any person to solicit within thirty (30) feet of any entrance or exit of a bank, credit union, check cashing business or within thirty (30) feet of an automated teller machine.”

SECTION 6: Subsection (b) of Section 4.12.1230 of Chapter 4.12 of Title 4 of the Tracy Municipal Code shall be eliminated and the subsequent subsections shall be relettered.

SECTION 7. This Ordinance shall take effect thirty days after its final passage and adoption.

SECTION 8. A summary of this ordinance shall be published in a newspaper of general circulation and a certified copy of the full text posted in the office of the City Clerk at least five days before the City Council meeting at which the proposed ordinance is to be adopted. Within 15 days after adoption, the City Clerk shall publish a summary in a newspaper of general circulation, and shall post in her office a certified copy, of the ordinance with the names of those Council Members voting for and against the ordinance. (Government Code section 36933(c)(1).)

* * * * *

The foregoing ordinance was introduced at a regular meeting of the Tracy City Council held on the 1st day of December 2015, and was finally adopted by the Council at the regular meeting held on the _____ day of _____, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

ATTACHMENT C

- **4.16.190 - Park closing hours.**

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

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

ATTACHMENT D

Article 14. - Soliciting and Aggressive Solicitation

4.12.1210 - Definitions.

For the purposes of this article, the following definitions shall apply to the terms used herein:

- (a) *"Solicit", "solicitation", and "soliciting"* means to approach with a request or plea, to ask for the purpose of receiving, to endeavor or obtain by asking or pleading, propositioning, or to entreat, implore or importune. Soliciting shall include the use of the spoken, written or printed word, bodily gestures, signs or other means, with the purpose of trying to obtain something, such as money, employment, business, signatures, or votes whether or not the person soliciting is offering any item or service in return.
- (b) *"Aggressive or dangerous solicitation"* means:
 - 1. Continuing to solicit from a person after the person has given a negative response to such soliciting;
 - 2. Intentionally touching or causing physical contact, in the course of soliciting, with another person without that person's consent;
 - 3. Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, causing the pedestrian or vehicle to take evasive action to avoid physical contact;
 - 4. Using violent or threatening gestures toward a person solicited either before, during, or after soliciting, asking or begging.
 - 5. Persisting in closely following or approaching a person, after the person has been solicited and has informed the solicitor by words or conduct that such person does not want to be solicited or does not want to give money or any other thing of value to the solicitor; or
 - 6. Using profane, offensive, or abusive language which is inherently likely to provoke an immediate violent reaction, or instill fear in a person approached for solicitation, either before, during, or after solicitation.
 - 7. Soliciting employment, business or contributions from the operator or occupants of vehicles stopped or about to proceed through a controlled intersection or in a manner that interferes with the vehicle's movement in a roadway.
- (c) *"Public place"* shall mean a place where a governmental entity has title or a record right of use, or to any place which the public or a substantial group of persons has access including, but not limited to, any street, highway, parking lot, plaza, transportation facility, school, place of amusement, park or playground.
- (d) *"Check cashing business"* shall mean any person licensed by the State of California to engage in the business of cashing checks, drafts or money orders for consideration pursuant to California Civil Code, Section 1789.31.
- (e) *"Automated teller machine"* shall mean a device, linked to a financial institution's account records, which is able to carry out transactions including, but not limited to, account transfers, deposits, cash withdrawals, balance inquiries and mortgage and loan payments.

(Ord. No. 1143, § 1, 2-16-2010)

• **4.12.1220 - Aggressive or dangerous solicitation prohibited.**

It shall be unlawful and a misdemeanor for any person to engage in aggressive or dangerous solicitation in any public place.

(Ord. No. 1143, § 1, 2-16-2010)

• **4.12.1230 - Prohibited solicitation at specific locations.**

(a) It shall be unlawful for any person to solicit within thirty (30) feet of any entrance or exit of a bank, credit union, check cashing business or within thirty (30) feet of an automated teller machine. ~~without the consent of the owner of the property or other person legally in possession of such business or machine.~~

~~(b) It shall be unlawful for any person to solicit an operator or other occupant of a motor vehicle while such vehicle is located in a public place.~~

~~(eb)~~ It shall be unlawful for any person to solicit in any public transportation vehicle.

~~(ec)~~ *Parking lots.* It shall be unlawful for any person to solicit in any parking lot or parking structure any time after dark. "After dark" means any time for one-half hour after sunset to one-half hour before sunrise.

~~(ed)~~ *Exemptions.* This section shall not apply to any of the following:

1. Solicitations related to business which is being conducted on subject premises by the owner or lawful tenants;
2. Solicitations related to the lawful towing of a vehicle; or
3. Solicitations related to emergency repairs requested by the operator or other occupant of a vehicle.

(Ord. No. 1143, § 1, 2-16-2010)

AGENDA ITEM 5

REQUEST

PUBLIC HEARING TO CONSIDER THE PROPOSED ANNEXATION OF THE TRACY GATEWAY CROSSINGS APARTMENT PROJECT INTO THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT AS ZONE NO. 42; DECLARE RESULTS OF THE PROPERTY OWNER PROTEST BALLOT AND APPROVE CERTAIN RELATED ACTIONS; CONFIRM THE ANNEXATION OF THE PROJECT INTO THE DISTRICT AS ZONE 42 AND ORDER THE LEVY AND COLLECTION OF ASSESSMENTS FOR FISCAL YEAR 2016/2017

EXECUTIVE SUMMARY

To conclude the Tracy Consolidated Landscape Maintenance District (TCLMD) annexation of the Tracy Gateway Crossings Apartment Project initiated at the November 3rd City Council meeting, a public hearing will be held to receive public comment after which the property owner's ballot will be opened and results declared. If the ballot indicates that there is no protest, Council will be asked to approve certain required actions including approval of the final Engineer's Report, the levy and collection of annual assessments, confirming the annexation and assessment diagram, and ordering the levy and collection of assessments for Fiscal Year 2016/2017.

DISCUSSION

SR95 Ventures, LLC, as property owner (Owner), previously petitioned that the City annex their project, located Grant Line Road into the Tracy Consolidated Landscape Maintenance District (TCLMD) pursuant to the "Landscaping and Lighting Act of 1972" being Part 2 of Division 15, of the Streets and Highway Code of the State of California.

The City Council, on November 1, 2015, initiated proceedings for the annexation of territory and for the levy and collection of annual assessments, provided preliminary approval of the Engineer's Report, declared its intention to annex territory to the TCLMD, to levy and collect an annual assessment, and to conduct a public hearing regarding the annexation to TCLMD and the levy of assessments. Subsequently, the owner protest ballot was mailed to the Owner for completion and is to be returned to the City Clerk no later than the closing of the Public Hearing regarding this matter on December 1st at which time the results will be declared.

If the ballot does not protest annexation, the Council will be asked to approve the levy and collection of annual assessments, to confirm the annexation, and to order the levy and collection of assessments for Fiscal Year 2016/2017. The City's Assessment Engineer, Willdan Financial Services, will then incorporate Annexation 2015-1 with the levy of annual assessments and assessment diagram pertaining to the annual Engineer's Report prepared in connection with the Consolidated District for Fiscal Year 2016/2017. The newly annexed territory will then be added to the County Tax Roll in time for the Fiscal Year 2016/2017 assessment to commence.

STRATEGIC PLAN:

This agenda item supports the Organizational Effectiveness Strategic Plan and specifically implements the following goal and objectives:

Goal 3: Preserve and maintain existing community assets

Objective 3a: To fund maintenance and replacement of community amenities

FISCAL IMPACT

There will be no impact to the General Fund by TCLMD Annexation 2015-1. The property owner will bear the costs of annexation proceedings and future assessments. The maximum assessment rate per equivalent dwelling unit (EDU) will be \$56.96 per year (the Tracy Gateway Crossings Project has 441EDUs).

RECOMMENDATION

At the conclusion of the Public Hearing, it is recommended that the City Council, by resolution, (1) declare the results of the property owner protest ballot proceeding conducted for the levy of assessments for the annexation of the Tracy Gateway Crossings Apartment Project into the TCLMD as Zone No. 42, commencing in Fiscal Year 2016/2017 and approve certain related actions; and (2) confirm the annexation of the Project into the TCLMD as Zone 42, and order the levy and collection of assessments for Fiscal Year 2016/2017.

Prepared by: Brian MacDonald, Management Analyst II, Public Works

Reviewed by: Don Scholl, Interim Public Works Director
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

RESOLUTION _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TRACY,
CALIFORNIA CONFIRMING THE ANNEXATION OF TERRITORY (TRACY
GATEWAY CROSSING) INTO THE TRACY CONSOLIDATED LANDSCAPE
MAINTENANCE DISTRICT AS ZONE NO. 42 AND ORDERING THE LEVY AND
COLLECTION OF ASSESSMENTS FOR FISCAL YEAR 2016/2017

WHEREAS, The City Council has by previous Resolutions initiated proceedings and declared its intention for the annexation of the Tracy Gateway Crossing located on the south side of West Grant Line Road, north of Byron Road, and west of South Lammers Road (hereinafter referred to as the "Annexation Territory"), into the Tracy Consolidated Landscape Maintenance District (hereinafter referred to as the "Consolidated District") and establishing the Annexation Territory as Zone No. 42 of the Consolidated District, pursuant to the provisions of the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code (hereinafter referred to as the "Act") to pay the costs and expenses for the ongoing maintenance, operation and servicing of the landscape improvements and appurtenant facilities related thereto, and

WHEREAS, The Assessment Engineer of Work has prepared an analysis of the improvements and costs in connection with the Annexation Territory and the levy of annual assessments connected therewith and has determined that the estimated maximum annual special benefit expenses (amount balloted) to fully maintain the improvements in the Annexation Territory for fiscal year 2016/2017 would be \$25,137.00. This cost being apportioned to the parcel(s) therein according to the method of apportionment established for the Consolidated District results in a maximum assessment rate of \$57.00 per Equivalent Benefit Unit commencing in fiscal year 2016/2017 with future assessments being subject to the annual inflationary adjustment based on the lesser of 3% or the annual percentage change in the Consumer Price Index (CPI), as adopt and applied to the other Consolidated District assessments, and

WHEREAS, It is estimated that the improvements to be installed and constructed within the Annexation Territory will not be accepted and maintained by the City as part of the Consolidated District for the full 2016/2017 fiscal year. Therefore, the special benefit expenses to be levied and collected for fiscal year 2016/2017 as outlined in the Engineer's Report for the Annexation Territory is estimated to be \$12,558.78, which represents an assessment rate of \$28.48 per Equivalent Benefit Unit, and

WHEREAS, The Assessment Engineer of Work shall incorporate said the Annexation Territory along with the levy of annual assessments and Assessment Diagram connected therewith into the annual Engineer's Report prepared in connection with the Consolidated District for fiscal year 2016/2017, and said report is incorporated herein by reference and shall be filed with the City Clerk pursuant to Section 22623 of the Act, and

WHEREAS, The City Council desires to levy and collect assessments against parcels of land within the Annexation Territory for the fiscal year commencing July 1, 2016 and ending June 30, 2017 (fiscal year 2016/2017), to pay the costs and expenses of the ongoing operation, maintenance, and servicing of improvements determined to be of special benefit to the properties and the development of properties within the Annexation Territory, and all appurtenant facilities related thereto, and

WHEREAS, The City Council has conducted a property owner protest ballot proceeding for the Annexation Territory assessments proposed to be levied commencing fiscal year 2016/2017 as described herein, and majority protest of the assessments did not exist pursuant to the provisions of the California Constitution Article XIII D (hereinafter referred to as the "Constitution").

NOW, THEREFORE, BE IT RESOLVED, That City Council hereby resolves as follows:

1. Recitals: The above recitals are true and correct.
2. Protest Determination: Following notice duly given, the City Council has held a full and fair Public Hearing regarding the Annexation Territory, the levy and collection of assessments, and by Resolution approved the proposed assessments prepared in connection therewith; and has considered all oral and written statements, protests and communications made or filed by interested persons. The City Council in accordance with the provisions of the Constitution has determined that majority protest does not exist for the annexation of properties identified as the Annexation Territory or the assessments so presented.
3. Findings: Based upon its review of the facts presented, the City Council hereby finds and determines that:
 - 3a) The land within the Annexation Territory will receive special benefit from the operation, maintenance and servicing of improvements to be provided by the City as part of the Consolidated District.
 - 3b) the Annexation Territory includes all of the lands receiving such special benefit.
 - 3c) The net amount to be assessed upon the lands within the Annexation Territory has been apportioned by a formula and method which fairly distributes the net amount among all eligible parcels in proportion to the special benefit to be received by each parcel from the improvements and services to be provided commencing with fiscal year 2016/2017.
4. Improvements: The City Council hereby orders the proposed improvements to be made. Said improvements include but are not limited to the maintenance, operation and incidental expenses related to the landscaped areas within the public right-of-ways or easements associated with the parcels of land within the Annexation Territory that may include, but are not limited to: street trees; turf; ground cover and shrubs; irrigation and electrical systems;

monuments; hardscape improvements; and all necessary appurtenances and services connected with the public right-of-ways, public easements and facilities designated and to be maintained by the City in connection with the special benefit received by parcels of land within the Annexation Territory. The cost of providing such improvements generally include, but are not limited to all materials, equipment, utilities, labor and incidental expenses including administrative expenses for the regular annual maintenance as authorized by the Act. Detailed maps and descriptions of the location and extent of the specific improvements to be maintained for the Annexation Territory are on file in the Office of Public Works of the City of Tracy and by reference these plans and specifications are made part of this Resolution and the Engineer's Report prepared in connection with these proceedings.

5. Collection of Assessments: The County Auditor of San Joaquin County shall enter on the County Assessment Roll opposite each parcel of land the amount of levy so described in the Engineer's Report for the Annexation Territory as Zone No. 42 of the Consolidated District, and such levies shall be submitted to the County Auditor along with the other assessments for the Consolidated District, and collected at the same time and in the same manner as the County taxes are collected. After collection by the County, the net amount of the levy shall be paid to the City Treasurer.
6. Deposit of Funds: The City Treasurer shall deposit all money representing assessments collected by the County for the Annexation Territory (Zone 42 of the Consolidated District) to the credit of a fund for Zone 42 of the Consolidated District, and such money shall be expended only for the maintenance, operation and servicing of the improvements as described in the Engineers Report and generally described in Section 4 of this Resolution.
7. Annexation Approval: The adoption of this Resolution constitutes the annexation of the Tracy Gateway Crossing development located on the south side of West Grant Line Road, north of Byron Road, and west of South Lammers (the Annexation Territory) as Zone 42 of the Consolidated District, the boundaries of which shall be contained in the Assessment Diagram for the Consolidated District; the establishment of the maximum assessment rate and assessment range formula connected therewith; and the assessments for the fiscal year commencing June 1, 2016 and ending June 30, 2017, based on the results of the protest ballots received from the property owners of record as part of the majority protest ballot proceeding conducted for said assessments. The City Clerk shall certify to the passage and adoption of this Resolution, and the minutes of this meeting shall so reflect the City Council's approval of the annexation of properties with the Annexation Territory; the adoption and confirmation of the Assessment Diagram; and the establishment of the maximum assessment rates, assessment range formula and the assessments for fiscal year 2016/2017.
8. Order Assessments: The City Clerk is hereby authorized and directed to file the levy of assessments for Zone 42 of the Consolidated District for fiscal year 2016/2017 as approved, with the County Auditor at the same time and along with the other assessments authorized for the Consolidated District.

* * * * *

The foregoing Resolution _____ was adopted by the City Council of the City of Tracy on the 1st day of December, 2015, by the following vote:

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

Mayor

ATTEST:

City Clerk

RESOLUTION _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TRACY, CALIFORNIA, DECLARING THE RESULTS OF THE PROPERTY OWNER PROTEST BALLOT PROCEEDING CONDUCTED FOR THE LEVY OF ASSESSMENTS RELATED TO THE ANNEXATION OF TERRITORY (TRACY GATEWAY CROSSING) TO THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT AS ZONE NO. 42, COMMENCING IN FISCAL YEAR 2016/2017 AND APPROVING CERTAIN RELATED ACTIONS

WHEREAS, The City Council called and duly held a property owner protest proceeding for the annexation of the Tracy Gateway Crossing located on the south side of West Grant Line Road, north of Byron Road, and west of South Lammers Road (hereinafter referred to as the "Annexation Territory") into the Tracy Consolidated Landscape Maintenance District (hereafter referred to as the "Consolidate District") as Zone No. 42, pursuant to the provisions of the Landscaping and Lighting Act of 1972 being Part 2, Division 15 of the California Streets and Highways Code (hereinafter referred to as the "Act"), and the California Constitution Article XIID (hereinafter referred to as the "Constitution"), for the purpose of presenting to the qualified property owners within the Annexation Territory the proposed annual levy of assessments for the improvements connected therewith. Said annual assessments, commencing in fiscal year 2016/2017, as presented to the affected property owners of record in this ballot proceeding including the maximum assessment rate and annual inflationary adjustment, would fund the costs and expenses related to the operation, maintenance and servicing of the landscape improvements and appurtenant facilities related thereto that provide special benefits to properties within the Annexation Territory, and

WHEREAS, The landowner(s) of record within the Annexation Territory as of the close of the Public Hearing held on December 1, 2015 did cast their ballots, weighted by the proportional financial obligation of each ballot, the results of which are illustrated below;

Total Ballots Cast	Yes Total	No Total
\$ _____	\$ _____	\$ _____

NOW, THEREFORE, BE IT RESOLVED, That City Council hereby resolves as follows:

1. Recitals: The above recitals are true and correct.
2. Proceedings: The protest proceedings for the Annexation Territory assessments were conducted pursuant to the provisions of the Constitution with ballots presented to the affected property owner(s) for receipt by the City Clerk prior to the conclusion of the Public Hearing on December 1, 2015, with each ballot weighted according to the proportional financial obligation of the affected property.
3. Canvass of Ballots: The tabulation and canvass of the property owner protest ballots was conducted by the City Clerk or their designee, with all valid protest ballots returned by the

affected property owners being counted, the results of which as shown herein, have been presented to the City Council and are hereby confirmed.

- 4. Official Declaration of Results: The City Clerk is hereby directed to enter this Resolution into the minutes of the City Council, which shall constitute the official declaration of the result of such property owner protest proceeding.
- 5. Certification: This Resolution shall become effective immediately upon its adoption and the City Clerk shall certify the adoption of this Resolution.

The foregoing Resolution _____ was adopted by the City Council of the City of Tracy on the 1st day of December, 2015, by the following vote:

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

 Mayor

ATTEST:

 City Clerk

AGENDA ITEM 6

REQUEST

ADOPT A RESOLUTION OF THE SUCCESSOR AGENCY TO THE TRACY COMMUNITY DEVELOPMENT AGENCY RELATED TO THE REFINANCING OF OUTSTANDING BONDS

EXECUTIVE SUMMARY

The City of Tracy has elected to act as the Successor Agency for the former City of Tracy Community Development Agency (CDA) following the dissolution of redevelopment agencies by the California State Legislature in February 2012. The CDA previously issued bonds to finance redevelopment projects within the CDA project area. Because of the interest rate environment, it is possible to refinance the outstanding bonds at a rate favorable to the Successor Agency and to reduce the interest paid out of the Redevelopment Property Tax Trust Fund (RPTTF). This will in turn increase property tax distributions to all the affecting taxing agencies in the project area, including the City of Tracy. The Oversight Board previously approved a similar action.

DISCUSSION

Background

Previously, in December 2003 the Tracy Community Development Agency issued two series of tax allocation bonds – \$35,095,000 of Series 2003A Bonds and \$20,625,000 of Series 2003B Bonds – to finance redevelopment projects within the Tracy Community Development Project Area. Currently, \$43,615,000 of aggregate 2003A and 2003B Bonds remain outstanding.

An opportunity now exists for the Successor Agency to the Tracy Community Development Agency (the “Successor Agency”) to refinance the 2003A and 2003B Bonds at lower interest rates, and in so doing realize significant debt service savings. Such a refinancing, which is similar to refinancing a home mortgage, is accomplished via the issuance of Refunding Bonds by the Successor Agency. At today’s relatively low interest rates, the Successor Agency can issue Refunding Bonds at a ‘true interest cost’ of approximately 3.15% as compared to an average interest rate of 5.37% on the outstanding Series 2003A and 2003B Bonds being refinanced.

With this refinancing, Tracy will join a large and growing number of successor agencies in California to issue refunding bonds. Since 2012, in excess of \$4.50 billion of such refunding

bonds have been issued by more than 100 successor agencies, resulting in aggregate debt service savings of more than \$500 million.

Refinancing tax allocation bonds does not result in lower property taxes for homeowners or local taxpayers. Rather, under State law the savings from this type of refinancing are shared among all of the local taxing agencies, including the City of Tracy, whose territory lies within the Project Area, roughly in proportion to each agency's share of the 1% general property tax levy collected from within the Project Area.

With the dissolution of redevelopment agencies as part of the State's 2011 Budget Act, Property Tax increment that went to local redevelopment agencies is being redirected into a Redevelopment Property Tax Trust Fund (RPTTF) held by the County. Debt service is paid out of the RPTTF through the Recognized Obligation Payments Schedule (ROPS) process every six months. Funds remaining in the RPTTF after the ROPS process are then distributed to the local taxing entities, including the City of Tracy. By refinancing the prior bonds and reducing the total debt service, more funds will remain in the RPTTF for distribution to the local taxing entities.

Timetable

Pursuant to State Law, the issuance of these Refunding Bonds must be approved by the Successor Agency Board, Oversight Board and State Department of Finance (DOF). Toward that end, an Oversight Board meeting was convened at 3:30 pm on Tuesday, December 1, 2015, at which meeting the Oversight Board approved the issuance by the Successor Agency of the Refunding Bonds subject to final Successor Agency approval.

If the Successor Agency Board approves the issuance of the Refunding Bonds, then shortly thereafter a request for DOF approval will be submitted. By law, DOF has 60-days to act and typically takes close to that amount of time to act; however, staff is hopeful DOF will grant approval within approximately three weeks.

If everything proceeds according to the schedule, then the proposed Refunding Bonds will be offered for sale to investors on or about Wednesday, January 13, 2016, and closing will occur two weeks later on or about Wednesday, January 27, 2016.

Proposed Refinancing

In this proposed transaction, the Successor Agency will issue one series of Refunding Bonds to refinance the outstanding Series 2003A and Series 2003B Tax Allocation Bonds. The Refunding Bonds will be payable only from the RPTTF tax increment collected by the County.

The bonds will be sold through a negotiated sale to Stifel, Nicolaus & Company Incorporated, as Underwriter. The firm of Jones Hall will serve as Bond Counsel and Disclosure Counsel. Steven Gortler will serve as Municipal Advisor. Stifel and Jones Hall have assisted the City of Tracy in many financings and refinancings in the past. It is anticipated the bonds will be priced during the week beginning on January 11, 2015 with the bond closing two weeks later.

Actions Needed

The Successor Agency must adopt a resolution approving the issuance of refunding bonds, approving the execution and delivery of an indenture of trust, approving refunding instructions, approving a bond purchase contract, approving a preliminary official statement and a final official statement and authorizing the distribution thereof, and providing for other matters properly relating thereto

The preliminary official statement has been reviewed and approved for transmittal to the Successor Agency board by Agency staff and its financing team. The Preliminary Official Statement must include all facts that would be material to an investor in the bonds. Material information is information that there is a substantial likelihood would have actual significance in the deliberations of the reasonable investor when deciding whether to buy or sell the bonds. Members of the Successor Agency may review the preliminary official statement and/or question staff and consultants to make sure they feel comfortable that it includes all material facts.

STRATEGIC PLAN

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

FISCAL IMPACT

At the relatively low interest rates as of November 20, 2015, refinancing the Series 2003A and 2003B Bonds will generate total debt service savings of approximately \$11.8 million, or \$700,000 per year from 2017 through 2033. From these savings, the City of Tracy will receive approximately 18.9% or \$130,000 per year in additional general fund property taxes, with the balance of the savings shared among the other taxing entities in the Project Area.

Bear in mind however, the actual amount of savings will not be determined until the Refunding Bonds are sold. Moreover, if interest rates increase appreciably prior to the bond sale, then the actual amount of savings may be considerably less. In the unlikely event that interest rates increase dramatically prior to the bond sale, it is even possible that the savings may not be sufficient to warrant proceeding with the refinancing, in which case the refinancing may be cancelled or delayed until a later date.

These savings are net of all bond issuance costs and assume the final maturity of the Refunding Bonds will be August 1, 2033, which closely corresponds to the March 1, 2034 final maturity of the Series 2003A and 2003B Bonds being refinanced.

Another common measure of the savings from a bond refinancing is 'net present value'. Net present value measures the "real" savings or the "economic benefit" of a refinancing by taking into account the time value of money and the costs of bond issuance. Based on bond market conditions as of November 20, 2015, this refinancing will result in net present value savings of approximately \$9.4 million or 21.6% of the amount of bonds being refinanced.

We will ask the underwriter to provide for the December 1, 2015 Successor Agency meeting an estimate of available savings based on bond market conditions on December 1.

RECOMMENDATION

It is recommended that the Successor Agency a resolution authorizing the issuance of Refunding Bonds by the Successor Agency to the Tracy Community Development Agency for the purpose of refinancing certain outstanding tax allocation bonds issued by the Tracy Community Development Agency, approving related documents, and authorizing certain other matters relating thereto.

Prepared by: Robert Harmon, Senior Accountant
Reviewed by: Daniel Sodergren, Successor Agency Counsel
V. Rachelle McQuiston, Administrative Services Director
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, Executive Director

ATTACHMENTS:

- Attachment 1: Resolution of the Successor Agency Approving the Issuance of Refunding Bonds and Other Matters Properly Relating Thereto
- Attachment 2: Preliminary Savings Analysis
- Attachment 3: Resolution of the Oversight Board Approving the Issuance of Refunding Bonds and Other Matters Properly Relating Thereto
- Attachment 4: Indenture of Trust
- Attachment 5: Bond Purchase Contract

Attachment 6: Irrevocable Refunding Instructions

Attachment 7: Preliminary Official Statement

Attachment 8: Continuing Disclosure Agreement

RESOLUTION _____

RESOLUTION OF THE SUCCESSOR AGENCY TO THE TRACY COMMUNITY DEVELOPMENT AGENCY APPROVING THE ISSUANCE OF REFUNDING BONDS IN ORDER TO REFUND CERTAIN OUTSTANDING BONDS OF THE FORMER COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY, APPROVING THE EXECUTION AND DELIVERY OF AN INDENTURE OF TRUST, A BOND PURCHASE CONTRACT AND REFUNDING INSTRUCTIONS, APPROVING A PRELIMINARY OFFICIAL STATEMENT AND A FINAL OFFICIAL STATEMENT AND AUTHORIZING THE DISTRIBUTION THEREOF, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO

WHEREAS, pursuant to Section 34172(a) of the California Health and Safety Code (unless otherwise noted, all Section references hereinafter being to such Code), the Community Development Agency of the City of Tracy (the "Former Agency") has been dissolved and no longer exists as a public body, corporate and politic, and pursuant to Section 34173, the Successor Agency to the Tracy Community Development Agency (the "Successor Agency") has become the successor entity to the Former Agency; and,

WHEREAS, prior to dissolution of the Former Agency, for the purpose of financing redevelopment activities of the Former Agency, the Former Agency issued its (i) \$35,095,000 Community Development Agency of the City of Tracy 2003 Tax Allocation Bonds, Series A ("2003 Senior Bonds") and (ii) \$20,625,000 Community Development Agency of the City of Tracy 2003 Subordinate Tax Allocation Bonds, Series B ("2003 Subordinate Bonds"; together with the 2003 Senior Bonds, the "2003 Bonds"); and,

WHEREAS, Section 34177.5 authorizes the Successor Agency to issue refunding bonds pursuant to Article 11 (commencing with Section 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code (the "Refunding Law") for the purpose of achieving debt service savings within the parameters set forth in Section 34177.5(a)(1) (the "Savings Parameters"); and,

WHEREAS, to determine compliance with the Savings Parameters for purposes of the issuance by the Successor Agency of its Successor Agency to the Tracy Community Development Agency 2016 Tax Allocation Refunding Bonds (the "Refunding Bonds"), the Successor Agency has caused its municipal advisor, Steven Gortler (the "Municipal Advisor"), to prepare an analysis of the potential savings that will accrue to the Successor Agency and to applicable taxing entities as a result of the use of the proceeds of the Refunding Bonds to refund the 2003 Bonds (the "Debt Service Savings Analysis"); and,

WHEREAS, the Successor Agency desires at this time to approve the issuance of the Refunding Bonds and to approve the form of and authorize the execution and delivery of the Indenture of Trust, by and between the Successor Agency and The Bank of New York Mellon Trust Company, N.A., as trustee, providing for the issuance of the Refunding Bonds (the "Indenture"), and the Irrevocable Refunding Instructions to be delivered to The Bank of New York Mellon Trust Company, N.A., as trustee of the 2003 Bonds, to be dated as of the date of the issuance and delivery of the Refunding Bonds (the "2003 Refunding Instructions"); and,

WHEREAS, pursuant to Section 34179, an oversight board (the "Oversight Board") has been established for the Successor Agency; and,

WHEREAS, the Oversight Board approved and directed the issuance of the Refunding Bonds and the other actions of the Successor Agency that are set forth in and contemplated by this Resolution, subject to adoption of this Resolution by the Successor agency; and,

WHEREAS, the Successor Agency has determined to sell the Refunding Bonds to Stifel, Nicolaus & Company, Incorporated (collectively, the "Underwriter"), pursuant to the terms of the Bond Purchase Contract (the "Purchase Contract") on file with the City Clerk, as the secretary (the "Secretary") of the Successor Agency, to be entered into by the Successor Agency and the Underwriter; and,

WHEREAS, the Successor Agency, with the assistance of its disclosure counsel, Jones Hall, A Professional Law Corporation, as disclosure counsel, its Municipal Advisor and its fiscal consultant, has prepared a draft of the Official Statement for the Refunding Bonds (the "Official Statement"), which contains, among other things, information regarding the Refunding Bonds, the Former Agency and the Successor Agency, the preliminary form of which is on file with the Secretary; and,

WHEREAS, the Successor Agency, with the aid of its staff, has reviewed the Official Statement and wishes at this time to approve its use and distribution as in the public interests of the Successor Agency and applicable taxing entities;

NOW, THEREFORE, BE IT RESOLVED by the Successor Agency to the Tracy Community Development Agency, as follows:

1. Determination of Savings. The Successor Agency hereby determines that there are significant potential savings available to the Successor Agency and to applicable taxing entities in compliance with the Savings Parameters by the issuance by the Successor Agency of the Refunding Bonds to provide funds to refund and defease the 2003 Bonds, all as evidenced by the Debt Service Savings Analysis on file with the Successor Agency, which Debt Service Savings Analysis is hereby approved.

The Debt Service Savings Analysis was previously provided to and approved by the Oversight Board.

2. Approval of Issuance of the Refunding Bonds. The Successor Agency hereby authorizes and approves the issuance of the Refunding Bonds under the Law and the Refunding Law in the aggregate principal amount of not to exceed \$45,000,000, provided that the Refunding Bonds are in compliance with the Savings Parameters at the time of sale and delivery.

3. Approval of Indenture. The Successor Agency hereby approves the Indenture prescribing the terms and provisions of the Refunding Bonds and the application of the proceeds of the Refunding Bonds. Each of the Mayor of the City of Tracy, as Chair of the Successor Agency, the City Manager of the City of Tracy, as the chief administrative officer of the Successor Agency, the Administrative Services Director, as the chief financial officer of the Successor Agency, the City Attorney of the City, as the general counsel of the Successor Agency, or the written designee of any such officer (each, an "Authorized Officer"), is hereby authorized and directed to execute and deliver, and the Secretary of the Successor Agency is hereby authorized and directed to attest to, the Indenture for and in the name and on behalf of the Successor Agency, in substantially the form on file with the Successor Agency, with such changes therein, deletions therefrom and additions thereto as the Authorized Officer executing the same shall approve, such approval to be conclusively evidenced by the execution and delivery of the Indenture. The Successor Agency hereby authorizes the delivery and performance of the Indenture.

4. Approval of Refunding Instructions. The form of the 2003 Refunding Instructions on file with the Successor Agency are hereby approved and the Authorized Officers are, each acting alone, hereby authorized and directed, for and in the name and on behalf of the Successor Agency, to execute and deliver the 2003 Refunding Instructions. The Successor Agency hereby authorizes the delivery and performance of its obligations under the 2003 Refunding Instructions.

5. Filing of Debt Service Savings Analysis and Resolution. The Successor Agency is hereby further authorized and directed to file the Debt Service Savings Analysis, together with a certified copy of this Resolution, as provided in Section 34180(j), with the San Joaquin County Administrative Officer, the San Joaquin County Auditor-Controller and the California Department of Finance.

6. Sale of Refunding Bonds. The Successor Agency hereby approves the Purchase Contract to be entered into with the Underwriter. The Authorized Officers, each acting alone, are hereby authorized and directed to execute and deliver the Purchase Contract for and in the name and on behalf of the Successor Agency, in substantially the form on file with the Secretary, with such changes therein, deletions therefrom and additions thereto as the Authorized Officer executing the same shall approve, such approval to be conclusively evidenced by the execution and delivery of the Purchase Contract. The Underwriter's discount (not including original issue discount) may not exceed 0.06% of the principal amount of the Refunding Bonds.

7. Issuance of Refunding Bonds in Whole or in Part. It is the intent of the Successor Agency to sell and deliver the Refunding Bonds in whole, provided that there is compliance with the Savings Parameters. However, the Successor Agency will initially authorize the sale and delivery of the Refunding Bonds in whole or, if such Savings Parameters cannot be met with respect to the whole, then in part; provided that the Refunding Bonds so sold and delivered in part are in compliance with the Savings

Parameters. The sale and delivery of the Refunding Bonds in part will in each instance provide sufficient funds only for the refunding of that portion of the 2003 Bonds that meet the Savings Parameters. In the event the Refunding Bonds are initially sold in part, the Successor Agency intends to sell and deliver additional parts of the Refunding Bonds without the further approval of the Successor Agency or the Oversight Board, provided that in each such instance the Refunding Bonds so sold and delivered in part are in compliance with the Savings Parameters.

8. Municipal Bond Insurance and Surety Bonds. The Authorized Officers, each acting alone, are hereby authorized and directed to take all actions necessary to obtain a municipal bond insurance policy for the Refunding Bonds and a debt service reserve fund insurance policy for the Refunding Bonds from a municipal bond insurance company if it is determined, upon consultation with the Municipal Advisor and the Underwriter, that such municipal bond insurance policy and/or debt service reserve fund insurance policy will reduce the true interest costs with respect to the Refunding Bonds.

9. Approval of Official Statement. The Successor Agency hereby approves the preliminary Official Statement in substantially the form on file with the Secretary. Distribution of the preliminary Official Statement by the Successor Agency and the Underwriter is hereby approved, and, prior to the distribution of the preliminary Official Statement, an Authorized Officer is authorized and directed, on behalf of the Successor Agency, to deem the preliminary Official Statement "final" pursuant to Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (the "Rule"). The execution of the final Official Statement, which shall include such changes and additions thereto deemed advisable by the Authorized Officer executing the same, and such information permitted to be excluded from the preliminary Official Statement pursuant to the Rule, is hereby approved for delivery to the purchasers of the Refunding Bonds, and each Authorized Officer, acting alone, is authorized and directed to execute and deliver the final Official Statement for and on behalf of the Successor Agency, to deliver to the Underwriter a certificate with respect to the information set forth therein and to deliver to the Underwriter a continuing disclosure undertaking substantially in the form appended to the final Official Statement.

10. Professional Services. The Authorized Officers are hereby authorized to retain, in connection with the issuance of the Refunding Bonds, Steven Gortler, as municipal advisor, the firm of Jones Hall, A Professional Law Corporation, as bond and disclosure counsel, and the firm of Fraser & Associates, as fiscal consultant, and to execute professional services agreement with each such firm. Additionally, the selection of The Bank of New York Mellon Trust Company, N.A., as trustee, is hereby confirmed.

11. Official Actions. The Authorized Officers and any and all other officers of the Successor Agency and the Commission are hereby authorized and directed, for and in the name and on behalf of the Successor Agency, to do any and all things and take any and all actions, which they, or any of them, may deem necessary or advisable in obtaining the requested approval by the California Department of Finance, and in the

issuance, sale and delivery of the Refunding Bonds. Whenever in this Resolution any officer of the Successor Agency is directed to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer is absent or unavailable.

12. Effective Date. This Resolution shall take effect from and after the date of approval and adoption thereof.

ADOPTED December 1, 2015 by the City Council of the City of Tracy, acting in its capacity as the Successor Agency of the Community Development Agency of the City of Tracy, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Chair

ATTEST:

Successor Agency Secretary

APPROVED AS TO FORM:

Successor Agency Counsel

**Successor Agency to the
Tracy Community Development Agency
2016 Tax Allocation Refunding Bonds
Preliminary Savings Analysis
November 20, 2015**

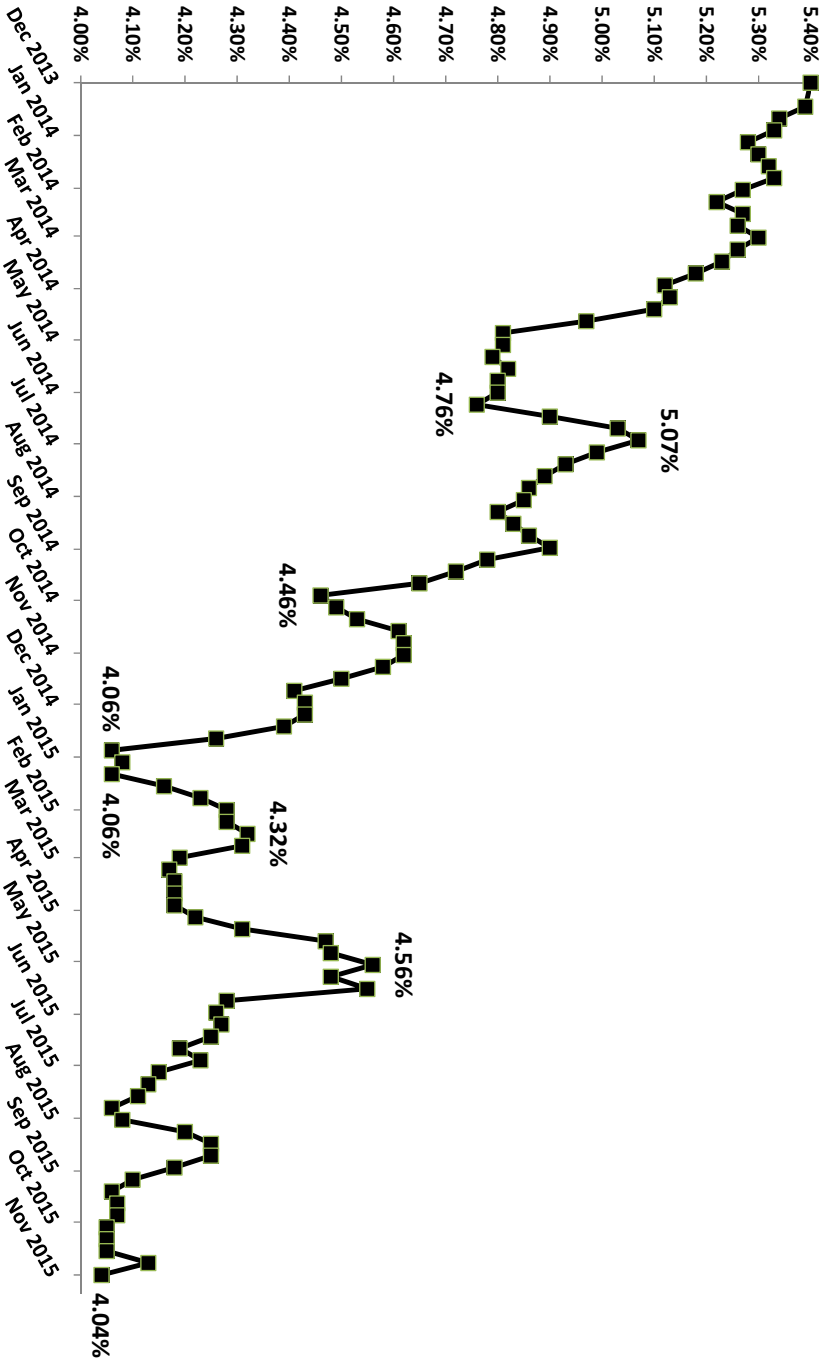
Prepared by Steven Gortler
Telephone (415) 298-3319
Email: steven.gortler@att.net



Refinancing Candidates

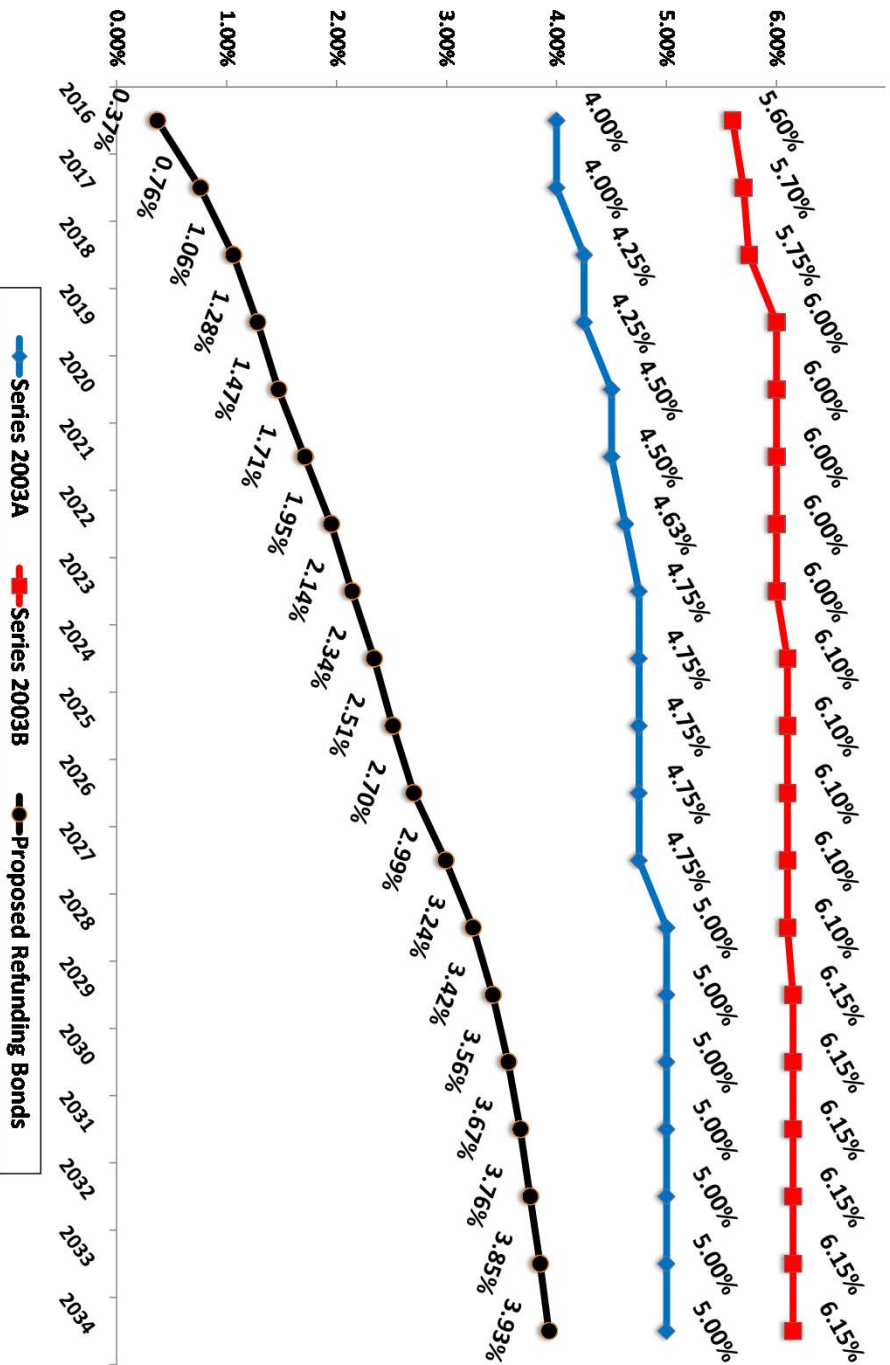
	Series 2003A	Series 2003B
Dated Date	Dec 1, 2003	Dec 1, 2003
Original Par Amount	35,095,000	20,625,000
Outstanding Par Amount	26,845,000	16,770,000
Final Maturity	Mar 1, 2034	Mar 1, 2034
Optional Redemption	any date \geq 3/1/13 @ par	any date \geq 3/1/12 @ par

Recent Trends in Municipal Bond Interest Rates (Bond Buyer Revenue Bond Index)



Interest Rate Comparison:

Series 2003A and 2003B Bonds vs. Proposed Refunding Bonds





Estimated Annual Debt Service Savings

12-Mo. Ending Sep 1,	Prior Bonds			Proposed Refunding Bonds			Annual Savings
	Principal	Interest	DSRF	Principal	Interest	Total	
2016	0	1,113,831		300,000	810,673	1,110,673	3,157
2017	1,485,000	2,193,499		1,405,000	1,577,100	2,982,100	696,399
2018	1,550,000	2,122,236		1,450,000	1,520,900	2,970,900	701,336
2019	1,630,000	2,045,336		1,515,000	1,462,900	2,977,900	697,436
2020	1,710,000	1,962,374		1,570,000	1,402,300	2,972,300	700,074
2021	1,790,000	1,873,986		1,625,000	1,339,500	2,964,500	699,486
2022	1,885,000	1,780,358		1,690,000	1,274,500	2,964,500	700,858
2023	1,985,000	1,680,155		1,760,000	1,206,900	2,966,900	698,255
2024	2,085,000	1,573,504		1,820,000	1,136,500	2,956,500	702,004
2025	2,195,000	1,460,885		1,910,000	1,045,500	2,955,500	700,385
2026	2,310,000	1,342,281		2,005,000	950,000	2,955,000	697,281
2027	2,430,000	1,217,388		2,100,000	849,750	2,949,750	697,638
2028	2,560,000	1,083,830		2,200,000	744,750	2,944,750	699,080
2029	2,700,000	940,735		2,305,000	634,750	2,939,750	700,985
2030	2,845,000	789,546		2,415,000	519,500	2,934,500	700,046
2031	3,005,000	629,956		2,535,000	398,750	2,933,750	701,206
2032	3,165,000	461,561		2,655,000	272,000	2,927,000	699,561
2033	3,340,000	283,929		2,785,000	139,250	2,924,250	699,679
2034	3,525,000	96,348	(3,727,000)	0	0	0	(105,653)
	42,195,000	24,651,738	(3,727,000)	63,119,738	34,045,000	17,285,523	51,330,523
							11,789,214



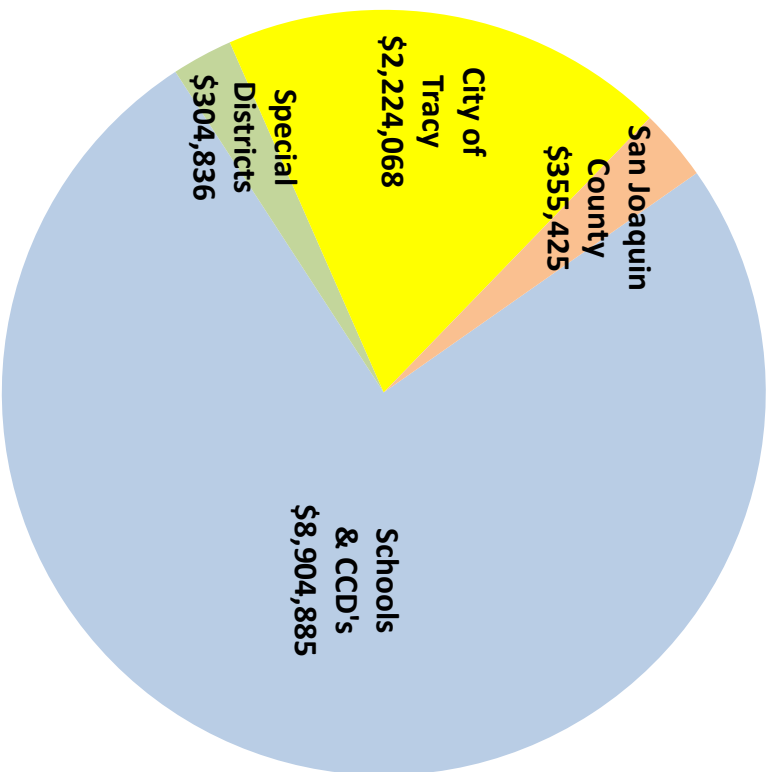
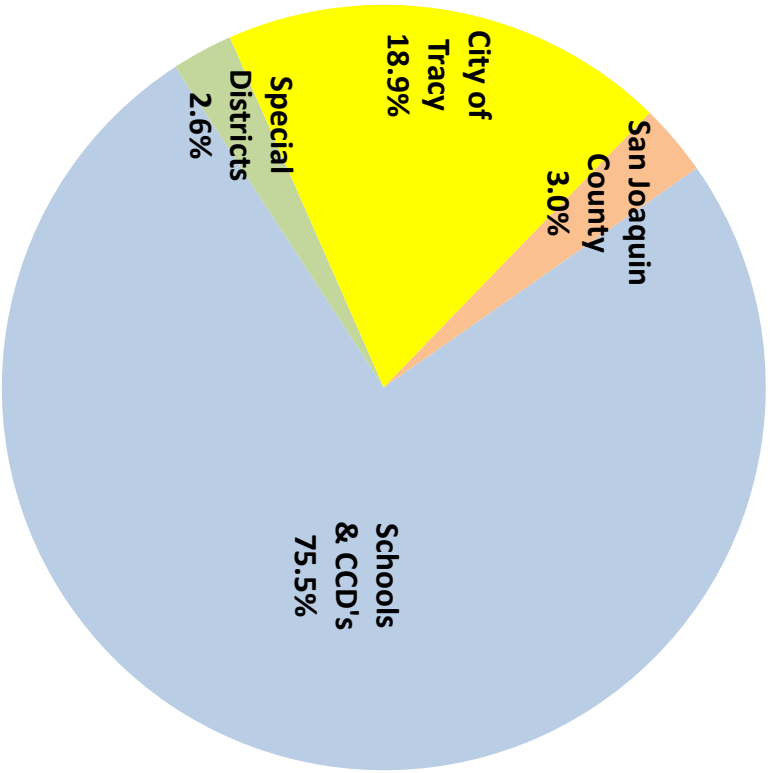
Net Present Value (NPV) Savings

Net Present Value (NPV) Savings	9,407,995
Par Amount of Refunded Bonds	43,615,000
NPV Savings / Refunded Par Amount	21.6%



Distribution of Savings

ATTACHMENT 2





Distribution of Savings

12-Mo. Ending Sep 1,	City of Tracy	San Joaquin County	Special Districts	Schools & CCD's	Total
2016	596	95	82	2,385	3,157
2017	131,378	20,995	18,007	526,019	696,399
2018	132,309	21,144	18,135	529,749	701,336
2019	131,573	21,027	18,034	526,803	697,436
2020	132,071	21,106	18,102	528,795	700,074
2021	131,960	21,088	18,087	528,351	699,486
2022	132,219	21,130	18,122	529,387	700,858
2023	131,728	21,051	18,055	527,421	698,255
2024	132,435	21,164	18,152	530,253	702,004
2025	132,130	21,115	18,110	529,030	700,385
2026	131,544	21,022	18,030	526,686	697,281
2027	131,611	21,033	18,039	526,955	697,638
2028	131,883	21,076	18,076	528,044	699,080
2029	132,243	21,134	18,126	529,483	700,985
2030	132,066	21,105	18,101	528,774	700,046
2031	132,285	21,140	18,131	529,650	701,206
2032	131,974	21,091	18,089	528,408	699,561
2033	131,996	21,094	18,092	528,497	699,679
2034	(19,932)	(3,185)	(2,732)	(79,804)	(105,653)
	2,224,068	355,425	304,836	8,904,885	11,789,214



Estimated Sources & Uses of Funds

Sources of Funds:

Par Amount of Bonds	34,045,000
Reoffering Premium	5,101,184
Transfer from Prior Debt Service Funds	2,566,231
Transfer from Prior Reserve Funds	3,727,000
Total Sources	45,439,414

Uses of Funds:

Deposit to Redemption Fund	44,659,343
Estimated Costs of Issuance	780,071
Total Uses	45,439,414



Estimated Costs of Issuance

Service	Estimated Fee
Bond Insurance Premium (60 bps)	307,983
Underwriter's Discount (0.385%)	131,073
Bond & Disclosure Counsel	106,500
Reserve Fund Surety (3.00%)	89,463
Financial Advisor	40,000
Rating Agency	28,000
Underwriter's Counsel	20,000
Redevelopment Consultant	17,500
Special Counsel	10,000
Trustee	3,500
Escrow Verification	2,250
Trustee Counsel	2,000
Financial Printer	2,000
Escrow Agent	1,000
Contingency	18,802
	<hr/>
	780,071



Indicative Interest Rate Scale @ November 20, 2015

Maturity Due 8/1	MMD 11-20-2015	Coupon Rate	Credit Spread	Yield to Call Date	Yield to Maturity
2016	0.30	3.00	0.07	0.37	0.37
2017	0.72	4.00	0.04	0.76	0.76
2018	0.92	4.00	0.14	1.06	1.06
2019	1.09	4.00	0.19	1.28	1.28
2020	1.29	4.00	0.18	1.47	1.47
2021	1.46	4.00	0.25	1.71	1.71
2022	1.62	4.00	0.33	1.95	1.95
2023	1.80	4.00	0.34	2.14	2.14
2024	1.94	5.00	0.40	2.34	2.34
2025	2.06	5.00	0.45	2.51	2.51
2026	2.18	5.00	0.52	2.70	2.70
2027	2.27	5.00	0.58	2.85	2.99
2028	2.35	5.00	0.64	2.99	3.24
2029	2.43	5.00	0.67	3.10	3.42
2030	2.51	5.00	0.67	3.18	3.56
2031	2.57	5.00	0.67	3.24	3.67
2032	2.62	5.00	0.67	3.29	3.76
2033	2.67	5.00	0.67	3.34	3.85
2034	2.72	5.00	0.68	3.40	3.93

ATTACHMENT 3

RESOLUTION _____

RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE TRACY COMMUNITY DEVELOPMENT AGENCY APPROVING THE ISSUANCE OF REFUNDING BONDS AND MAKING RELATED FINDINGS AND DECLARATIONS AND TAKING RELATED ACTIONS IN CONNECTION THEREWITH

WHEREAS, the Community Development Agency of the City of Tracy (the "Former Agency") was a public body, corporate and politic, duly established and authorized to transact business and exercise powers under and pursuant to the provisions of the Community Redevelopment Law of the State of California, constituting Part 1 of Division 24 of the Health and Safety Code of the State (the "Law");

WHEREAS, pursuant to Section 34172(a) of the California Health and Safety Code (unless otherwise noted, all Section references in this Resolution are to the California Health and Safety Code), the Former Agency has been dissolved and no longer exists, and pursuant to Section 34173, the Successor Agency to the Community Development Agency of the City of Tracy (the "Successor Agency") has become the successor entity to the Former Agency;

WHEREAS, pursuant to Section 34179, this Oversight Board has been established for the Successor Agency;

WHEREAS, the Oversight Board is informed by the Successor Agency that, prior to dissolution of the Former Agency, for the purpose of financing redevelopment activities of the Former Agency, the Former Agency issued its (i) \$35,095,000 Community Development Agency of the City of Tracy 2003 Tax Allocation Bonds, Series A ("2003 Senior Bonds") and (ii) \$20,625,000 Community Development Agency of the City of Tracy 2003 Subordinate Tax Allocation Bonds, Series B ("2003 Subordinate Bonds"; together with the 2003 Senior Bonds, the "2003 Bonds");

WHEREAS, Section 34177.5 authorizes the Successor Agency to issue refunding bonds pursuant to Article 11 (commencing with Section 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code (the "Refunding Law") for the purpose of achieving debt service savings within the parameters set forth in Section 34177.5(a)(1) (the "Savings Parameters");

WHEREAS, to determine compliance with the Savings Parameters for purposes of the issuance by the Successor Agency of its Successor Agency to the Community Development Agency of the City of Tracy 2016 Tax Allocation Refunding Bonds (the "Refunding Bonds"), the Successor Agency has caused its independent financial advisor, Steven Gortler (the "Financial Advisor"), to prepare an analysis of the potential savings that will accrue to the Successor Agency and to applicable taxing entities as a result of the use of the proceeds of the Refunding Bonds to refund the 2003 Bonds (the "Debt Service Savings Analysis"), and the Debt Service Savings Analysis is on file with this Oversight Board;

WHEREAS, later today, the Successor Agency is scheduled to consider a resolution (the "Successor Agency Resolution") approving the issuance of the Refunding Bonds pursuant to Section 34177.5(a)(1), a form of which Successor Agency Resolution is attached hereto as Appendix A;

WHEREAS, if it were to adopt the Successor Agency Resolution, the Successor Agency, among other things, would approve the Debt Service Savings Analysis, approve the

ATTACHMENT 3

issuance of the Refunding Bonds, approve the sale of the Refunding Bonds to Stifel, Nicolaus & Company, Incorporated (the "Underwriter") pursuant to a Bond Purchase Agreement (the "Purchase Agreement"), authorize the execution and delivery of the Indenture of Trust, by and between the Successor Agency and The Bank of New York Mellon Trust Company, N.A., as trustee, providing for the issuance of the Refunding Bonds (the "Indenture"), approve the defeasance and redemption of the bonds in accordance with Irrevocable Refunding Instructions to be given by the Successor Agency to The Bank of New York Mellon Trust Company, N.A. (the "Irrevocable Refunding Instructions"), and approve and authorize the distribution of a preliminary and final Official Statement related to the Refunding Bonds, and the Purchase Agreement, the Indenture, the Irrevocable Refunding Instructions and the preliminary Official Statement are on file with this Oversight Board;

WHEREAS, this Oversight Board has completed its review of the refunding proceedings and the Debt Service Savings Analysis and wishes at this time to give its approval to the foregoing;

NOW THEREFORE, BE IT RESOLVED that the Oversight Board for the Successor Agency of the Tracy Community Development Agency, hereby finds, resolves, and determines as follows:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Determination of Savings. This Oversight Board has determined that there are significant potential savings available to the Successor Agency and to applicable taxing entities in compliance with the Savings Parameters by the issuance by the Successor Agency of the Refunding Bonds to refund and defease the 2003 Bonds, all as evidenced by the Debt Service Savings Analysis, which Debt Service Savings Analysis is hereby approved.

Section 3. Direction and Approval of Issuance of the Bonds. As authorized by Section 34177.5(f), the Oversight Board hereby directs the Successor Agency to undertake the refunding proceedings, and as authorized by Section 34177.5(f) and Section 34180, this Oversight Board hereby directs and approves the issuance by the Successor Agency of the Refunding Bonds pursuant to Section 34177.5(a)(1) and under other applicable provisions of the Law and the Refunding Law and as provided in the Successor Agency Resolution and the Indenture in the aggregate principal amount of not to exceed \$45,000,000, provided that the principal and interest payable with respect to the Refunding Bonds complies in all respects with the requirements of the Savings Parameters with respect thereto, as shall be certified to by the Financial Advisor upon delivery of the Refunding Bonds or any part thereof; and, provided further, that the Successor Agency shall adopt the Refunding Resolution in substantially the form and substance of Appendix A.

In connection with the sale and issuance of the Refunding Bonds, the Successor Agency is authorized to purchase a municipal bond insurance policy and a reserve account surety bond for the Refunding Bonds if the Successor Agency determines that the purchase of either or both reduces the true interest cost of the Refunding Bonds, thereby increasing the savings obtained through the issuance of the Refunding Bonds and the refunding of the 2003 Bonds.

Section 4. Sale and Delivery of Refunding Bonds in Whole or in Part. The Oversight Board hereby approves the sale and delivery of the Refunding Bonds in whole, provided that there is compliance with the Savings Parameters. However, if such Savings

Parameters cannot be met with respect to the whole of the Refunding Bonds, then the Oversight Board approves the sale and delivery of the Refunding Bonds from time to time in part. In the event the Refunding Bonds are initially sold in part, the Successor Agency is hereby authorized to sell and deliver additional parts of the Refunding Bonds without the prior approval of this Oversight Board provided that in each such instance the Refunding Bonds so sold and delivered in part are in compliance with the Savings Parameters.

Section 5. Determinations by the Oversight Board. Based upon the full record before it, which includes but is not limited to staff reports, testimony, and other materials and evidence provided, the Oversight Board makes the following determinations upon which the Successor Agency shall rely in undertaking the refunding proceedings and the issuance of the Refunding Bonds:

(a) The Successor Agency is authorized, as provided in Section 34177.5(f), to recover its costs related to the issuance of the Refunding Bonds from the proceeds of the Refunding Bonds, including the cost of reimbursing its administrative staff for time spent with respect to the authorization, issuance, sale and delivery of the Refunding Bonds;

(b) The application of proceeds of the Refunding Bonds by the Successor Agency to the refunding and defeasance of the 2003 Bonds, as well as the payment by the Successor Agency of costs of issuance of the Refunding Bonds, as provided in Section 34177.5(a), shall be implemented by the Successor Agency promptly upon sale and delivery of the Refunding Bonds, notwithstanding Section 34177.3 or any other provision of law to the contrary, without the approval of the Oversight Board, the California Department of Finance, the San Joaquin County Auditor-Controller or any other person or entity other than the Successor Agency; and

(c) The Successor Agency shall be entitled to receive its full Administrative Cost Allowance under Section 34181(a)(3) without any deductions with respect to continuing costs related to the Refunding Bonds, such as trustee's fees, auditing and fiscal consultant fees and continuing disclosure and rating agency costs (collectively, "Continuing Costs of Issuance"), and such Continuing Costs of Issuance shall be payable from property tax revenues pursuant to Section 34183. In addition and as provided by Section 34177.5(f), if the Successor Agency is unable to complete the issuance of any of the Refunding Bonds for any reason, the Successor Agency shall, nevertheless, be entitled to recover its costs incurred with respect to the refunding proceedings with respect to the Refunding Bonds from such property tax revenues pursuant to Section 34183 without reduction in its Administrative Cost Allowance.

Section 6. Further Determinations. Pursuant to Health and Safety Code Section 34177 (h), the Oversight Board further finds and determines, based on information provided, that: (a) the Successor Agency has made, and will continue to make, diligent efforts to assure that the lowest long-term cost financing is obtained with the Refunding Bonds; (b) the Refunding Bonds will not provide for any bullets or spikes and shall not use variable rates of interest; and (c) the Successor Agency has made, and will continue to make, use of an independent financial advisor in issuing the Refunding Bonds.

Section 7. Effective Date. Pursuant to Health and Safety Code Section 34177(f) and Section 34179(h), this Resolution shall be effective five (5) business days after proper notification hereof is given to the California Department of Finance unless the California

ATTACHMENT 3

Department of Finance requests a review of the actions taken in this Resolution, in which case this Resolution will be effective upon approval by the California Department of Finance.

ADOPTED, December 1, 2015, by the Oversight Board of the Successor Agency to the Tracy Community Development Agency.

AYES:

NOES:

ABSTAIN:

ABSENT:

Chair

Secretary

INDENTURE OF TRUST

Dated as of _____ 1, 2016

by and between the

SUCCESSOR AGENCY TO THE TRACY COMMUNITY DEVELOPMENT AGENCY

and

**THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Trustee**

Relating to

**\$ _____
Successor Agency to the Tracy Community Development Agency
2016 Tax Allocation Refunding Bonds**

ATTACHMENT 4

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I: DETERMINATIONS; DEFINITIONS:	
Section 1.01. Findings and Determinations.	3
Section 1.02. Definitions	3
ARTICLE II: AUTHORIZATION AND TERMS:	
Section 2.01. Authorization of 2016 Bonds.	14
Section 2.02. Terms of 2016 Bonds.....	14
Section 2.03. Redemption of 2016 Bonds.	15
Section 2.04. Form of 2016 Bonds.	17
Section 2.05. Execution of 2016 Bonds.	17
Section 2.06. Transfer of Bonds.	18
Section 2.07. Exchange of Bonds.	18
Section 2.08. Registration of Bonds.....	18
Section 2.09. Temporary Bonds.	18
Section 2.10. Bonds Mutilated, Lost, Destroyed or Stolen.	19
Section 2.11. Book-Entry System.	19
ARTICLE III DEPOSIT AND APPLICATION OF PROCEEDS OF 2016 BONDS	
Section 3.01. Issuance of 2016 Bonds.	21
Section 3.02. Application of Proceeds of Sale and Certain Other Amounts.	21
Section 3.03. Bond Proceeds Fund; Costs of Issuance Account.	21
Section 3.04. 2003 Bonds Refunding Funds.	21
ARTICLE IV: SECURITY OF BONDS; FLOW OF FUNDS:	
Section 4.01. Security of Bonds; Equal Security.	22
Section 4.02. Redevelopment Obligation Retirement Fund; Deposit of Tax Revenues.	22
Section 4.03. Deposit of Amounts by Trustee.....	23
ARTICLE V: OTHER COVENANTS OF THE SUCCESSOR AGENCY:	
Section 5.01. Punctual Payment.	26
Section 5.02. Limitation on Additional Indebtedness; Against Encumbrances.	26
Section 5.03. Extension of Payment.	26
Section 5.04. Payment of Claims.	26
Section 5.05. Books and Accounts; Financial Statements.	26
Section 5.06. Protection of Security and Rights of Owners.	27
Section 5.07. Payments of Taxes and Other Charges.	27
Section 5.08. Compliance with the Law; Recognized Obligation Payment Schedules.	27
Section 5.09. Dissolution Act Invalid; Maintenance of Tax Revenues.....	28
Section 5.10. No Arbitrage.	28
Section 5.11. Private Activity Bond Limitation.....	28
Section 5.12. Federal Guarantee Prohibition.....	28
Section 5.13. Rebate Requirement.....	28
Section 5.14. Maintenance of Tax-Exemption.	29
Section 5.15. Continuing Disclosure	29
Section 5.16. Further Assurances.....	29
Section 5.17. Provisions Relating to the 2016 Insurance Policy and the 2016 Reserve Policy.	29
ARTICLE VI: THE TRUSTEE:	

ATTACHMENT 4

Section 6.01. Duties, Immunities and Liabilities of Trustee30
Section 6.02. Merger or Consolidation.....31
Section 6.03. Liability of Trustee.31
Section 6.04. Right to Rely on Documents and Opinions.....33
Section 6.05. Preservation and Inspection of Documents.....34
Section 6.06. Compensation and Indemnification.34
Section 6.07. Deposit and Investment of Moneys in Funds.....34
Section 6.08. Accounting Records and Financial Statements.....35
Section 6.09. Appointment of Co-Trustee or Agent.....35
Section 6.10. Other Transactions with Successor Agency.....36

ARTICLE VII:

MODIFICATION OR AMENDMENT OF THIS INDENTURE:

Section 7.01. Amendment With And Without Consent of Owners.....37
Section 7.02. Effect of Supplemental Indenture.....37
Section 7.03. Endorsement or Replacement of Bonds After Amendment.....38
Section 7.04. Amendment by Mutual Consent.....38
Section 7.05. Trustee's Reliance38

ARTICLE VIII:

EVENTS OF DEFAULT AND REMEDIES OF OWNERS:

Section 8.01. Events of Default and Acceleration of Maturities.....39
Section 8.02. Application of Funds Upon Acceleration.....40
Section 8.03. Power of Trustee to Control Proceedings.....41
Section 8.04. Limitation on Owner's Right to Sue.....41
Section 8.05. Non-Waiver.....41
Section 8.06. Actions by Trustee as Attorney-in-Fact.....42
Section 8.07. Remedies Not Exclusive.....42

ARTICLE IX:

MISCELLANEOUS:

Section 9.01. Benefits Limited to Parties.....43
Section 9.02. Successor is Deemed Included in All References to Predecessor.....43
Section 9.03. Defeasance of Bonds.....43
Section 9.04. Execution of Documents and Proof of Ownership by Owners.....44
Section 9.05. Disqualified Bonds.....44
Section 9.06. Waiver of Personal Liability.....44
Section 9.07. Destruction of Cancelled Bonds.....44
Section 9.08. Notices.....45
Section 9.09. Partial Invalidity.....45
Section 9.10. Unclaimed Moneys.....45
Section 9.11. Execution in Counterparts.....46
Section 9.12. Governing Law.....46

EXHIBIT A FORM OF 2016 BONDA-1
EXHIBIT B DEBT SERVICE PAYMENT SCHEDULE.....B-1

INDENTURE OF TRUST

THIS INDENTURE OF TRUST (this "Indenture") is made and entered into and dated as of _____ 1, 2016, by and between the SUCCESSOR AGENCY TO THE TRACY COMMUNITY DEVELOPMENT AGENCY, a public entity duly existing under the laws of the State of California (the "Successor Agency"), and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association organized and existing under the laws of the United States of America, as trustee (the "Trustee");

WITNESSETH:

WHEREAS, the former Community Development Agency of the City of Tracy (the "Former Agency") was a public body, corporate and politic, duly established and authorized to transact business and exercise powers under and pursuant to the provisions of the Community Redevelopment Law of the State of California, constituting Part 1 of Division 24 of the Health and Safety Code of the State (the "Law");

WHEREAS, a Redevelopment Plan (as defined herein) for the City of Tracy Community Development Project Area) in the City of Tracy, California, was adopted in compliance with all requirements of the Law;

WHEREAS, pursuant to Section 34172(a) of the California Health and Safety Code (unless otherwise noted, Section references hereinafter being to such Code), the Former Agency has been dissolved and no longer exists as a public body, corporate and politic, and pursuant to Section 34173, the Successor Agency has become the successor entity to the Former Agency;

WHEREAS, prior to the dissolution of the Former Agency, for the purpose of financing and refinancing redevelopment activities of the Former Agency, the Former Agency issued its (i) \$35,095,000 Community Development Agency of the City of Tracy 2003 Tax Allocation Bonds, Series A ("2003 Senior Bonds") and (ii) \$20,625,000 Community Development Agency of the City of Tracy 2003 Subordinate Tax Allocation Bonds, Series B ("2003 Subordinate Bonds"; together with the 2003 Senior Bonds, the "2003 Bonds");

WHEREAS, Section 34177.5 of the Law authorizes the Successor Agency to undertake proceedings for the refunding of outstanding bonds and other obligations of the Former Agency, subject to the conditions contained in said Section 34177.5;

WHEREAS, Assembly Bill X1 26, effective June 29, 2011, together with AB 1484, effective June 27, 2012 ("AB 1484"), resulted in the dissolution of the Former Agency as of February 1, 2012, and the vesting in the Successor Agency of certain of the authority, rights, powers, duties and obligations of the Former Agency;

WHEREAS, AB 1484, among other things, authorizes the Successor Agency to issue bonds pursuant to Article 11 (commencing with Section 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code (the "Refunding Law") for the purpose of achieving debt service savings within the parameters set forth in said Section 34177.5(a);

ATTACHMENT 4

WHEREAS, the Successor Agency has determined that it will achieve debt service savings within such parameters by the issuance pursuant to the Law and the Refunding Law of its \$_____ aggregate principal amount of Successor Agency to the Tracy Community Development Agency 2016 Tax Allocation Refunding Bonds (the "2016 Bonds") to provide funds to refund all of the outstanding 2003 Bonds;

WHEREAS, in order to provide for the authentication and delivery of the 2016 Bonds, to establish and declare the terms and conditions upon which the 2016 Bonds are to be issued and secured and to secure the payment of the principal thereof and interest and redemption premium (if any) thereon, the Successor Agency and the Trustee have duly authorized the execution and delivery of this Indenture; and

WHEREAS, all acts and proceedings required by law necessary to make the 2016 Bonds when executed by the Successor Agency, and authenticated and delivered by the Trustee, the valid, binding and legal special obligations of the Successor Agency, and to constitute this Indenture a legal, valid and binding agreement for the uses and purposes herein set forth in accordance with its terms, have been done or taken;

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that in order to secure the payment of the principal of and the interest and redemption premium (if any) on all the 2016 Bonds issued and Outstanding under this Indenture, according to their tenor, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the 2016 Bonds are to be issued and received, and in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the 2016 Bonds by the Owners thereof, and for other valuable considerations, the receipt of which is hereby acknowledged, the Successor Agency and the Trustee do hereby covenant and agree with one another, for the benefit of the respective Owners from time to time of the 2016 Bonds, as follows:

ARTICLE I

DETERMINATIONS; DEFINITIONS

Section 1.01. Findings and Determinations. The Successor Agency has reviewed all proceedings heretofore taken and has found, as a result of such review, and hereby finds and determines that all things, conditions and acts required by law to exist, happen or be performed precedent to and in connection with the issuance of the 2016 Bonds do exist, have happened and have been performed in due time, form and manner as required by law, and the Successor Agency is now duly empowered, pursuant to each and every requirement of law, to issue the 2016 Bonds in the manner and form provided in this Indenture.

Section 1.02. Definitions. Unless the context otherwise requires, the terms defined in this Section 1.02 shall, for all purposes of this Indenture, of any Supplemental Indenture, and of any certificate, opinion or other document herein mentioned, have the meanings herein specified.

"Annual Debt Service" means, for each Bond Year, the sum of (a) the interest payable on the Outstanding Bonds and Parity Debt in such Bond Year, assuming that the Outstanding Serial Bonds are retired as scheduled and that the Outstanding Term Bonds are redeemed from mandatory sinking account payments as scheduled, (b) the principal amount of the Outstanding Serial Bonds and Parity Debt payable by their terms in such Bond Year, and (c) the principal amount of the Outstanding Term Bonds scheduled to be paid or redeemed from mandatory sinking account payments in such Fiscal Year.

"Bond" or "Bonds" means the 2016 Bonds and, if the context requires, any additional Parity Debt issued pursuant to a Supplemental Indenture pursuant to Section 3.05 hereof.

"Bond Counsel" means (a) Jones Hall, A Professional Law Corporation, or (b) any other attorney or firm of attorneys appointed by or acceptable to the Successor Agency, of nationally-recognized experience in the issuance of obligations the interest on which is excludable from gross income for federal income tax purposes under the Code.

"Bond Proceeds Fund" means the fund by that name established and held by the Trustee pursuant to Section 3.03.

"Bond Year" means, any twelve-month period beginning on August 2 in any year and ending on the next succeeding August 1, both dates inclusive, except that the first Bond Year shall begin on the Closing Date, and end on August 1, 2016.

"Business Day" means a day of the year on which banks in San Francisco, California, or the city where the Principal Corporate Trust Office is located are not required or permitted to be closed and on which the New York Stock Exchange is not closed.

"City" means the City of Tracy, a municipal corporation and general law city duly organized and existing under the laws of the State of California.

"Closing Date" means, with respect to the 2016 Bonds, the date on which the 2016 Bonds are delivered by the Trustee to the original purchaser thereof.

"Code" means the Internal Revenue Code of 1986 as in effect on the date of issuance of the Bonds or (except as otherwise referenced herein) as it may be amended to apply to

ATTACHMENT 4

obligations issued on the date of issuance of the Bonds, together with applicable temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

"Continuing Disclosure Certificate" means the Continuing Disclosure Certificate executed by the Successor Agency dated as of the Closing Date, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

"Costs of Issuance" means all items of expense directly or indirectly payable by or reimbursable to the Successor Agency relating to the authorization, issuance, sale and delivery of the Bonds, including but not limited to County and Successor Agency administrative staff costs, printing expenses, bond insurance and surety bond premiums, transferred proceeds penalties due the United States of America, rating agency fees, filing and recording fees, initial fees and charges and first annual administrative fee of the Trustee and fees and expenses of its counsel, fees, charges and disbursements of attorneys, financial advisors, accounting firms, consultants and other professionals, fees and charges for preparation, execution and safekeeping of the Bonds and any other cost, charge or fee in connection with the original issuance of the Bonds.

"Costs of Issuance Account" means the account by that name within the Bond Proceeds Fund established and held by the Trustee pursuant to Section 3.03.

"County" means the County of San Joaquin, a county duly organized and existing under the Constitution and laws of the State.

"Debt Service Fund" means the fund by that name established and held by the Trustee pursuant to Section 4.03.

"Defeasance Obligations" means (i) cash and (ii) Federal Securities.

"Depository" means (a) initially, DTC, and (b) any other Securities Depository acting as Depository pursuant to Section 2.11.

"Depository System Participant" means any participant in the Depository's book-entry system.

"Dissolution Act" means Part 1.85 (commencing with Section 34170) of Division 24 of the California Health and Safety Code.

"DTC" means The Depository Trust Company, New York, New York, and its successors and assigns.

"Event of Default" means any of the events described in Section 8.01.

"Fair Market Value" means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated

ATTACHMENT 4

interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury Security--State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, (iv) any commingled investment fund in which the Agency and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of the investment, or (v) the investment is the Local Agency Investment Fund of the State of California but only if at all times during which the investment is held its yield is reasonably expected to be equal to or greater than the yield on a reasonably comparable direct obligation of the United States, as certified in writing by the Agency to the Trustee.

"Federal Securities" means any direct, noncallable general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America and CATS and TGRS), or obligations the payment of principal of and interest on which are unconditionally guaranteed by the United States of America.

"Fiscal Year" means any twelve-month period beginning on July 1 in any year and extending to the next succeeding June 30, both dates inclusive, or any other twelve month period selected and designated by the Successor Agency to the Trustee in writing as its official fiscal year period.

"Former Agency" means the former Community Development Agency of the City of Tracy, a public body corporate and politic duly organized and existing under the Law and dissolved in accordance with the Dissolution Act.

"Indenture" means this Indenture of Trust by and between the Successor Agency and the Trustee, as originally entered into or as it may be amended or supplemented by any Supplemental Indenture entered into pursuant to the provisions hereof.

"Independent Accountant" means any accountant or firm of such accountants duly licensed or registered or entitled to practice as such under the laws of the State, appointed by the Successor Agency, and who, or each of whom:

- (a) is in fact independent and not under domination of the Successor Agency;
- (b) does not have any substantial interest, direct or indirect, with the Successor Agency; and
- (c) is not connected with the Successor Agency as an officer or employee of the Successor Agency, but who may be regularly retained to make reports to the Successor Agency.

"Independent Redevelopment Consultant" means any consultant or firm of such consultants appointed by the Successor Agency, and who, or each of whom:

- (a) is judged by the Successor Agency to have experience in matters relating to the collection of Tax Revenues or otherwise with respect to the financing of redevelopment projects;

ATTACHMENT 4

(b) is in fact independent and not under domination of the Successor Agency;

(c) does not have any substantial interest, direct or indirect, with the Successor Agency; and

(d) is not connected with the Successor Agency as an officer or employee of the Successor Agency, but who may be regularly retained to make reports to the Successor Agency.

"Information Services" means "EMMA" or the "Electronic Municipal Market Access" system of the Municipal Securities Rulemaking Board; or, in accordance with then-current guidelines of the Securities and Exchange Commission, such other services providing information with respect to called bonds as the Successor Agency may designate in a Written Certificate of the Successor Agency delivered to the Trustee.

"Interest Account" means the account by that name established and held by the Trustee pursuant to Section 4.03(a).

"Interest Payment Date" means February 1 and August 1 of each year, commencing [August 1, 2016], so long as any of the Bonds remain Outstanding hereunder.

"Law" means the Community Redevelopment Law, constituting Part 1 of Division 24 of the California Health and Safety Code, together with the Dissolution Act, and the acts amendatory thereof and supplemental thereto.

"Maximum Annual Debt Service" means, as of the date of calculation, the largest Annual Debt Service for the current or any future Bond Year, including payments on any Parity Debt, as certified in writing by the Successor Agency to the Trustee.

"Nominee" means (a) initially, Cede & Co., as nominee of DTC, and (b) any other nominee of the Depository designated pursuant to Section 2.11(a).

"Outstanding" when used as of any particular time with reference to Bonds, means (subject to the provisions of Section 9.05) all Bonds except:

(a) Bonds theretofore canceled by the Trustee or surrendered to the Trustee for cancellation;

(b) Bonds paid or deemed to have been paid within the meaning of Section 9.03; and

(c) Bonds in lieu of or in substitution for which other Bonds shall have been authorized, executed, issued and delivered by the Successor Agency pursuant hereto.

"Oversight Board" means the Oversight Board for the Successor Agency, duly constituted from time to time pursuant to Section 34179 of the California Health and Safety Code.

"Owner" or "Bondowner" means, with respect to any Bond, the person in whose name the ownership of such Bond shall be registered on the Registration Books.

ATTACHMENT 4

"Parity Debt" means any loan, bonds, notes, advances or indebtedness payable from Tax Revenues on a parity with the 2016 Bonds as authorized by the provisions of Section 5.02.

"Parity Debt Instrument" means any resolution, indenture of trust, loan agreement, trust agreement or other instrument authorizing the issuance of any Parity Debt, including, without limitation, a Supplemental Indenture authorized by Section 7.01(e).

"Participating Underwriter" has the meaning ascribed thereto in the Continuing Disclosure Certificate.

"Permitted Investments" means any of the following which at the time of investment are legal investments under the laws of the State of California for the moneys proposed to be invested therein (provided that the Trustee shall be entitled to rely upon any investment direction from the Agency as conclusive certification to the Trustee that the investments described therein are so authorized under the laws of the State), but only to the extent that the same are acquired at Fair Market Value and otherwise comply with the County's investment policies at the time such Permitted Investment is acquired, provided that the Trustee shall be entitled to rely upon any investment directions from the Agency as conclusive certification to the Trustee that investments described therein are in compliance with the County's investment policy then in effect:

- (a) Cash (fully insured by the Federal Deposit Insurance Corporation);
- (b) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by the United States of America;
- (c) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by any agency or instrumentality of the United States of America when such obligations are backed by the full faith and credit of the United States of America;
- (d) evidences of ownership of proportionate interests in future interest and principal payments on obligations described above held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying government obligations are not available to any person claiming through the custodian or to whom the custodian may be obligated;
- (e) Federal Housing Administration debentures;
- (f) the following listed obligations of government-sponsored agencies which are not backed by the full faith and credit of the United States of America:
 - (i) Federal Home Loan Mortgage Corporation (FHLMC) senior debt obligations and Participation certificates (excluded are stripped mortgage securities which are purchased at prices exceeding their principal amounts);
 - (ii) Farm Credit System (formerly Federal Land Banks, Federal Intermediate Credit Banks and Banks for Cooperatives) consolidated system-wide bonds and notes;

ATTACHMENT 4

(iii) Federal Home Loan Banks (FHL Banks) consolidated debt obligations; and

(iv) Federal National Mortgage Association (FNMA) senior debt obligations and mortgage-backed securities (excluded are stripped mortgage securities which are purchased at prices exceeding their principal amounts);

(g) unsecured certificates of deposit, time deposits, and bankers' acceptances (having maturities of not more than 365 days) of any bank (which may include the Trustee and its affiliates) the short-term obligations of which are rated "A-1+" or better by S&P and "Prime-1" by Moody's;

(h) deposits the aggregate amount of which are fully insured by the Federal Deposit Insurance Corporation, in banks which have capital and surplus of at least \$15 million;

(i) commercial paper (having original maturities of not more than 270 days) rated at the time of purchase "A-1+" by S&P and "Prime-1" by Moody's;

(j) money market funds (including funds for which the Trustee, its parent holding company, if any, or any affiliates or subsidiaries of the Trustee provide investment advisory or management services) rated "Aam" or "AAm-G" by S&P, or better and if rated by Moody's rated "Aa2" or better;

(k) "State Obligations", which means:

(i) direct general obligations of any state of the United States of America or any subdivision or agency thereof to which is pledged the full faith and credit of a state the unsecured general obligation debt of which is rated at least "A3" by Moody's and at least "A-" by S&P, or any obligation fully and unconditionally guaranteed by any state, subdivision or agency whose unsecured general obligation debt is so rated;

(ii) direct general short-term obligations of any state agency or subdivision or agency thereof described in (a) above and rated "A-1+" by S&P and "MIG-1" by Moody's; and

(iii) Special Revenue Bonds (as defined in the United States Bankruptcy Code) of any state or state agency described in (b) above and rated "AA-" or better by S&P and "Aa3" or better by Moody's;

(l) pre-refunded municipal obligations rated "AAA" by S&P and "Aaa" by Moody's meeting the following requirements:

(i) the municipal obligations are (1) not subject to redemption prior to maturity or (2) the trustee for the municipal obligations has been given irrevocable instructions concerning their call and redemption and the issuer of the municipal obligations has covenanted not to redeem such municipal obligations other than as set forth in such instructions;

ATTACHMENT 4

(ii) the municipal obligations are secured by cash or U.S. Treasury Obligations which may be applied only to payment of the principal of, interest and premium on such municipal obligations;

(iii) the principal of and interest on the U.S. Treasury Obligations (plus any cash in the escrow) has been verified by the report of independent certified public accountants to be sufficient to pay in full all principal of, interest, and premium, if any, due and to become due on the municipal obligations ("Verification Report");

(iv) the cash or U.S. Treasury Obligations serving as security for the municipal obligations are held by an escrow agent or trustee in trust for owners of the municipal obligations;

(v) no substitution of a U.S. Treasury Obligation shall be permitted except with another U.S. Treasury Obligation and upon delivery of a new Verification Report; and

(vi) the cash or U.S. Treasury Obligations are not available to satisfy any other claims, including those by or against the trustee or escrow agent;

(m) repurchase agreements with (1) any domestic bank, or domestic branch of a foreign bank, the long term debt of which is rated at least "A-" by S&P and "A3" Moody's; or (2) any broker-dealer with "retail customers" or a related affiliate thereof which broker-dealer has, or the parent company (which guarantees the provider) of which has, long-term debt rated at least "A-" by S&P and "A3" by Moody's, which broker-dealer falls under the jurisdiction of the Securities Investors Protection Corporation; or (3) any other entity rated at least "A-" by S&P and "A3" Moody's and acceptable to the 2016 Insurer, the form and substance of which repurchase agreement shall be in form and substance acceptable to the 2016 Insurer;

(n) investment agreements with a domestic or foreign bank or corporation the long-term debt of which, or, in the case of a guaranteed corporation the long-term debt, or, in the case of a monoline financial guaranty insurance company, claims paying ability, of the guarantor is rated at least "AA-" by S&P and "Aa3" by Moody's, and acceptable to the 2016 Insurer, the form and substance of which investment agreement shall be in form and substance acceptable to the 2016 Insurer;

(o) the Local Agency Investment Fund which is administered by the California Treasurer for the investment of funds belonging to local agencies within the State of California, provided that for investment of funds held by the Trustee, the Trustee is entitled to make investments and withdrawals in its own name as Trustee; and

(p) any other investment approved in writing by the 2016 Insurer in its sole discretion.

"Principal Account" means the account by that name established and held by the Trustee pursuant to Section 4.03(b).

"Principal Corporate Trust Office" means the principal corporate trust office of the Trustee located in Los Angeles, California, or such other office that the Trustee may designate

ATTACHMENT 4

in writing to the Successor Agency from time to time as the corporate trust office for purposes of this Indenture; *provided, however*, that for purposes of the transfer, registration, exchange, payment and surrender of Bonds, the term "Principal Corporate Trust Office" means the corporate trust office of the Trustee at which it conducts its corporate agency business.

"Project Area" means the project area described in the Redevelopment Plan.

"Qualified Reserve Account Credit Instrument" means [(i) the 2016 Reserve Policy and (ii)] an irrevocable standby or direct-pay letter of credit, insurance policy, or surety bond issued by a commercial bank or insurance company and deposited with the Trustee, provided that all of the following requirements are met at the time of acceptance thereof by the Trustee: (a) S&P or Moody's have assigned a long-term credit rating to such bank or insurance company of "A" or higher; (b) such letter of credit, insurance policy or surety bond has a term of at least 12 months; (c) such letter of credit, insurance policy or surety bond has a stated amount at least equal to the Reserve Requirement or, if such letter of credit, insurance policy or surety bond is being provided with respect to only a portion of the Reserve Requirement, such letter of credit, insurance policy or surety bond has a stated amount at least equal to that portion of the Reserve Requirement with respect to which funds are proposed to be released; and (d) the Trustee is authorized pursuant to the terms of such letter of credit, insurance policy or surety bond to draw thereunder an amount equal to any deficiencies which may exist from time to time in the Interest Account or the Principal Account for the purpose of making payments required pursuant to Sections 4.03(a), 4.03(b) or 4.03(c) of this Indenture.

"Recognized Obligation Payment Schedule" means the schedule by that name prepared in accordance with the requirements of Section 34177(l) of the California Health and Safety Code.

"Record Date" means, with respect to any Interest Payment Date, the close of business on the fifteenth (15th) calendar day of the month preceding such Interest Payment Date, whether or not such fifteenth (15th) calendar day is a Business Day.

"Redemption Account" means the account by that name established and held by the Trustee pursuant to Section 4.03(e).

"Redevelopment Obligation Retirement Fund" means the fund established and held by the Successor Agency pursuant to Section 34170.5(a) of the California Health and Safety Code.

"Redevelopment Plan" means the Redevelopment Plan for the Community Development Project Area, approved by Ordinance No. 482 enacted by the City Council of the City on July 17, 1990, together with any amendments thereof heretofore or hereafter duly enacted pursuant to the Law.

"Redevelopment Property Tax Trust Fund" means the fund established pursuant to Section 34170.5(b) of the California Health and Safety Code and administered by the City of Tracy.

"Registration Books" means the records maintained by the Trustee pursuant to Section 2.08 for the registration and transfer of ownership of the Bonds.

ATTACHMENT 4

"Refunding Law" means Article 11 (commencing with Section 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code of the State, and the acts amendatory thereof and supplemented thereto.

"Report" means a document in writing signed by an Independent Redevelopment Consultant and including:

(a) a statement that the person or firm making or giving such Report has read the pertinent provisions of this Indenture to which such Report relates;

(b) a brief statement as to the nature and scope of the examination or investigation upon which the Report is based; and

(c) a statement that, in the opinion of such person or firm, sufficient examination or investigation was made as is necessary to enable said consultant to express an informed opinion with respect to the subject matter referred to in the Report.

"Reserve Account" means the account by that name established and held by the Trustee pursuant to Section 4.03(d).

"Reserve Requirement" means, with respect to the 2016 Bonds and any Parity Debt issued as Bonds pursuant to a Supplemental Indenture, the lesser of (i) 125% of the average Annual Debt Service with respect to the 2016 Bonds and such Parity Debt, as applicable or (ii) Maximum Annual Debt Service with respect to the 2016 Bonds and such Parity Debt, as applicable; provided, that in no event shall the Successor Agency, in connection with the issuance of the 2016 Bonds or any Parity Debt in the form of Bonds pursuant to a Supplemental Indenture be obligated to deposit an amount in the Reserve Account which is in excess of the amount permitted by the applicable provisions of the Code to be so deposited from the proceeds of tax-exempt bonds without having to restrict the yield of any investment purchased with any portion of such deposit and, in the event the amount of any such deposit into the Reserve Account is so limited, the Reserve Requirement shall, in connection with the issuance of such Parity Debt issued in the form of Bonds, be increased only by the amount of such deposit as permitted by the Code; and, provided further that the Successor Agency may meet all or a portion of the Reserve Requirement by depositing a Qualified Reserve Account Credit Instrument meeting the requirements of Section 4.03(d) hereof.

"S&P" means Standard & Poor's Ratings Services and its successors.

"Securities Depositories" means DTC and, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other securities depositories as the Successor Agency may designate in a Written Request of the Successor Agency delivered to the Trustee.

"Semiannual Period" means (a) each six-month period beginning on January 1 of any calendar year and ending on June 30 of such calendar year, and (b) each six-month period beginning on July 1 of any calendar year and ending on December 31 of such calendar year.

"Serial Bonds" means all Bonds other than Term Bonds.

"Sinking Account" means the account by that name established and held by the Trustee pursuant to Section 4.03(c).

ATTACHMENT 4

"State" means the State of California.

"Subordinate Debt" means any Loan, advances or indebtedness issued or incurred by the Successor Agency, which are either: (a) payable from, but not secured by a pledge of or lien upon, the Tax Revenues, including revenue bonds and other debts and obligations scheduled for payment pursuant to Section 34183(a)(2) of the Law; or (b) secured by a pledge of or lien upon the Tax Revenues which is subordinate to the pledge of and lien upon the Tax Revenues hereunder for the security of the Bonds.

"Successor Agency" means the Successor Agency for the Community Development Agency of the City of Tracy, a public entity duly organized and existing under the Law.

"Supplemental Indenture" means any resolution, agreement or other instrument that has been duly adopted or entered into by the Successor Agency, but only if and to the extent that such Supplemental Indenture is specifically authorized hereunder.

"Tax Revenues" means all taxes annually allocated and paid to the Successor Agency with respect to the Project Area pursuant to Article 6 of Chapter 6 (commencing with Section 33670) of the Law and Section 16 of Article XVI of the Constitution of the State, or pursuant to other applicable State laws, and as provided in the Redevelopment Plan, and all payments, subventions and reimbursements, if any, to the Successor Agency specifically attributable to ad valorem taxes lost by reason of tax exemptions and tax rate limitations, in each case that are deposited in the Redevelopment Property Tax Trust Fund for transfer to the Successor Agency for deposit into the Redevelopment Obligation Retirement Fund, but excluding amounts, if any, payable by the Successor Agency pursuant to Sections 33676, 33607.5 and 33607.7 of the Law and Section 34183(a)(1) of the Dissolution Act, except and to the extent that any amounts so payable are payable on a basis subordinate to the payment of debt service on the 2016 Bonds or any additional Bonds pursuant to Section 33607.5(e) of the Law and 34177.5(c) of the Dissolution Act.

"Term Bonds" means (i) the 2016 Bonds maturing on August 1, 20__, and (b) any Parity Debt issued pursuant to a Supplemental Indenture pursuant to Section 7.01(e) and payable from amounts in the Sinking Account established pursuant to Section 4.03(c).

"Trustee" means The Bank of New York Mellon Trust Company, N.A., as trustee hereunder, or any successor thereto appointed as trustee hereunder in accordance with the provisions of Article VI.

"2008 Reimbursement Agreement" means that certain Reimbursement Agreement, dated as of December 1, 2008, by and between the Former Agency and the City.

"2003 Bonds" means the 2003 Subordinate Bonds and the 2003 Senior Bonds.

"2003 Bonds Refunding Fund" means the fund by that name established in Section 3.04 hereof.

"2003 Bonds Refunding Instructions" means those Irrevocable Refunding Instructions dated the date of issuance and delivery of the 2016 Bonds relating to the defeasance and refunding of the 2003 Bonds, executed by the Successor Agency and delivered to The Bank of New York Mellon Trust Company N.A., as trustee of the 2003 Bonds.

ATTACHMENT 4

"2003 Senior Bonds" means \$35,095,000 Community Development Agency of the City of Tracy 2003 Tax Allocation Bonds, Series A.

"2003 Subordinate Bonds" means \$20,625,000 Community Development Agency of the City of Tracy 2003 Subordinate Tax Allocation Bonds, Series B.

"2016 Bonds" means the Successor Agency to the Tracy Community Development Agency 2016 Tax Allocation Refunding Bonds.

"2016 Insurance Policy" means [to come]

"2016 Insurer" means _____, or any successor thereto or assignee thereof, as issuer of the 2016 Insurance Policy and the 2016 Reserve Policy.

"2016 Reserve Policy" means [to come].]

"Written Request of the Successor Agency" or "Written Certificate of the Successor Agency" means a request or certificate, in writing signed by the City Manager of the City of Tracy or his or her designee, or by any other officer of the Successor Agency duly authorized by the Governing Board of the Successor Agency for that purpose.

Section 1.03. Rules of Construction. All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Indenture, and the words "herein," "hereof," "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof.

ARTICLE II

AUTHORIZATION AND TERMS

Section 2.01. Authorization of 2016 Bonds. The 2016 Bonds in the aggregate principal amount of _____ Dollars (\$_____) are hereby authorized to be issued by the Successor Agency under and subject to the terms of this Indenture, the Law, the Dissolution Act and the Refunding Law. This Indenture constitutes a continuing agreement with the Owners of all of the Bonds, including the 2016 Bonds, issued or to be issued hereunder and then Outstanding to secure the full and final payment of principal and redemption premiums (if any) and the interest on all Bonds, including the 2016 Bonds, which may from time to time be executed and delivered hereunder, subject to the covenants, agreements, provisions and conditions herein contained. The 2016 Bonds shall be as one series designated the "Successor Agency to the Tracy Community Development Agency 2016 Tax Allocation Refunding Bonds".

Section 2.02. Terms of 2016 Bonds. The 2016 Bonds shall be dated as of the Closing Date, and shall be issued in fully registered form without coupons in the denomination of \$5,000 or any integral multiple thereof. The 2016 Bonds shall mature and shall bear interest (calculated on the basis of a 360-day year of twelve 30-day months) at the rate per annum as follows:

Maturity Date (August 1)	Principal Amount	Interest Rate Per Annum
---	-----------------------------	------------------------------------

Interest on the 2016 Bonds (including the final interest payment upon maturity or earlier redemption) shall be payable on each Interest Payment Date to the person whose name appears on the Registration Books as the Owner thereof as of the Record Date immediately preceding each such Interest Payment Date, such interest to be paid by check of the Trustee

mailed by first class mail, postage prepaid, on the Interest Payment Date, to such Owner at the address of such Owner as it appears on the Registration Books as of such Record Date; provided however, that payment of interest may be by wire transfer to an account in the United States of America to any registered owner of 2016 Bonds in the aggregate principal amount of \$1,000,000 or more who shall furnish written wire instructions to the Trustee prior to the applicable Record Date. Principal of and redemption premium (if any) on any 2016 Bond shall be paid upon presentation and surrender thereof, at maturity, at the Principal Corporate Trust Office of the Trustee. Both the principal of and interest and premium (if any) on the 2016 Bonds shall be payable in lawful money of the United States of America.

Each 2016 Bond shall bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless (a) it is authenticated after a Record Date and on or before the following Interest Payment Date, in which event it shall bear interest from such Interest Payment Date; or (b) a 2016 Bond is authenticated on or before the first Record Date, in which event it shall bear interest from the Closing Date; *provided, however*, that if, as of the date of authentication of any 2016 Bond, interest thereon is in default, such 2016 Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

Section 2.03. Redemption of 2016 Bonds.

(a) Optional Redemption. The 2016 Bonds maturing on or before August 1, 2025 are not subject to optional redemption prior to maturity. The 2016 Bonds maturing on and after August 1, 2026, are subject to redemption, at the option of the Successor Agency on any date on or after August 1, 2025, as a whole or in part, by such maturities as shall be determined by the Successor Agency, and by lot within a maturity, from any available source of funds, at a redemption price equal to the principal amount of the 2016 Bonds to be redeemed, together with accrued interest thereon to the date fixed for redemption, without premium.

The Successor Agency shall be required to give the Trustee written notice of its intention to redeem 2016 Bonds under this subsection (a) with a designation of the principal amount and maturities to be redeemed at least sixty (60) days prior to the date fixed for such redemption (or such later date as is acceptable to the Trustee).

(b) Mandatory Sinking Fund Redemption. The 2016 Bonds that are Term Bonds maturing August 1, 20__ shall be subject to mandatory redemption in whole, or in part by lot, on August 1 in each year, commencing August 1, 20__, as set forth below, from sinking fund payments made by the Successor Agency to the Principal Account pursuant to Section 4.03(b), at a redemption price equal to the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts and on August 1 in the respective years as set forth in the following table; provided however, that (i) in lieu of redemption thereof such Term Bonds may be purchased by the Successor Agency pursuant to Section 2.03(g) hereof, and (ii) if some but not all of such Term Bonds have been redeemed pursuant to subsection (a) above, the total amount of all future sinking fund payments shall be reduced by the aggregate principal amount of such Term Bonds so redeemed, to be allocated among such sinking fund payments in integral multiples of \$5,000 as determined by the Successor Agency (notice of which determination shall be given by the Successor Agency to the Trustee).

(c) Notice of Redemption. The Trustee on behalf and at the expense of the Successor Agency shall mail (by first class mail, postage prepaid) notice of any redemption at least twenty (20) but not more than sixty (60) days prior to the redemption date, to (i) to the Owners of any

ATTACHMENT 4

2016 Bonds designated for redemption at their respective addresses appearing on the Registration Books, and (ii) the Securities Depositories and to the Information Services; but such mailing shall not be a condition precedent to such redemption and neither failure to receive any such notice nor any defect therein shall affect the validity of the proceedings for the redemption of such 2016 Bonds or the cessation of the accrual of interest thereon. Such notice shall state the redemption date and the redemption price, shall state that optional redemption is conditioned upon the timely delivery of the redemption price by the Successor Agency to the Trustee for deposit in the Redemption Account, shall designate the CUSIP number of the 2016 Bonds to be redeemed, shall state the individual number of each Bond to be redeemed or shall state that all 2016 Bonds between two stated numbers (both inclusive) or all of the Bonds Outstanding are to be redeemed, and shall require that such 2016 Bonds be then surrendered at the Principal Corporate Trust Office of the Trustee for redemption at the redemption price, giving notice also that further interest on such 2016 Bonds will not accrue from and after the redemption date.

The Successor Agency has the right to rescind any notice of the optional redemption of 2016 Bonds by written notice to the Trustee on or prior to the date fixed for redemption. Any notice of optional redemption shall be cancelled and annulled if for any reason funds will not be or are not available on the date fixed for redemption for the payment in full of the 2016 Bonds then called for redemption, and such cancellation shall not constitute an Event of Default. The Successor Agency and the Trustee have no liability to the Owners or any other party related to or arising from such rescission of redemption. The Trustee shall mail notice of such rescission of redemption in the same manner as the original notice of redemption was sent under this Section.

Upon the payment of the redemption price of 2016 Bonds being redeemed, each check or other transfer of funds issued for such purpose shall, to the extent practicable, bear the CUSIP number identifying, by issue and maturity, the 2016 Bonds being redeemed with the proceeds of such check or other transfer.

(d) Partial Redemption of 2016 Bonds. In the event only a portion of any 2016 Bond is called for redemption, then upon surrender of such 2016 Bond the Successor Agency shall execute and the Trustee shall authenticate and deliver to the Owner thereof, at the expense of the Successor Agency, a new 2016 Bond or 2016 Bonds of the same interest rate and maturity, of authorized denominations, in aggregate principal amount equal to the unredeemed portion of the 2016 Bond to be redeemed.

(e) Effect of Redemption. From and after the date fixed for redemption, if funds available for the payment of the redemption price of and interest on the 2016 Bonds so called for redemption shall have been duly deposited with the Trustee, such 2016 Bonds so called shall cease to be entitled to any benefit under this Indenture other than the right to receive payment of the redemption price and accrued interest to the redemption date, and no interest shall accrue thereon from and after the redemption date specified in such notice.

(f) Manner of Redemption. Whenever any 2016 Bonds or portions thereof are to be selected for redemption by lot, the Trustee shall make such selection, in such manner as the Trustee shall deem appropriate, and shall notify the Successor Agency thereof to the extent 2016 Bonds are no longer held in book-entry form. In the event of redemption by lot of 2016 Bonds, the Trustee shall assign to each 2016 Bond then Outstanding a distinctive number for each \$5,000 of the principal amount of each such 2016 Bond. The 2016 Bonds to be redeemed shall be the 2016 Bonds to which were assigned numbers so selected, but only so much of the

ATTACHMENT 4

principal amount of each such 2016 Bond of a denomination of more than \$5,000 shall be redeemed as shall equal \$5,000 for each number assigned to it and so selected. All 2016 Bonds redeemed or purchased pursuant to this Section 2.03 shall be cancelled and destroyed.

(g) Purchase in Lieu of Redemption. In lieu of redemption of the Term Bonds pursuant to the preceding sub-paragraph (b) or pursuant to a Supplemental Indenture, amounts on deposit in the Special Fund or in the Principal Account or Sinking Account may also be used and withdrawn by the Successor Agency and the Trustee, respectively, at any time, upon the Written Request of the Successor Agency, for the purchase of the Term Bonds at public or private sale as and when and at such prices (including brokerage and other charges, but excluding accrued interest, which is payable from the Interest Account) as the Successor Agency may in its discretion determine. The par amount of any Term Bonds so purchased by the Successor Agency in any twelve-month period ending on July 1 in any year shall be credited towards and shall reduce the par amount of the Term Bonds required to be redeemed pursuant to subsection (d) on August 1 in each year; provided that evidence satisfactory to the Trustee of such purchase has been delivered to the Trustee by said July 1. In no event shall the Successor Agency purchase any Term Bonds in lieu of redemption without canceling such Term Bonds.

Section 2.04. Form of 2016 Bonds. The 2016 Bonds, the form of Trustee's Certificate of Authentication, and the form of Assignment to appear thereon, shall be substantially in the form set forth in Exhibit A, which is attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Indenture.

Section 2.05. Execution of 2016 Bonds. The 2016 Bonds shall be executed on behalf of the Successor Agency by the signature of the Chair or the Executive Director of the San Joaquin County Community Development Commission who are in office on the date of execution and delivery of this Indenture or at any time thereafter. Either or both of such signatures may be made manually or may be affixed by facsimile thereof. The 2016 Bonds shall be attested by the manual or facsimile of the Secretary of the Governing Board of the Successor Agency. If any officer whose signature appears on any 2016 Bond ceases to be such officer before delivery of the 2016 Bonds to the purchaser, such signature shall nevertheless be as effective as if the officer had remained in office until the delivery of the 2016 Bonds to the purchaser. Any 2016 Bond may be signed and attested on behalf of the Successor Agency by such persons as at the actual date of the execution of such 2016 Bond shall be the proper officers of the Successor Agency although on the date of such 2016 Bond any such person shall not have been such officer of the Successor Agency.

Only such of the 2016 Bonds as shall bear thereon a Certificate of Authentication in the form hereinbefore set forth, manually executed and dated by the Trustee, shall be valid or obligatory for any purpose or entitled to the benefits of this Indenture, and such Certificate shall be conclusive evidence that such 2016 Bonds have been duly authenticated and delivered hereunder and are entitled to the benefits of this Indenture. In the event temporary 2016 Bonds are issued pursuant to Section 2.09 hereof, the temporary 2016 Bonds may bear thereon a Certificate of Authentication executed and dated by the Trustee, shall be initially registered by the Trustee, and, until so exchanged as provided under Section 2.09 hereof, the temporary 2016 Bonds shall be entitled to the same benefits pursuant to this Indenture as definitive 2016 Bonds authenticated and delivered hereunder.

ATTACHMENT 4

Section 2.06. Transfer of Bonds. Any Bond may, in accordance with its terms, be transferred, upon the Registration Books, by the person in whose name it is registered, in person or by a duly authorized attorney of such person, upon surrender of such Bond to the Trustee at its Principal Corporate Trust Office for cancellation, accompanied by delivery of a written instrument of transfer in a form acceptable to the Trustee, duly executed. Whenever any Bond or Bonds shall be surrendered for registration of transfer, the Successor Agency shall execute and the Trustee shall authenticate and deliver a new Bond or Bonds, of like series, interest rate, maturity and principal amount of authorized denomination. The Trustee shall collect from the Owner any tax or other governmental charge on the transfer of any Bonds pursuant to this Section 2.06. The cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any transfer shall be paid by the Successor Agency.

The Trustee may refuse to transfer, under the provisions of this Section 2.06, either (a) any Bonds during the period fifteen (15) days prior to the date established by the Trustee for the selection of Bonds for redemption, or (b) any Bonds selected by the Trustee for redemption.

Section 2.07. Exchange of Bonds. Bonds may be exchanged at the Principal Corporate Trust Office of the Trustee for a like aggregate principal amount of Bonds of other authorized denominations of the same series, interest rate and maturity. The Trustee shall collect any tax or other governmental charge on the exchange of any Bonds pursuant to this Section 2.07. The cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any exchange shall be paid by the Successor Agency.

The Trustee may refuse to transfer, under the provisions of this Section 2.07, either (a) any Bonds during the period fifteen (15) days prior to the date established by the Trustee for the selection of Bonds for redemption, or (b) any Bonds selected by the Trustee for redemption.

Section 2.08. Registration of Bonds. The Trustee will keep or cause to be kept, at its Principal Corporate Trust Office, sufficient records for the registration and registration of transfer of the Bonds, which shall at all times during normal business hours be open to inspection by the Successor Agency, upon reasonable prior notice to the Trustee; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on the Registration Books Bonds as hereinbefore provided.

Section 2.09. Temporary Bonds. The Bonds may be initially issued in temporary form exchangeable for definitive Bonds when ready for delivery. The temporary Bonds may be printed, lithographed or typewritten, shall be of such denominations as may be determined by the Successor Agency, and may contain such reference to any of the provisions of this Indenture as may be appropriate. Every temporary Bond shall be executed by the Successor Agency upon the same conditions and in substantially the same manner as the definitive Bonds. If the Successor Agency issues temporary Bonds, it will execute and furnish definitive Bonds without delay, and thereupon the temporary Bonds shall be surrendered, for cancellation, in exchange therefor at the Trust Office of the Trustee, and the Trustee shall authenticate and deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds of authorized denominations, interest rates and like maturities. Until so exchanged, the temporary Bonds shall be entitled to the same benefits pursuant to this Indenture as definitive Bonds authenticated and delivered hereunder.

ATTACHMENT 4

Section 2.10. Bonds Mutilated, Lost, Destroyed or Stolen. If any Bond shall become mutilated, the Successor Agency, at the expense of the Owner of such Bond, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor and amount in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee of the Bond so mutilated. Every mutilated Bond so surrendered to the Trustee shall be canceled by it. If any Bond shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Successor Agency and the Trustee and, if such evidence be satisfactory to both and indemnity satisfactory to them shall be given, the Successor Agency, at the expense of the Owner, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor and amount in lieu of and in substitution for the Bond so lost, destroyed or stolen (or if any such Bond has matured or has been called for redemption, instead of issuing a substitute Bond, the Trustee may pay the same without surrender thereof upon receipt of indemnity satisfactory to the Trustee and the Successor Agency). The Successor Agency may require payment by the Owner of a sum not exceeding the actual cost of preparing each new Bond issued under this Section 2.10 and of the expenses which may be incurred by the Successor Agency and the Trustee in the premises. Any Bond issued under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the Successor Agency whether or not the Bond so alleged to be lost, destroyed or stolen be at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Indenture with all other Bonds issued pursuant to this Indenture.

Section 2.11. Book-Entry System.

(a) Original Delivery. The Bonds shall be initially delivered in the form of a separate single fully registered Bond without coupons (which may be typewritten) for each maturity of the Bonds. Upon initial delivery, the ownership of each such Bond shall be registered on the Registration Books in the name of the Nominee. Except as provided in subsection (c), the ownership of all of the Outstanding Bonds shall be registered in the name of the Nominee on the Registration Books.

With respect to Bonds the ownership of which shall be registered in the name of the Nominee, neither the Successor Agency nor the Trustee shall have any responsibility or obligation to any Depository System Participant or to any person on behalf of which the Depository System Participant holds an interest in the Bonds. Without limiting the generality of the immediately preceding sentence, neither the Successor Agency nor the Trustee shall have any responsibility or obligation with respect to (i) the accuracy of the records of the Depository, the Nominee or any Depository System Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any Depository System Participant or any other person, other than a Bond Owner as shown in the Registration Books, of any notice with respect to the Bonds, including any notice of redemption, (iii) the selection by the Depository of the beneficial interests in the Bonds to be redeemed in the event the Successor Agency elects to redeem the Bonds in part, (iv) the payment to any Depository System Participant or any other person, other than a Bond Owner as shown in the Registration Books, of any amount with respect to principal, premium, if any, or interest on the Bonds or (v) any consent given or other action taken by the Depository as Owner of the Bonds. The Successor Agency and the Trustee may treat and consider the person in whose name each Bond is registered as the absolute owner of such Bond for the purpose of payment of principal, premium and interest on such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers of ownership of such Bond, and for all other purposes whatsoever. The Trustee shall pay the principal of and interest and premium, if any, on the

ATTACHMENT 4

Bonds only to the respective Owners or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge all obligations with respect to payment of principal of and interest and premium, if any, on the Bonds to the extent of the sum or sums so paid. No person other than a Bond Owner shall receive a Bond evidencing the obligation of the Successor Agency to make payments of principal, interest and premium, if any, pursuant to this Indenture. Upon delivery by the Depository to the Nominee of written notice to the effect that the Depository has determined to substitute a new nominee in its place, and subject to the provisions herein with respect to Record Dates, such new nominee shall become the Nominee hereunder for all purposes; and upon receipt of such a notice the Successor Agency shall promptly deliver a copy of the same to the Trustee.

(b) Representation Letter. In order to qualify the Bonds for the Depository's book-entry system, the Successor Agency and the Trustee shall execute and deliver to such Depository a letter representing such matters as shall be necessary to so qualify the Bonds. The execution and delivery of such letter shall not in any way limit the provisions of subsection (a) above or in any other way impose upon the Successor Agency or the Trustee any obligation whatsoever with respect to persons having interests in the Bonds other than the Bond Owners. The Trustee agrees to comply with all provisions in such letter with respect to the giving of notices thereunder by the Trustee. In addition to the execution and delivery of such letter, upon written request of the Depository or the Trustee, the Successor Agency may take any other actions, not inconsistent with this Indenture, to qualify the Bonds for the Depository's book-entry program.

(c) Transfers Outside Book-Entry System. In the event that either (i) the Depository determines not to continue to act as Depository for the Bonds, or (ii) the Successor Agency determines to terminate the Depository as such, then the Successor Agency shall thereupon discontinue the book-entry system with such Depository. In such event, the Depository shall cooperate with the Successor Agency and the Trustee in the issuance of replacement Bonds by providing the Trustee with a list showing the interests of the Depository System Participants in the Bonds, and by surrendering the Bonds, registered in the name of the Nominee, to the Trustee on or before the date such replacement Bonds are to be issued. The Depository, by accepting delivery of the Bonds, agrees to be bound by the provisions of this subsection (c). If, prior to the termination of the Depository acting as such, the Successor Agency fails to identify another Securities Depository to replace the Depository, then the Bonds shall no longer be required to be registered in the Registration Books in the name of the Nominee, but shall be registered in whatever name or names the Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Article II. Prior to its termination, the Depository shall furnish the Trustee with the names and addresses of the Depository System Participants and respective ownership interests thereof.

(d) Payments to the Nominee. Notwithstanding any other provision of this Indenture to the contrary, so long as any Bond is registered in the name of the Nominee, all payments with respect to principal of and interest and premium (if any) on such Bond and all notices with respect to such Bond shall be made and given, respectively, as provided in the letter described in subsection (b) of this Section or as otherwise instructed by the Depository.

ARTICLE III

DEPOSIT AND APPLICATION OF PROCEEDS OF 2016 BONDS

Section 3.01. Issuance of 2016 Bonds. Upon the execution and delivery of this Indenture, the Successor Agency shall issue and deliver 2016 Bonds to the Trustee in the aggregate principal amount of _____ Dollars (\$_____) and the Trustee shall authenticate and deliver the 2016 Bonds upon the Written Request of the Successor Agency.

Section 3.02. Application of Proceeds of Sale and Certain Other Amounts. On the Closing Date the proceeds of sale of the 2016 Bonds shall be paid to the Trustee in the amount of (i) the purchase price of the 2016 Bonds of \$_____ (being the aggregate principal amount of the 2016 Bonds, plus an original issue premium in the amount of \$_____, less an underwriter's discount in the amount of \$_____), less (ii) the premium for the 2016 Insurance Policy in the amount of \$_____ and the premium for the 2016 Reserve Policy in the amount of \$_____, which shall be paid directly to the 2016 Insurer, less the premium for the 2016 Reserve Policy in the amount of \$_____ paid directly to the 2016 Insurer. The Trustee shall apply the proceeds described in the previous sentence as follows:

(a) The Trustee shall deposit the amount of \$_____ in the Costs of Issuance Account.

(b) The Trustee shall deposit the amount of \$_____, in the 2003 Bonds Refunding Fund.

[In addition, the Trustee shall credit the 2016 Reserve Policy to the Reserve Account.]

Section 3.03. Bond Proceeds Fund; Costs of Issuance Account. There is hereby established a separate fund to be known as the "Bond Proceeds Fund", which shall be held by the Trustee in trust, and within such Fund there shall be established a separate Costs of Issuance Account. The moneys in the Costs of Issuance Account shall be used and withdrawn by the Trustee from time to time to pay the Costs of Issuance upon submission of a Written Request of the Successor Agency stating the person to whom payment is to be made, the amount to be paid, the purpose for which the obligation was incurred and that such payment is a proper charge against said fund. On the date which is six (6) months following the Closing Date, or upon the earlier Written Request of the Successor Agency, all amounts (if any) remaining in the Costs of Issuance Account shall be withdrawn therefrom by the Trustee and transferred to the Interest Account of the Debt Service Fund, and the Trustee shall close the Costs of Issuance Account.

Section 3.04. 2003 Bonds Refunding Fund. There is hereby created the 2003 Bonds Refunding Fund held by the Trustee in trust for the benefit of the Successor Agency. The moneys in the 2003 Bonds Refunding Fund shall be maintained separate and apart from other moneys of the Successor Agency.

The Trustee shall transfer all moneys on deposit in the 2003 Bonds Refunding Fund to The Bank of New York Mellon Trust Company, N.A., as trustee for the 2003 Bonds, for deposit and application under and pursuant to the 2003 Bonds Refunding Instructions. Upon making such transfer, the 2003 Bonds Refunding Fund shall be closed.

ARTICLE IV

SECURITY OF BONDS; FLOW OF FUNDS

Section 4.01. Security of Bonds; Equal Security. Except as provided in Section 6.06, the Bonds and any Parity Debt shall be equally secured by a pledge of, security interest in and lien on all of the Tax Revenues, including all of the Tax Revenues in the Redevelopment Obligation Retirement Fund and a first and exclusive pledge of, security interest in and lien upon all of the moneys in the Debt Service Fund, the Interest Account, the Principal Account, the Sinking Account and the Redemption Account, without preference or priority for series, issue, number, dated date, sale date, date of execution or date of delivery. The Bonds and all Parity Debt shall be additionally secured by a first and exclusive pledge of, security interest in and lien upon all of the moneys in the Reserve Account established by Section 4.03(d). The Bonds shall be also equally secured by the pledge and lien created with respect to the Bonds by Section 34177.5(g) of the Law on the Tax Revenues deposited from time to time in the Redevelopment Property Tax Trust Fund. Except for the Tax Revenues and such moneys, no funds or properties of the Successor Agency shall be pledged to, or otherwise liable for, the payment of principal of or interest on the Bonds.

Pursuant to Section 3 of the 2008 Reimbursement Agreement, the pledge of property tax revenues under the 2008 Reimbursement Agreement is subordinate to the pledge, security interest and lien that secures any loans, advances or indebtedness of the Former Agency or the Successor Agency, whether issued before or after the effective date of the 2008 Reimbursement Agreement. As such, the 2008 Reimbursement Agreement is payable on a subordinate basis to the Bonds.

In consideration of the acceptance of the Bonds by those who shall hold the same from time to time, this Indenture shall be deemed to be and shall constitute a contract between the Successor Agency and the Owners from time to time of the Bonds, and the covenants and agreements herein set forth to be performed on behalf of the Successor Agency shall be for the equal and proportionate benefit, security and protection of all Owners of the Bonds without preference, priority or distinction as to security or otherwise of any of the Bonds over any of the others by reason of the number or date thereof or the time of sale, execution and delivery thereof, or otherwise for any cause whatsoever, except as expressly provided therein or herein.

Section 4.02. Redevelopment Obligation Retirement Fund; Deposit of Tax Revenues. The Successor Agency has heretofore established the Redevelopment Obligation Retirement Fund pursuant to Section 34170.5(a) of the Law which the Successor Agency shall continue to hold and maintain so long as any of the Bonds are Outstanding.

The Successor Agency shall deposit all of the Tax Revenues received with respect to any Semiannual Period in accordance with Section 5.08 hereof into the Redevelopment Obligation Retirement Fund promptly upon receipt thereof by the Successor Agency. All Tax Revenues received by the Successor Agency in excess of the amount required to make the deposits required herein in order to pay debt service on the Bonds and any Parity Debt and to make any other payments due hereunder, and except as may be provided to the contrary in this Indenture or in any Supplemental Indenture or Parity Debt Instrument, shall be released from the pledge and lien hereunder and shall be applied in accordance with the Law, including but not limited to the payment of debt service on any Subordinate Debt. Prior to the payment in full of the principal of and interest and redemption premium (if any) on the Bonds and the payment

ATTACHMENT 4

in full of all other amounts payable hereunder and under any Supplemental Indentures, the Successor Agency shall not have any beneficial right or interest in the moneys on deposit in the Redevelopment Obligation Retirement Fund, except as may be provided in this Indenture and in any Supplemental Indenture.

Section 4.03. Deposit of Amounts by Trustee. There is hereby established a trust fund to be known as the Debt Service Fund, which shall be held by the Trustee hereunder in trust. Concurrently with transfers with respect to Parity Debt pursuant to Parity Debt Instruments, moneys in the Redevelopment Obligation Retirement Fund shall be transferred by the Successor Agency to the Trustee in the following amounts, at the following times, and deposited by the Trustee in the following respective special accounts, which are hereby established in the Debt Service Fund, and in the following order of priority:

(a) Interest Account. On or before the fifth (5th) Business Day preceding each Interest Payment Date, the Successor Agency shall withdraw from the Redevelopment Obligation Retirement Fund and transfer to the Trustee, for deposit in the Interest Account an amount which, when added to the amount contained in the Interest Account on that date, will be equal to the aggregate amount of the interest becoming due and payable on the Outstanding Bonds and any Parity Debt on such Interest Payment Date. No such deposit need be made to the Interest Account if the amount contained therein is at least equal to the interest to become due on the next succeeding Interest Payment Date upon all of the Outstanding Bonds and any Parity Debt. All moneys in the Interest Account shall be used and withdrawn by the Trustee solely for the purpose of paying the interest on the Bonds and any Parity Debt as it shall become due and payable.

(b) Principal Account. On or before the fifth (5th) Business Day preceding each August 1 on which the principal of the Bonds becomes due and payable, and at maturity, the Successor Agency shall withdraw from the Redevelopment Obligation Retirement Fund and transfer to the Trustee for deposit in the Principal Account an amount which, when added to the amount then on deposit in the Principal Account, will be equal to the amount of principal coming due and payable on such date on the Bonds. No such deposit need be made to the Principal Account if the amount contained therein is at least equal to the principal to become due on the next August 1 on all of the Outstanding Bonds and any Parity Debt. All moneys in the Principal Account shall be used and withdrawn by the Trustee solely for the purpose of paying the principal of the Bonds and any Parity Debt as it shall become due and payable.

(c) Sinking Account. No later than the fifth (5th) Business Day preceding each August 1 on which any Term Bond becomes subject to mandatory sinking account redemption, the Successor Agency shall withdraw from the Redevelopment Obligation Retirement Fund and transfer to the Trustee for deposit in the Sinking Account an amount which, when added to the amount then contained in the Sinking Account, will be equal to the aggregate principal amount of the Term Bonds required to be redeemed on such August 1. No such deposit need be made to the Sinking Account if the amount contained therein is at least equal to the Sinking Account payments to become due on the next August 1 on all of the Outstanding Bonds and any Parity Debt. All moneys on deposit in the Sinking Account shall be used and withdrawn by the Trustee for the sole purpose of paying the principal of the Term Bonds as it shall become due and payable upon redemption or purchase pursuant to Section 2.03(b).

ATTACHMENT 4

(d) Reserve Account. There is hereby established in the Debt Service Fund a separate account known as the "Reserve Account" solely as security for payments payable by the Successor Agency pursuant to this Section 4.03 and pursuant to any other Parity Debt Instrument, which shall be held by the Trustee in trust for the benefit of the Owners of the Bonds and any Parity Debt. The Reserve Requirement for the 2016 Bonds will be satisfied by the delivery of the 2016 Reserve Policy by the 2016 Insurer on the Closing Date with respect to the 2016 Bonds. The Successor Agency will have no obligation to replace the 2016 Reserve Policy or to fund the Reserve Account with cash if, at any time that the 2016 Bonds are Outstanding, amounts are not available under the 2016 Reserve Policy other than in connection with a draw on the 2016 Reserve Policy.

Except as provided in the preceding paragraph and as may be provided in a Supplemental Indenture, in the event that the amount on deposit in the Reserve Account at any time becomes less than the Reserve Requirement, the Trustee shall promptly notify the Successor Agency of such fact. Upon receipt of any such notice and as promptly as is permitted by the Law, the Successor Agency shall transfer to the Trustee an amount sufficient to maintain the Reserve Requirement on deposit in the Reserve Account.

Except as provided above, the amount on deposit in the Reserve Account shall be maintained at the Reserve Requirement at all times prior to the payment of the Bonds and any Parity Debt in full. If there shall then not be sufficient Tax Revenues to transfer an amount sufficient to maintain the Reserve Requirement on deposit in the Reserve Account, the Successor Agency shall be obligated to continue making transfers as Tax Revenues become available until there is an amount sufficient to maintain the Reserve Requirement on deposit in the Reserve Account. No such transfer and deposit need be made to the Reserve Account so long as there shall be on deposit therein a sum at least equal to the Reserve Requirement. All money in the Reserve Account shall be used and withdrawn by the Trustee solely for the purpose of making transfers pursuant to any Parity Debt Instrument and hereunder to the Interest Account, the Principal Account and the Sinking Account, in the event of any deficiency at any time in any of such accounts or for the retirement of all the Bonds then Outstanding, except that so long as the Successor Agency is not in default hereunder or under any Parity Debt Instrument, any amount in the Reserve Account in excess of the Reserve Requirement shall be withdrawn from the Reserve Account semiannually on or before two (2) Business Days preceding each February 1 and August 1 by the Trustee and deposited in the Interest Account or be applied pro rata in accordance with any applicable provision of a Parity Debt Instrument. All amounts in the Reserve Account on the Business Day preceding the final Interest Payment Date shall be withdrawn from the Reserve Account and shall be transferred to the Interest Account and the Principal Account, in such order, to the extent required to make the deposits then required to be made pursuant to this Section 4.03 or shall be applied pro rata as required by any Parity Debt Instrument, as applicable.

The Successor Agency shall have the right at any time to direct the Trustee to release funds from the Reserve Account, in whole or in part, by tendering to the Trustee: (i) a Qualified Reserve Account Credit Instrument, and (ii) an opinion of Bond Counsel stating that neither the release of such funds nor the acceptance of such Qualified Reserve Account Credit Instrument will cause interest on the Bonds or any Parity Debt the interest on which is excluded from gross income of the owners thereof for federal income tax purposes to become includable in gross income for purposes of federal

ATTACHMENT 4

income taxation. Upon tender of such items to the Trustee, and upon delivery by the Successor Agency to the Trustee of written calculation of the amount permitted to be released from the Reserve Account (upon which calculation the Trustee may conclusively rely), the Trustee shall transfer such funds from the Reserve Account to the Successor Agency to be applied in accordance with the Law. The Trustee shall comply with all documentation relating to a Qualified Reserve Account Credit Instrument as shall be required to maintain such Qualified Reserve Account Credit Instrument in full force and effect and as shall be required to receive payments thereunder in the event and to the extent required to make any payment when and as required under this paragraph (d). Upon the expiration of any Qualified Reserve Account Credit Instrument, the Successor Agency shall either (i) replace such Qualified Reserve Account Credit Instrument with a new Qualified Reserve Account Credit Instrument, or (ii) deposit or cause to be deposited with the Trustee an amount of funds equal to the Reserve Requirement, to be derived from the first legally available Tax Revenues. If the Reserve Requirement is being maintained partially in cash and partially with a Qualified Reserve Account Credit Instrument, the cash shall be first used to meet any deficiency which may exist from time to time in the Interest Account or the Principal Account for the purpose of making payments required pursuant to Sections 4.03(a) or 4.03(b) of this Indenture. If the Reserve Requirement is being maintained with two or more Qualified Reserve Account Credit Instruments, any draw to meet a deficiency which may exist from time to time in the Interest Account or the Principal Account for the purpose of making payments required pursuant to Sections 4.03(a), 4.03(b) or 4.03(c) of this Indenture shall be pro-rata with respect to each such instrument. If the Reserve Requirement with respect to a particular series of Bonds is secured by a Qualified Reserve Account Credit Instrument that relates only to such series of Bonds, the calculation of Reserve Requirement for such series of Bonds shall be calculated on a stand alone basis.

The Reserve Account may be maintained in the form of one or more separate sub-accounts which are established for the purpose of holding the proceeds of separate issues of the Bonds and any Parity Debt in conformity with applicable provisions of the Code to the extent directed by the Successor Agency in writing to the Trustee. Additionally, the Successor Agency may, in its discretion, combine amounts on deposit in the Reserve Account and on deposit in any reserve account relating to any (but not necessarily all) Parity Debt not issued as Bonds in order to maintain a combined reserve account for the Bonds and any (but not necessarily all) Parity Debt.

(e) Redemption Account. On or before the Business Day preceding any date on which Bonds are to be redeemed pursuant to Section 2.03(a), other than mandatory Sinking Account redemption of Term Bonds, the Trustee shall withdraw from the Debt Service Fund any amount transferred by the Successor Agency pursuant to Section 2.03(a) for deposit in the Redemption Account, such amount being the amount required to pay the principal of and premium, if any, on the Bonds to be redeemed on such date pursuant to Section 2.03(a). All moneys in the Redemption Account shall be used and withdrawn by the Trustee solely for the purpose of paying the principal of and premium, if any, on the Bonds to be redeemed pursuant to Section 2.03(a) on the date set for such redemption, other than mandatory Sinking Account redemption of Term Bonds. Interest due on Bonds to be redeemed on the date set for redemption shall, if applicable, be paid from funds available therefor in the Interest Account.

ARTICLE V

OTHER COVENANTS OF THE SUCCESSOR AGENCY

Section 5.01. Punctual Payment. The Successor Agency shall punctually pay or cause to be paid the principal and interest to become due in respect of all the Bonds together with the premium thereon, if any, in strict conformity with the terms of the Bonds and of this Indenture. The Successor Agency shall faithfully observe and perform all of the conditions, covenants and requirements of this Indenture and all Supplemental Indentures and the Bonds. Nothing herein contained shall prevent the Successor Agency from making advances of its own moneys howsoever derived to any of the uses or purposes referred to herein.

Section 5.02. Limitation on Additional Indebtedness; Against Encumbrances. The Successor Agency hereby covenants that, so long as the Bonds are Outstanding, the Successor Agency shall not issue any bonds, notes or other obligations, enter into any agreement or otherwise incur any indebtedness, which is in any case payable from all or any part of the Tax Revenues, excepting only as provided in this Section 5.02. The Successor Agency will not otherwise encumber, pledge or place any charge or lien upon any of the Tax Revenues or other amounts pledged to the Bonds superior or on parity to the pledge and lien herein created for the benefit of the Bonds; provided, that the Successor Agency may issue and sell refunding bonds as Parity Debt payable from Tax Revenues on a parity with Outstanding Bonds to refund all or a portion of the Outstanding Bonds, and, provided further that, with respect to any such refunding (i) annual debt service on such Parity Debt, as applicable, is lower than annual debt service on the obligations being refunded during every year the obligations would otherwise be outstanding and (ii) the final maturity of any such Parity Debt does not exceed the final maturity of the obligations being refunded. Nothing herein shall prevent the Successor Agency from issuing and selling Subordinate Debt.

Section 5.03. Extension of Payment. The Successor Agency will not, directly or indirectly, extend or consent to the extension of the time for the payment of any Bond or claim for interest on any of the Bonds and will not, directly or indirectly, be a party to or approve any such arrangement by purchasing or funding the Bonds or claims for interest in any other manner. In case the maturity of any such Bond or claim for interest shall be extended or funded, whether or not with the consent of the Successor Agency, such Bond or claim for interest so extended or funded shall not be entitled, in case of default hereunder, to the benefits of this Indenture, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest which shall not have been so extended or funded.

Section 5.04. Payment of Claims. The Successor Agency shall promptly pay and discharge, or cause to be paid and discharged, any and all lawful claims for labor, materials or supplies which, if unpaid, might become a lien or charge upon the properties owned by the Successor Agency or upon the Tax Revenues or other amounts pledged to the payment of the Bonds, or any part thereof, or upon any funds in the hands of the Trustee, or which might impair the security of the Bonds. Nothing herein contained shall require the Successor Agency to make any such payment so long as the Successor Agency in good faith shall contest the validity of said claims.

Section 5.05. Books and Accounts; Financial Statements. The Successor Agency shall at all times keep, or cause to be kept, proper and current books and accounts in which accurate entries are made of the financial transactions and records of the Successor Agency. Within one

hundred eighty (180) days after the close of each Fiscal Year an Independent Certified Public Accountant shall prepare an audit of the financial transactions and records of the Successor Agency for such Fiscal Year. To the extent permitted by law, such audit may be included within the annual audited financial statements of the County. The Successor Agency shall furnish a copy of such financial statements to any Owner upon reasonable request of such Owner and at the expense of such Owner. The Trustee shall have no duty to review such audits.

Section 5.06. Protection of Security and Rights of Owners. The Successor Agency will preserve and protect the security of the Bonds and the rights of the Owners. From and after the Closing Date with respect to the 2016 Bonds, the 2016 Bonds shall be incontestable by the Successor Agency.

Section 5.07. Payments of Taxes and Other Charges. Except as otherwise provided herein, the Successor Agency will pay and discharge, or cause to be paid and discharged, all taxes, service charges, assessments and other governmental charges which may hereafter be lawfully imposed upon the Successor Agency or the properties then owned by the Successor Agency in the Project Area, or upon the revenues therefrom when the same shall become due. Nothing herein contained shall require the Successor Agency to make any such payment so long as the Successor Agency in good faith shall contest the validity of said taxes, assessments or charges. The Successor Agency will duly observe and conform with all valid requirements of any governmental authority relative to the Project Area or any part thereof.

Section 5.08. Compliance with the Law; Recognized Obligation Payment Schedules. The Successor Agency shall comply with all of the requirements of the Law. Pursuant to Section 34177 of the Law, not later than each date a Recognized Obligation Payment Schedule is due, the Successor Agency shall submit to the Oversight Board and the State Department of Finance, a Recognized Obligation Payment Schedule. The Successor Agency shall take all actions required under the Law to include in the Recognized Obligation Payment Schedule for each Semiannual Period (i) debt service on the Bonds and any Parity Debt and (ii) all amounts due and owing to the 2016 Insurer hereunder, so as to enable the San Joaquin County Auditor-Controller to distribute from the Redevelopment Property Tax Trust Fund for deposit in the Redevelopment Obligation Retirement Fund on each January 2 and June 1, as applicable, amounts required to enable the Successor Agency to pay timely principal of, and interest on, the Bonds on a timely basis, as such amounts of debt service are set forth in the Recognized Obligation Payment Schedule attached hereto as Exhibit B and hereby made a part hereof, or as such Schedule may be hereafter amended, as well as all amounts due and owing to the 2016 Insurer hereunder.

In order to ensure that amounts are available for the Trustee to pay debt service on all Outstanding Bonds and all amounts due and owing to the 2016 Insurer hereunder on a timely basis, not later than February 1 of each year (or such other time as may be required by the Dissolution Act), commencing February 1, 2016, the Successor Agency shall submit an Oversight Board-approved Recognized Obligation Payment Schedule to the State Department of Finance and to the San Joaquin County Auditor-Controller that shall include:

(i) all of the debt service due on all Outstanding Bonds on February 1 and August 1 of the Bond Year ending on August 1 of the next calendar year, which amount shall be distributed in full to the Successor Agency on January 2 of such year, and

ATTACHMENT 4

(ii) any amount required to cure any deficiency in the Reserve Account pursuant to this Indenture (including any amounts required due to a draw on the Qualified Reserve Account Credit Instrument as well as all amounts due and owing to the 2016 Insurer hereunder).

In addition to the amounts described in clauses (i) and (ii) of the previous paragraph, if the amount of Tax Revenues distributed to the Successor Agency on January 2 in any year is less than the sum of the amounts specified in clauses (i) and (ii) of the previous paragraph, then not later than February 1 of such year (or on such other date as may be required by the Dissolution Act), the Successor Agency shall submit an Oversight Board-approved Recognized Obligation Payment Schedule to the State Department of Finance and to the San Joaquin County Auditor-Controller that shall include the balance due to the Successor Agency, which amount shall be distributed in full to the Successor Agency on June 1 of such year.

In the event the provisions set forth in the Dissolution Act as of the Closing Date of the 2016 Bonds that relate to the filing of Recognized Obligation Payment Schedules are amended or modified in any manner, the Successor Agency agrees to take all such actions as are necessary to comply with such amended or modified provisions so as to ensure the timely payment of debt service on the Bonds and, if the timing of distributions of the Redevelopment Property Tax Trust Fund is changed, the receipt of (i) not less than one of half of debt service due during each Bond Year on all Outstanding Bonds prior to February 1 of such Bond Year, and (ii) the remainder of debt service due during such Bond Year on all Outstanding Bonds prior to the next succeeding August 1.

Section 5.09. Dissolution Act Invalid; Maintenance of Tax Revenues. In the event that the applicable property tax revenues provisions of the Dissolution Act are determined by a court in a final judicial decision to be invalid and, in place of the invalid provisions, provisions of the Law or the equivalent become applicable to the Bonds, the Successor Agency shall comply with all requirements of the Law or the equivalent to ensure the allocation and payment to it of the Tax Revenues, including without limitation the timely filing of any necessary statements of indebtedness with appropriate officials of the County and, in the case of amounts payable by the State, appropriate officials of the State.

Section 5.10. No Arbitrage. The Successor Agency shall not take, or permit or suffer to be taken by the Trustee or otherwise, any action with respect to the proceeds of the 2016 Bonds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the 2016 Bonds would have caused the 2016 Bonds to be "arbitrage bonds" within the meaning of section 148 of the Code.

Section 5.11. Private Activity Bond Limitation. The Successor Agency shall assure that the proceeds of the 2016 Bonds are not so used as to cause the 2016 Bonds to satisfy the private business tests of section 141(b) of the Code or the private loan financing test of section 141(c) of the Code.

Section 5.12. Federal Guarantee Prohibition. The Successor Agency shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause any of the 2016 Bonds to be "federally guaranteed" within the meaning of section 149(b) of the Code.

Section 5.13. Rebate Requirement. The Successor Agency shall take any and all actions necessary to assure compliance with section 148(f) of the Code, relating to the rebate of excess

ATTACHMENT 4

investment earnings, if any, to the federal government, to the extent that such section is applicable to the 2016 Bonds.

Section 5.14. Maintenance of Tax-Exemption. The Successor Agency shall take all actions necessary to assure the exclusion of interest on the 2016 Bonds from the gross income of the Owners of the 2016 Bonds to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the date of issuance of the 2016 Bonds.

Section 5.15. Continuing Disclosure. The Successor Agency hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Indenture, failure of the Successor Agency to comply with the Continuing Disclosure Certificate shall not be an Event of Default hereunder. However, any Participating Underwriter or any holder or beneficial owner of the 2016 Bonds may take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the Successor Agency to comply with its obligations under this Section 5.15.

Section 5.16. Further Assurances. The Successor Agency will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Indenture, and for the better assuring and confirming unto the Owners of the Bonds the rights and benefits provided in this Indenture.

Section 5.17. Provisions Relating to the 2016 Insurance Policy and the 2016 Reserve Policy.

[to come]

ATTACHMENT 4

ARTICLE VI

THE TRUSTEE

Section 6.01. Duties, Immunities and Liabilities of Trustee.

(a) The Trustee shall, prior to the occurrence of an Event of Default, and after the curing or waiver of all Events of Default which may have occurred, perform such duties and only such duties as are specifically set forth in this Indenture and no implied covenants, duties or obligations shall be read into this Indenture against the Trustee. The Trustee shall, during the existence of any Event of Default (which has not been cured or waived), exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) The Successor Agency may remove the Trustee at any time, unless an Event of Default shall have occurred and then be continuing, and shall remove the Trustee (i) if at any time requested to do so by an instrument or concurrent instruments in writing signed by the Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding (or their attorneys duly authorized in writing) or (ii) if at any time the Successor Agency has knowledge that the Trustee shall cease to be eligible in accordance with subsection (e) of this Section, or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or a receiver of the Trustee or its property shall be appointed, or any public officer shall take control or charge of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation. In each case such removal shall be accomplished by the giving of written notice of such removal by the Successor Agency to the Trustee, whereupon the Successor Agency shall appoint a successor Trustee by an instrument in writing.

(c) The Trustee may at any time resign by giving written notice of such resignation to the Successor Agency and by giving the Owners notice of such resignation by first class mail, postage prepaid, at their respective addresses shown on the Registration Books. Upon receiving such notice of resignation, the Successor Agency shall promptly appoint a successor Trustee by an instrument in writing.

(d) Any removal or resignation of the Trustee and appointment of a successor Trustee shall become effective upon acceptance of appointment by the successor Trustee. If no successor Trustee shall have been appointed and have accepted appointment within forty-five (45) days of giving notice of removal or notice of resignation as aforesaid, the resigning Trustee or any Owner (on behalf of such Owner and all other Owners) may petition any court of competent jurisdiction at the expense of the Successor Agency for the appointment of a successor Trustee, and such court may thereupon, after such notice (if any) as it may deem proper, appoint such successor Trustee. Any successor Trustee appointed under this Indenture shall signify its acceptance of such appointment by executing, acknowledging and delivering to the Successor Agency and to its predecessor Trustee a written acceptance thereof, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become vested with all the moneys, estates, properties, rights, powers, trusts, duties and obligations of such predecessor Trustee, with like effect as if originally named Trustee herein; but, nevertheless at the Written Request of the Successor Agency or the request of the successor Trustee, such predecessor Trustee shall execute and deliver any and all instruments of conveyance or further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all the right, title

and interest of such predecessor Trustee in and to any property held by it under this Indenture and shall pay over, transfer, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Upon request of the successor Trustee, the Successor Agency shall execute and deliver any and all instruments as may be reasonably required for more fully and certainly vesting in and confirming to such successor Trustee all such moneys, estates, properties, rights, powers, trusts, duties and obligations. Upon acceptance of appointment by a successor Trustee as provided in this subsection, the Successor Agency shall mail a notice of the succession of such Trustee to the trusts hereunder to the Owners at their respective addresses shown on the Registration Books. If the Successor Agency fails to mail such notice within fifteen (15) days after acceptance of appointment by the successor Trustee, the successor Trustee shall cause such notice to be mailed at the expense of the Successor Agency.

(e) Any Trustee appointed under the provisions of this Section in succession to the Trustee shall be a financial institution having a corporate trust office in the State, having (or in the case of a corporation or trust company included in a bank holding company system, the related bank holding company shall have) a combined capital and surplus of at least \$75,000,000, and subject to supervision or examination by federal or state authority. If such financial institution publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this subsection the combined capital and surplus of such financial institution shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this subsection (e), the Trustee shall resign immediately in the manner and with the effect specified in this Section.

The Successor Agency will maintain a Trustee which is qualified under the provisions of the foregoing provisions of this subsection (e), so long as any Bonds are Outstanding.

Section 6.02. Merger or Consolidation. Any bank or trust company into which the Trustee may be merged or converted or with which may be consolidated or any bank or trust company resulting from any merger, conversion or consolidation to which it shall be a party or any bank or trust company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided such bank or trust company shall be eligible under subsection (e) of Section 6.01, shall be the successor to such Trustee without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding.

Section 6.03. Liability of Trustee.

(a) The recitals of facts herein and in the Bonds contained shall be taken as statements of the Successor Agency, and the Trustee shall not assume responsibility for the correctness of the same, nor make any representations as to the validity or sufficiency of this Indenture or of the security for the Bonds or the tax status of interest thereon nor shall incur any responsibility in respect thereof, other than as expressly stated herein. The Trustee shall, however, be responsible for its representations contained in its certificate of authentication on the Bonds. The Trustee shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or intentional misconduct. The Trustee shall not be liable for the acts of any agents of the Trustee selected by it with due care. The Trustee and its officers and employees may become the Owner of any Bonds with the same rights it would have if they were not Trustee and, to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any

ATTACHMENT 4

committee formed to protect the rights of the Owners, whether or not such committee shall represent the Owners of a majority in principal amount of the Bonds then Outstanding.

(b) The Trustee shall not be liable for any error of judgment made by a responsible employee or officer, unless the Trustee shall have been negligent in ascertaining the pertinent facts.

(c) The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in accordance with the direction of the Owners of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture.

(d) The Trustee shall not be liable for any action taken by it and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture, except for actions arising from the negligence or intentional misconduct of the Trustee. The permissive right of the Trustee to do things enumerated hereunder shall not be construed as a mandatory duty.

(e) The Trustee shall not be deemed to have knowledge of any Event of Default hereunder unless and until a responsible officer shall have actual knowledge thereof, or shall have received written notice thereof from the Successor Agency at its Principal Corporate Trust Office. In the absence of such actual knowledge or notice, the Trustee may conclusively assume that no Event of Default has occurred and is continuing under this Indenture. Except as otherwise expressly provided herein, the Trustee shall not be bound to ascertain or inquire as to the performance or observance by any other party of any of the terms, conditions, covenants or agreements herein or of any of the documents executed in connection with the Bonds, or as to the existence of an Event of Default thereunder. The Trustee shall not be responsible for the validity or effectiveness of any collateral given to or held by it. Without limiting the generality of the foregoing, the Trustee may rely conclusively on the Successor Agency's certificates to establish the Successor Agency's compliance with its financial covenants hereunder, including, without limitation, its covenants regarding the deposit of Tax Revenues into the Redevelopment Obligation Retirement Fund and the investment and application of moneys on deposit in the Redevelopment Obligation Retirement Fund (other than its covenants to transfer such moneys to the Trustee when due hereunder).

The Trustee shall have no liability or obligation to the Bondowners with respect to the payment of debt service on the Bonds by the Successor Agency or with respect to the observance or performance by the Successor Agency of the other conditions, covenants and terms contained in this Indenture, or with respect to the investment of any moneys in any fund or account established, held or maintained by the Successor Agency pursuant to this Indenture or otherwise.

No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers. The Trustee shall be entitled to interest on all amounts advanced by it at the maximum rate permitted by law.

The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys or receivers and the Trustee shall

ATTACHMENT 4

not be responsible for any intentional misconduct or negligence on the part of any agent, attorney or receiver appointed with due care by it hereunder.

The Trustee shall have no responsibility, opinion, or liability with respect to any information, statements or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the issuance of these Bonds.

Before taking any action under Article VIII or this Article at the request of the Owners the Trustee may require that a satisfactory indemnity bond be furnished by the Owners for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful misconduct in connection with any action so taken.

The Trustee will not be considered in breach of or in default in its obligations hereunder or progress in respect thereto in the event of enforced delay ("unavoidable delay") in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, Acts of God or of the public enemy or terrorists, acts of a government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, earthquakes, explosion, mob violence, riot, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources of energy, material or supplies in the open market, litigation or arbitration involving a party or others relating to zoning or other governmental action or inaction pertaining to any project refinanced with the proceeds of the Bonds, malicious mischief, condemnation, and unusually severe weather and/or occurrences beyond the control of the Trustee.

Section 6.04. Right to Rely on Documents and Opinions. The Trustee shall be protected in acting upon any notice, resolution, request, consent, order, certificate, report, opinion or other paper or document believed by it to be genuine and to have been signed or prescribed by the proper party or parties, and shall not be required to make any investigation into the facts or matters contained thereon. The Trustee may consult with counsel, including, without limitation, counsel of or to the Successor Agency, with regard to legal questions, and, in the absence of negligence or intentional misconduct by the Trustee, the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the Trustee hereunder in accordance therewith.

The Trustee shall not be bound to recognize any person as the Owner of a Bond unless and until such Bond is submitted for inspection, if required, and his title thereto is established to the satisfaction of the Trustee.

Whenever in the administration of the trusts imposed upon it by this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a Written Certificate of the Successor Agency, which shall be full warrant to the Trustee for any action taken or suffered under the provisions of this Indenture in reliance upon such Written Certificate, but in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may deem reasonable. The Trustee may conclusively rely on any certificate or report of any Independent Accountant or Independent Redevelopment Consultant appointed by the Successor Agency.

ATTACHMENT 4

Section 6.05. Preservation and Inspection of Documents. All documents received by the Trustee under the provisions of this Indenture shall be retained in its possession and shall be subject at all reasonable times upon reasonable notice to the inspection of the Successor Agency and any Owner, and their agents and representatives duly authorized in writing, during regular business hours and under reasonable conditions.

Section 6.06. Compensation and Indemnification. The Successor Agency shall pay to the Trustee from time to time reasonable compensation for all services rendered under this Indenture in accordance with the letter proposal from the Trustee approved by the Successor Agency and also all reasonable expenses, charges, legal and consulting fees and other disbursements and those of its attorneys (including the allocated costs and disbursement of in-house counsel to the extent such services are not redundant with those provided by outside counsel), agents and employees, incurred in and about the performance of its powers and duties under this Indenture. The Trustee shall have a first lien on the Tax Revenues and all funds and accounts held by the Trustee hereunder to secure the payment to the Trustee of all fees, costs and expenses, including reasonable compensation to its experts, attorneys and counsel (including the allocated costs and disbursement of in-house counsel to the extent such services are not redundant with those provided by outside counsel).

The Successor Agency further covenants and agrees to indemnify, defend and save the Trustee and its officers, directors, agents and employees, harmless from and against any loss, expense and liabilities which it may incur arising out of or in connection with the exercise and performance of its powers and duties hereunder, including the costs and expenses of defending against any claim of liability, but excluding any and all losses, expenses and liabilities which are due to the negligence or intentional misconduct of the Trustee, its officers, directors, agents or employees. The obligations of the Successor Agency and the rights of the Trustee under this Section 6.06 shall survive resignation or removal of the Trustee under this Indenture and payment of the Bonds and discharge of this Indenture.

Section 6.07. Deposit and Investment of Moneys in Funds. Moneys in the Debt Service Fund, the Interest Account, the Principal Account, the Sinking Account, the Reserve Account and the Costs of Issuance Account shall be invested by the Trustee in Permitted Investments as directed by the Successor Agency in the Written Request of the Successor Agency filed with the Trustee at least two (2) Business Days in advance of the making of such investments. In the absence of any such Written Request of the Successor Agency, the Trustee shall invest any such moneys in Permitted Investments described in clause (d) of the definition thereof, which by their terms mature prior to the date on which such moneys are required to be paid out hereunder. The Trustee shall be entitled to rely conclusively upon the written instructions of the Successor Agency directing investments in Permitted Investments as to the fact that each such investment is permitted by the laws of the State, and shall not be required to make further investigation with respect thereto. Moneys in the Redevelopment Obligation Retirement Fund may be invested by the Successor Agency in any obligations in which the Successor Agency is legally authorized to invest its funds. Obligations purchased as an investment of moneys in any fund shall be deemed to be part of such fund or account. All interest or gain derived from the investment of amounts in any of the funds or accounts held by the Trustee hereunder shall be deposited in the Interest Account. The Trustee may act as principal or agent in the acquisition or disposition of any investment and may impose its customary charges therefor. The Trustee shall incur no liability for losses arising from any investments made at the direction of the Successor Agency or otherwise made pursuant to this Section.

ATTACHMENT 4

The Successor Agency acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Successor Agency the right to receive brokerage confirmations of security transactions as they occur, the Successor Agency specifically waives receipt of such confirmations to the extent permitted by law. The Trustee will furnish the Successor Agency periodic cash transaction statements which shall include detail for all investment transactions made by the Trustee hereunder.

All moneys held by the Trustee shall be held in trust, but need not be segregated from other funds unless specifically required by this Indenture. Except as specifically provided in this Indenture, the Trustee shall not be liable to pay interest on any moneys received by it, but shall be liable only to account to the Successor Agency for earnings derived from funds that have been invested.

The Successor Agency covenants that all investments of amounts deposited in any fund or account created by or pursuant to this Indenture, or otherwise containing gross proceeds of the Bonds (within the meaning of section 148 of the Code) shall be acquired, disposed of, and valued (as of the date that valuation is required by this Indenture or the Code) at Fair Market Value. The Trustee has no duty in connection with the determination of Fair Market Value other than to follow the investment directions of the Successor Agency in any Written Certificate or Written Request of the Successor Agency.

For purposes of this Section 6.07, the term "Fair Market Value" shall mean the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, or (iii) the investment is a United States Treasury Security -- State and Local Government Series which is acquired in accordance with applicable regulations of the United States Bureau of Public Debt.

Section 6.08. Accounting Records and Financial Statements. The Trustee shall at all times keep, or cause to be kept, proper books of record and account, prepared in accordance with industry standards, in which accurate entries shall be made of all transactions of the Trustee relating to the proceeds of the Bonds made by it and all funds and accounts held by the Trustee established pursuant to this Indenture. Such books of record and account shall be available for inspection by the Successor Agency upon reasonable prior notice, at reasonable hours and under reasonable circumstances. The Trustee shall furnish to the Successor Agency, at least monthly, an accounting of all transactions in the form of its customary statements relating to the proceeds of the Bonds and all funds and accounts held by the Trustee pursuant to this Indenture.

Section 6.09. Appointment of Co-Trustee or Agent. It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the law of the State) denying or restricting the right of banking corporations or associations to transact business as Trustee in such jurisdiction. It is recognized that in the case of litigation under this Indenture, and in particular in case of the enforcement of the rights of the Trustee on default, or

ATTACHMENT 4

in the case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee or hold title to the properties, in trust, as herein granted, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an additional individual or institution as a separate co-trustee. The following provisions of this Section 6.09 are adopted to these ends.

In the event that the Trustee shall appoint an additional individual or institution as a separate or co-trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate or co-trustee but only to the extent necessary to enable such separate or co-trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or co-trustee shall run to and be enforceable by either of them; provided, however, in no event shall the Trustee be responsible or liable for the acts or omissions of any co-trustee.

Should any instrument in writing from the Successor Agency be required by the separate trustee or co-trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Successor Agency. In case any separate trustee or co-trustee, or a successor to either, shall become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate trustee or co-trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new trustee or successor to such separate trustee or co-trustee.

Section 6.10. Other Transactions with Successor Agency. The Trustee, either as principal or agent, may engaged in or be interested in any financial or other transaction with the Successor Agency.

ATTACHMENT 4

ARTICLE VII

MODIFICATION OR AMENDMENT OF THIS INDENTURE

Section 7.01. Amendment With And Without Consent of Owners. This Indenture and the rights and obligations of the Successor Agency and of the Owners may be modified or amended at any time by a Supplemental Indenture which shall become binding upon adoption and without the consent of any Owners, to the extent permitted by law and only for any one or more of the following purposes-

(a) to add to the covenants and agreements of the Successor Agency in this Indenture contained, other covenants and agreements thereafter to be observed, or to limit or surrender any rights or powers herein reserved to or conferred upon the Successor Agency; or

(b) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in this Indenture, or in any other respect whatsoever as the Successor Agency may deem necessary or desirable, provided under any circumstances that such modifications or amendments shall not, in the reasonable determination of the Successor Agency, materially adversely affect the interests of the Owners; or

(c) to amend any provision hereof relating to the requirements of or compliance with the Code, to any extent whatsoever but only if and to the extent such amendment will not adversely affect the exemption from federal income taxation of interest on any of the Bonds, in the opinion of Bond Counsel; or

(d) to amend the Recognized Obligation Debt Service Payment Schedule set forth in Exhibit B to take into account the redemption of any Bond prior to its maturity; or

(e) to provide for the issuance of Parity Debt pursuant to a Supplemental Indenture, as such issuance is authorized by Section 5.02.

Except as set forth in the preceding paragraph, this Indenture and the rights and obligations of the Successor Agency and of the Owners may be modified or amended at any time by a Supplemental Indenture which shall become binding with the consent of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding are filed with the Trustee. No such modification or amendment shall (a) extend the maturity of or reduce the interest rate on any Bond or otherwise alter or impair the obligation of the Successor Agency to pay the principal, interest or redemption premium, (if any) at the time and place and at the rate and in the currency provided therein of any Bond without the express written consent of the Owner of such Bond, or (b) reduce the percentage of Bonds required for the written consent to any such amendment or modification. In no event shall any Supplemental Indenture modify any of the rights or obligations of the Trustee without its prior written consent. In addition, the Trustee shall be entitled to an opinion of counsel concerning the Supplemental Indenture's lack of any material adverse effect on the Owners.

Section 7.02. Effect of Supplemental Indenture. From and after the time any Supplemental Indenture becomes effective pursuant to this Article VII, this Indenture shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and

ATTACHMENT 4

obligations of the parties hereto or thereto and all Owners, as the case may be, shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any Supplemental Indenture shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Section 7.03. Endorsement or Replacement of Bonds After Amendment. After the effective date of any amendment or modification hereof pursuant to this Article VII, the Successor Agency may determine that any or all of the Bonds shall bear a notation, by endorsement in form approved by the Successor Agency, as to such amendment or modification and in that case upon demand of the Successor Agency the Owners of such Bonds shall present such Bonds for that purpose at the Principal Corporate Trust Office of the Trustee, and thereupon a suitable notation as to such action shall be made on such Bonds. In lieu of such notation, the Successor Agency may determine that new Bonds shall be prepared at the expense of the Successor Agency and executed in exchange for any or all of the Bonds, and in that case, upon demand of the Successor Agency, the Owners of the Bonds shall present such Bonds for exchange at the Trust Office of the Trustee, without cost to such Owners.

Section 7.04. Amendment by Mutual Consent. The provisions of this Article VII shall not prevent any Owner from accepting any amendment as to the particular Bond held by such Owner, provided that due notation thereof is made on such Bond.

Section 7.05. Trustee's Reliance. The Trustee may conclusively rely, and is protected in relying, upon a Written Certificate of the Successor Agency and an opinion of Bond Counsel stating that all requirements of this Indenture relating to the amendment or modification hereof have been satisfied and that such amendments or modifications do not materially adversely affect the interests of the Bond Owners.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES OF OWNERS

Section 8.01. Events of Default and Acceleration of Maturities. The following events shall constitute Events of Default hereunder:

(a) if default shall be made by the Successor Agency in the due and punctual payment of the principal of or interest on any Bond when and as the same shall become due and payable, whether at maturity as therein expressed, by declaration or otherwise;

(b) if default shall be made by the Successor Agency in the observance of any of the covenants, agreements or conditions on its part in this Indenture or in the Bonds or any Parity Debt Instrument contained, other than a default described in the preceding clause (a), and such default shall have continued for a period of sixty (60) days following receipt by the Successor Agency of written notice from the Trustee or any Owner of the occurrence of such default, provided that if in the reasonable opinion of the Successor Agency the failure stated in the notice can be corrected, but not within such 60 day period, such failure will not constitute an event of default if corrective action is instituted by the Successor Agency within such 60 day period and the Successor Agency thereafter diligently and in good faith cures such failure in a reasonable period of time; or

(c) If the Successor Agency files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America, or if a court of competent jurisdiction will approve a petition seeking reorganization under the federal bankruptcy laws or any other applicable law of the United States of America, or, if under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction will approve a petition, seeking reorganization under the federal bankruptcy laws or any other applicable law of the United States of America, or, if under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction will assume custody or control of the Successor Agency or of the whole or any substantial part of its property.

If an Event of Default has occurred under this Section and is continuing, the Trustee may, or, if requested in writing by the Owners of a majority in aggregate principal amount of the Bonds then Outstanding the Trustee shall, (a) declare the principal of the Bonds, together with the accrued interest thereon, to be due and payable immediately, and upon any such declaration the same shall become immediately due and payable, anything in this Indenture or in the Bonds to the contrary notwithstanding, and (b) the Trustee shall, subject to the provisions of Section 8.06, exercise any other remedies available to the Trustee and the Bond Owners in law or at equity.

Immediately upon receiving notice or actual knowledge of the occurrence of an Event of Default, the Trustee shall give notice of such Event of Default to the Successor Agency by telephone promptly confirmed in writing. Such notice shall also state whether the principal of the Bonds shall have been declared to be or have immediately become due and payable. With respect to any Event of Default described in clauses (a) or (c) above the Trustee shall, and with respect to any Event of Default described in clause (b) above the Trustee in its sole discretion may, also give such notice to the Owners by mail, which shall include the statement that interest on the Bonds shall cease to accrue from and after the date, if any, on which the Trustee shall

ATTACHMENT 4

have declared the Bonds to become due and payable pursuant to the preceding paragraph (but only to the extent that principal and any accrued, but unpaid, interest on the Bonds is actually paid on such date).

This provision, however, is subject to the condition that if, at any time after the principal of the Bonds shall have been so declared due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered, the Successor Agency shall deposit with the Trustee a sum sufficient to pay all principal on the Bonds matured prior to such declaration and all matured installments of interest (if any) upon all the Bonds, with interest on such overdue installments of principal and interest (to the extent permitted by law), and the reasonable fees and expenses of the Trustee, (including the allocated costs and disbursements of its in-house counsel to the extent such services are not redundant with those provided by outside counsel) and any and all other defaults known to the Trustee (other than in the payment of principal of and interest on the Bonds due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall have been made therefor, then, and in every such case, the Trustee shall promptly give written notice of the foregoing to the Owners of all Bonds then Outstanding, and the Owners of at least a majority in aggregate principal amount of the Bonds then Outstanding, by written notice to the Successor Agency and to the Trustee, may, on behalf of the Owners of all of the Bonds, rescind and annul such declaration and its consequences. However, no such rescission and annulment shall extend to or shall affect any subsequent default, or shall impair or exhaust any right or power consequent thereon.

Section 8.02. Application of Funds Upon Acceleration. All of the Tax Revenues and all sums in the funds and accounts established and held by the Trustee hereunder upon the date of the declaration of acceleration as provided in Section 8.01, and all sums thereafter received by the Trustee hereunder, shall be applied by the Trustee in the following order upon presentation of the several Bonds, and the stamping thereon of the payment if only partially paid, or upon the surrender thereof if fully paid:

First, to the payment of the fees, costs and expenses of the Trustee in declaring such Event of Default and in exercising the rights and remedies set forth in this Article VIII, including reasonable compensation to its agents, attorneys (including the allocated costs and disbursements of its in-house counsel to the extent such services are not redundant with those provided by outside counsel) and counsel and any outstanding fees, expenses of the Trustee; and

Second, to the payment of the whole amount then owing and unpaid upon the Bonds for principal and interest, with interest on the overdue principal and installments of interest at the net effective rate then borne by the Outstanding Bonds (to the extent that such interest on overdue installments of principal and interest shall have been collected), and in case such moneys shall be insufficient to pay in full the whole amount so owing and unpaid upon the Bonds, then to the payment of such principal and interest without preference or priority of principal over interest, or interest over principal, or of any installment of interest over any other installment of interest, ratably to the aggregate of such principal and interest; and

Third, to the payment of all amounts due and owing to the 2016 Insurer hereunder.

ATTACHMENT 4

Section 8.03. Power of Trustee to Control Proceedings. In the event that the Trustee, upon the happening of an Event of Default, shall have taken any action, by judicial proceedings or otherwise, pursuant to its duties hereunder, whether upon its own discretion or upon the request of the Owners of a majority in principal amount of the Bonds then Outstanding, it shall have full power, in the exercise of its discretion for the best interests of the Owners of the Bonds, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action; *provided, however,* that the Trustee shall not, unless there no longer continues an Event of Default, discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity, if at the time there has been filed with it a written request signed by the Owners of a majority in principal amount of the Outstanding Bonds hereunder opposing such discontinuance, withdrawal, compromise, settlement or other disposal of such litigation.

Section 8.04. Limitation on Owner's Right to Sue. No Owner of any Bond issued hereunder shall have the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Indenture, unless (a) such Owner shall have previously given to the Trustee written notice of the occurrence of an Event of Default; (b) the Owners of a majority in aggregate principal amount of all the Bonds then Outstanding shall have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (c) said Owners shall have tendered to the Trustee indemnity reasonably acceptable to the Trustee against the costs, expenses and liabilities to be incurred in compliance with such request; and (d) the Trustee shall have refused or omitted to comply with such request for a period of sixty (60) days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of any remedy hereunder; it being understood and intended that no one or more Owners shall have any right in any manner whatever by his or their action to enforce any right under this Indenture, except in the manner herein provided, and that all proceedings at law or in equity to enforce any provision of this Indenture shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Owners of the Outstanding Bonds.

The right of any Owner of any Bond to receive payment of the principal of and interest on such Bond as herein provided, shall not be impaired or affected without the written consent of such Owner, notwithstanding the foregoing provisions of this Section or any other provision of this Indenture.

Section 8.05. Non-Waiver. Nothing in this Article VIII or in any other provision of this Indenture or in the Bonds, shall affect or impair the obligation of the Successor Agency, which is absolute and unconditional, to pay from the Tax Revenues and other amounts pledged hereunder, the principal of and interest on the Bonds to the respective Owners on the respective Interest Payment Dates, as herein provided, or affect or impair the right of action, which is also absolute and unconditional, of the Owners or the Trustee to institute suit to enforce such payment by virtue of the contract embodied in the Bonds.

A waiver of any default by any Owner or the Trustee shall not affect any subsequent default or impair any rights or remedies on the subsequent default. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein, and every power and remedy conferred upon the Owners and the Trustee by the Law or by this

ATTACHMENT 4

Article VIII may be enforced and exercised from time to time and as often as shall be deemed expedient by the Owners and the Trustee.

If a suit, action or proceeding to enforce any right or exercise any remedy shall be abandoned or determined adversely to the Owners or the Trustee, the Successor Agency, the Trustee and the Owners shall be restored to their former positions, rights and remedies as if such suit, action or proceeding had not been brought or taken.

Section 8.06. Actions by Trustee as Attorney-in-Fact. Any suit, action or proceeding which any Owner shall have the right to bring to enforce any right or remedy hereunder may be brought by the Trustee for the equal benefit and protection of all Owners similarly situated and the Trustee is hereby appointed (and the successive respective Owners by taking and holding the Bonds shall be conclusively deemed so to have appointed it) the true and lawful attorney-in-fact of the respective Owners for the purpose of bringing any such suit, action or proceeding and to do and perform any and all acts and things for and on behalf of the respective Owners as a class or classes, as may be necessary or advisable in the opinion of the Trustee as such attorney-in-fact, *provided, however*, the Trustee shall have no duty or obligation to exercise any such right or remedy unless it has been indemnified to its satisfaction from any loss, liability or expense (including fees and expenses of its outside counsel and the allocated costs and disbursements of its in-house counsel to the extent such services are not redundant with those provided by outside counsel).

Section 8.07. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Owners is intended to be exclusive of any other remedy. Every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise, and may be exercised without exhausting and without regard to any other remedy conferred by the Law or any other law.

ATTACHMENT 4

ARTICLE IX

MISCELLANEOUS

Section 9.01. Benefits Limited to Parties. Nothing in this Indenture, expressed or implied, is intended to give to any person other than the Successor Agency, the Trustee, the 2016 Insurer and the Owners, any right, remedy or claim under or by reason of this Indenture. Any covenants, stipulations, promises or agreements in this Indenture contained by and on behalf of the Successor Agency shall be for the sole and exclusive benefit of the Trustee, the 2016 Insurer and the Owners.

Section 9.02. Successor is Deemed Included in All References to Predecessor. Whenever in this Indenture or any Supplemental Indenture either the Successor Agency or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Indenture contained by or on behalf of the Successor Agency or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 9.03. Defeasance of Bonds. If the Successor Agency shall pay and discharge the entire indebtedness on all Bonds or any portion thereof in any one or more of the following ways:

(i) by well and truly paying or causing to be paid the principal of and interest on all or the applicable portion of Outstanding Bonds, as and when the same become due and payable; or

(ii) by irrevocably depositing with the Trustee or an escrow holder, in trust, at or before maturity, money which, together with the available amounts then on deposit in the funds and accounts established pursuant to this Indenture, is fully sufficient to pay all or a portion of Outstanding Bonds, including all principal and interest, or;

(iii) by irrevocably depositing with the Trustee or an escrow holder, in trust, Defeasance Obligations in such amount as an Independent Accountant shall determine will, together with the interest to accrue thereon and available moneys then on deposit in the funds and accounts established pursuant to this Indenture, be fully sufficient to pay and discharge the indebtedness on all Bonds or a portion thereof (including all principal and interest) at or before maturity; or

(iv) by purchasing such Bonds prior to maturity and tendering such Bonds to the Trustee for cancellation;

then, at the election of the Successor Agency, and notwithstanding that any Bonds shall not have been surrendered for payment, the pledge of the Tax Revenues and other funds provided for in this Indenture and all other obligations of the Trustee and the Successor Agency under this Indenture shall cease and terminate with respect to all Outstanding Bonds or, if applicable, with respect to that portion of the Bonds which has been paid and discharged, except only (a) the covenants of the Successor Agency hereunder with respect to the Code, (b) the obligation of the Trustee to transfer and exchange Bonds hereunder, (c) the obligations of the Successor Agency under Section 6.06 hereof, and (d) the obligation of the Successor Agency to pay or cause to be paid to the Owners, from the amounts so deposited with the Trustee, all sums due thereon and to pay the Trustee all fees, expenses and costs of the Trustee. In the event the

ATTACHMENT 4

Successor Agency shall, pursuant to the foregoing provision, pay and discharge any portion or all of the Bonds then Outstanding, the Trustee shall be authorized to take such actions and execute and deliver to the Successor Agency all such instruments as may be necessary or desirable to evidence such discharge, including, without limitation, selection by lot of Bonds of any maturity of the Bonds that the Successor Agency has determined to pay and discharge in part.

In the case of a defeasance or payment of all of the Bonds Outstanding, any funds thereafter held by the Trustee which are not required for said purpose or for payment of amounts due the Trustee pursuant to Section 6.06 shall be paid over to the Successor Agency for deposit in the Redevelopment Obligation Retirement Fund.

Section 9.04. Execution of Documents and Proof of Ownership by Owners. Any request, consent, declaration or other instrument which this Indenture may require or permit to be executed by any Owner may be in one or more instruments of similar tenor, and shall be executed by such Owner in person or by their attorneys appointed in writing.

Except as otherwise herein expressly provided, the fact and date of the execution by any Owner or his attorney of such request, declaration or other instrument, or of such writing appointing such attorney, may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the person signing such request, declaration or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer.

The ownership of Bonds and the amount, maturity, number and date of ownership thereof shall be proved by the Registration Books.

Any demand, request, direction, consent, declaration or other instrument or writing of the Owner of any Bond shall bind all future Owners of such Bond in respect of anything done or suffered to be done by the Successor Agency or the Trustee and in accordance therewith, provided, however, that the Trustee shall not be deemed to have knowledge that any Bond is owned by or for the account of the Successor Agency unless the Successor Agency is the registered Owner or the Trustee has received written notice that any other registered Owner is such an affiliate.

Section 9.05. Disqualified Bonds. In determining whether the Owners of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Indenture, Bonds which are owned or held by or for the account of the Successor Agency or the County (but excluding Bonds held in any employees' retirement fund) shall be disregarded and deemed not to be Outstanding for the purpose of any such determination.

Section 9.06. Waiver of Personal Liability. No member, officer, agent or employee of the Successor Agency shall be individually or personally liable for the payment of the principal or interest on the Bonds; but nothing herein contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law.

Section 9.07. Destruction of Cancelled Bonds. Whenever in this Indenture provision is made for the surrender to the Trustee of any Bonds which have been paid or cancelled pursuant to the provisions of this Indenture, the Trustee shall destroy such bonds and upon request of the

ATTACHMENT 4

Successor Agency provide the Successor Agency a certificate of destruction. The Successor Agency shall be entitled to rely upon any statement of fact contained in any certificate with respect to the destruction of any such Bonds therein referred to.

Section 9.08. Notices. Any notice, request, demand, communication or other paper shall be sufficiently given and shall be deemed given when delivered or upon receipt when mailed by first class, registered or certified mail, postage prepaid, or sent by telegram, addressed as follows:

If to the Successor Agency: Successor Agency to the Tracy Community
Development Agency
333 Civic Center Plaza
Tracy, CA 95376
Attention: Executive Director

If to the Trustee: The Bank of New York Mellon Trust
Company, N.A.
700 South Flower Street, Suite 500
Los Angeles CA 90017-4014
Attention: Corporate Trust Department

If to the 2016 Insurer: [to come]

Section 9.09. Partial Invalidity. If any Section, paragraph, sentence, clause or phrase of this Indenture shall for any reason be held illegal, invalid or unenforceable, such holding shall not affect the validity of the remaining portions of this Indenture. The Successor Agency hereby declares that it would have adopted this Indenture and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the issue of the Bonds pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses, or phrases of this Indenture may be held illegal, invalid or unenforceable. If, by reason of the judgment of any court, the Trustee is rendered unable to perform its duties hereunder, all such duties and all of the rights and powers of the Trustee hereunder shall, pending appointment of a successor Trustee in accordance with the provisions of Section 6.01 hereof, be assumed by and vest in the Treasurer of the County of San Joaquin, on behalf of the Successor Agency, in trust for the benefit of the Owners. The Successor Agency covenants for the direct benefit of the Owners that its Treasurer in such case shall be vested with all of the rights and powers of the Trustee hereunder, and shall assume all of the responsibilities and perform all of the duties of the Trustee hereunder, in trust for the benefit of the Bonds, pending appointment of a successor Trustee in accordance with the provisions of Section 6.01 hereof.

Section 9.10. Unclaimed Moneys. Anything contained herein to the contrary notwithstanding, any money held by the Trustee in trust for the payment and discharge of the interest or premium (if any) on or principal of the Bonds which remains unclaimed for two (2) years after the date when the payments of such interest, premium and principal have become payable, if such money was held by the Trustee at such date, or for two (2) years after the date of deposit of such money if deposited with the Trustee after the date when the interest and premium (if any) on and principal of such Bonds have become payable, shall be repaid by the Trustee to the Successor Agency as its absolute property free from trust, and the Trustee shall thereupon be released and discharged with respect thereto and the Bond Owners shall look only to the Successor Agency for the payment of the principal of and interest and redemption premium (if any) on of such Bonds.

ATTACHMENT 4

Section 9.11. Execution in Counterparts. This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 9.12. Governing Law. This Indenture shall be construed and governed in accordance with the laws of the State.

ATTACHMENT 4

IN WITNESS WHEREOF, the SUCCESSOR AGENCY TO THE TRACY COMMUNITY DEVELOPMENT AGENCY, has caused this Indenture to be signed in its name by the chief administrative officer of the Successor Agency, and attested by the Secretary of the Governing Board, and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., in token of its acceptance of the trusts created hereunder, has caused this Indenture to be signed in its corporate name by its officer thereunto duly authorized, all as of the day and year first above written.

**SUCCESSOR AGENCY FOR THE
COMMUNITY DEVELOPMENT AGENCY
OF THE CITY OF TRACY**

By: _____
City Manager
City of Tracy

ATTEST:

Secretary, Governing Board

**THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.,**
as Trustee

By: _____
Authorized Officer

ATTACHMENT 4

Record Date for which such Interest Payment Date occurs; provided however, that payment of interest may be by wire transfer to an account in the United States of America to any registered owner of Bonds in the aggregate principal amount of \$1,000,000 or more upon written instructions of any such registered owner filed with the Trustee for that purpose prior to the Record Date preceding the applicable Interest Payment Date.

This Bond is one of a duly authorized issue of bonds of the Successor Agency designated as "Successor Agency to the Tracy Community Development Agency 2016 Tax Allocation Refunding Bonds" (the "Bonds"), in an aggregate principal amount of _____ Dollars (\$_____), all of like tenor and date (except for such variation, if any, as may be required to designate varying series, numbers, maturities, interest rates, redemption and other provisions) and all issued pursuant to the provisions of Section 34177.5 of the Health and Safety Code of the State of California and Article 11 (commencing with Section 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California (the "Refunding Law") and pursuant to an Indenture of Trust, dated as of _____ 1, 2016, entered into by and between the Successor Agency and the Trustee (the "Indenture"), authorizing the issuance of the Bonds. Additional bonds or other obligations may also be issued on a parity with the Bonds, but only subject to the terms of the Indenture. Reference is hereby made to the Indenture (copies of which are on file at the office of the Successor Agency) and all indentures supplemental thereto and to the Law (as defined in the Indenture) and the Refunding Law for a description of the terms on which the Bonds are issued, the provisions with regard to the nature and extent of the Tax Revenues (as that term is defined in the Indenture), and the rights thereunder of the registered owners of the Bonds and the rights, duties and immunities of the Trustee and the rights and obligations of the Successor Agency thereunder, to all of the provisions of which Indenture the Registered Owner of this Bond, by acceptance hereof, assents and agrees.

The Bonds have been issued by the Successor Agency for the purpose of providing funds to refund its 2003 Bonds (as defined in the Indenture) and to pay certain expenses of the Successor Agency in issuing the Bonds.

There has been created under the Law the Redevelopment Obligation Retirement Fund (as defined in the Indenture) into which Tax Revenues shall be deposited and from which the Successor Agency shall transfer amounts to the Trustee for payment, when due, of the principal of and the interest and redemption premium, if any, on the Bonds. As and to the extent set forth in the Indenture, all such Tax Revenues are exclusively and irrevocably pledged to and constitute a trust fund, in accordance with the terms hereof and the provisions of the Indenture and the Law, for the security and payment or redemption of, including any premium upon early redemption, and for the security and payment of interest on, the Bonds. In addition, the Bonds shall be additionally secured at all times by a first and exclusive pledge of, security interest in and lien upon all of the moneys in the Redevelopment Obligation Retirement Fund, the Debt Service Fund, the Interest Account, the Principal Account, the Sinking Account, the Reserve Account and the Redemption Account (as such terms are defined in the Indenture). Except for the Tax Revenues and such moneys, no funds or properties of the Successor Agency shall be pledged to, or otherwise liable for, the payment of principal of or interest or redemption premium, if any, on the Bonds.

The Bonds maturing on or before August 1, 2025, are not subject to optional redemption prior to maturity. The Bonds maturing on and after August 1, 2026, are subject to redemption, at the option of the Successor Agency on any date on or after August 1, 2025, as a whole or in part, by such maturities as shall be determined by the Successor Agency, and by lot within a

ATTACHMENT 4

maturity, from any available source of funds, at a redemption price equal to the principal amount of the Bonds to be redeemed, together with accrued interest thereon to the date fixed for redemption, without premium.

As provided in the Indenture, notice of redemption shall be given by first class mail no less than twenty (20) nor more than sixty (60) days prior to the redemption date to the respective registered owners of any Bonds designated for redemption at their addresses appearing on the Bond registration books maintained by the Trustee, but neither failure to receive such notice nor any defect in the notice so mailed shall affect the sufficiency of the proceedings for redemption.

The Successor Agency has the right to rescind any notice of the optional redemption of Bonds by written notice to the Trustee on or prior to the date fixed for redemption. Any notice of redemption shall be cancelled and annulled if for any reason funds will not be or are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation shall not constitute an Event of Default. The Successor Agency and the Trustee have no liability to the Owners or any other party related to or arising from such rescission of redemption. The Trustee shall mail notice of such rescission of redemption in the same manner as the original notice of redemption was sent under the Indenture.

If this Bond is called for redemption and payment is duly provided therefor as specified in the Indenture, interest shall cease to accrue hereon from and after the date fixed for redemption.

If an Event of Default, as defined in the Indenture, shall occur, the principal of all Bonds may be declared due and payable upon the conditions, in the manner and with the effect provided in the Indenture, but such declaration and its consequences may be rescinded and annulled as further provided in the Indenture.

The Bonds are issuable as fully registered Bonds without coupons in denominations of \$5,000 and any integral multiple thereof. Subject to the limitations and conditions and upon payment of the charges, if any, as provided in the Indenture, Bonds may be exchanged for a like aggregate principal amount of Bonds of other authorized denominations and of the same maturity.

This Bond is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the Corporate Trust Office of the Trustee, but only in the manner and subject to the limitations provided in the Indenture, and upon surrender and cancellation of this Bond. Upon registration of such transfer a new fully registered Bond or Bonds, of any authorized denomination or denominations, for the same aggregate principal amount and of the same maturity will be issued to the transferee in exchange herefor. The Trustee may refuse to transfer or exchange (a) any Bond during the fifteen (15) days prior to the date established for the selection of Bonds for redemption, or (b) any Bond selected for redemption.

The Successor Agency and the Trustee may treat the Registered Owner hereof as the absolute owner hereof for all purposes, and the Successor Agency and the Trustee shall not be affected by any notice to the contrary.

The rights and obligations of the Successor Agency and the registered owners of the Bonds may be modified or amended at any time in the manner, to the extent and upon the

ATTACHMENT 4

terms provided in the Indenture, but no such modification or amendment shall (a) extend the maturity of or reduce the interest rate on any Bond or otherwise alter or impair the obligation of the Successor Agency to pay the principal, interest or redemption premium (if any) at the time and place and at the rate and in the currency provided herein of any Bond without the express written consent of the registered owner of such Bond, (b) reduce the percentage of Bonds required for the written consent to any such amendment or modification or (c) without its written consent thereto, modify any of the rights or obligations of the Trustee.

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the Successor Agency or the Trustee for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

This Bond is not a debt of the County of San Joaquin, the State of California, or any of its political subdivisions, and neither said County, said State, nor any of its political subdivisions is liable hereon, nor in any event shall this Bond be payable out of any funds or properties other than those of the Successor Agency. The Bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

It is hereby certified that all of the things, conditions and acts required to exist, to have happened or to have been performed precedent to and in the issuance of this Bond do exist, have happened or have been performed in due and regular time and manner as required by the Law, the Refunding Law and the laws of the State of California, and that the amount of this Bond, together with all other indebtedness of the Successor Agency, does not exceed any limit prescribed by the Law, the Refunding Law or any laws of the State of California, and is not in excess of the amount of Bonds permitted to be issued under the Indenture.

This Bond shall not be entitled to any benefit under the Indenture or become valid or obligatory for any purpose until the Trustee's Certificate of Authentication hereon shall have been manually signed by the Trustee.

ATTACHMENT 4

IN WITNESS WHEREOF, the Successor Agency to the Tracy Community Development Agency has caused this Bond to be executed in its name and on its behalf with the facsimile signature of its chief administrative officer and attested by the Secretary of the Governing Board, as of the Dated Date set forth above.

SUCCESSOR AGENCY FOR THE
COMMUNITY DEVELOPMENT AGENCY
OF THE CITY OF TRACY

By: _____
City Manager
City of Tracy

ATTEST:

Secretary, Governing Board

ATTACHMENT 4

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Bonds described in the within-mentioned Indenture.

Authentication Date: _____

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.,
as Trustee

By: _____
Authorized Signatory

ATTACHMENT 4

ABBREVIATIONS

The following abbreviations, when used in the inscription on the face of this Bond, shall be construed as though they were written out in full according to applicable laws or Tax Regulations:

TEN COM --	as tenants in common	UNIF GIFT MIN ACT _____	Custodian _____
TEN ENT --	as tenants by the entireties		(Cust.) (Minor)
JT TEN --	as joint tenants with right of survivorship and not as tenants in common	under Uniform Gifts to Minors Act	_____ (State)
COMM PROP --	as community property		

ADDITIONAL ABBREVIATIONS MAY ALSO BE USED
THOUGH NOT IN THE LIST ABOVE

(FORM OF ASSIGNMENT)

For value received the undersigned hereby sells, assigns and transfers unto

(Name, Address and Tax Identification or Social Security Number of Assignee)

the within-registered Bond and hereby irrevocably constitute(s) and appoints(s)
_____ attorney,

to transfer the same on the registration books of the Trustee with full power of substitution in the premises.

Dated: _____

Signatures Guaranteed:

Note: Signature(s) must be guaranteed by an eligible guarantor.

Note: The signatures(s) on this Assignment must correspond with the name(s) as written on the face of the within Bond in every particular without alteration or enlargement or any change whatsoever.

EXHIBIT B

DEBT SERVICE PAYMENT SCHEDULE

Period Ending	Principal	Interest	Total Debt Service
8/1/16			
2/1/17			
8/1/17			
2/1/18			
8/1/18			
2/1/19			
8/1/19			
2/1/20			
8/1/20			
2/1/21			
8/1/21			
2/1/22			
8/1/22			
2/1/23			
8/1/23			
2/1/24			
8/1/24			
2/1/25			
8/1/25			
2/1/26			
8/1/26			
2/1/27			
8/1/27			
2/1/28			
8/1/28			
2/1/29			
8/1/29			
2/1/30			
8/1/30			
2/1/31			
8/1/31			
2/1/32			
8/1/32			
2/1/33			
8/1/33			
2/1/34			
8/1/34			
Total			

Norton Rose Fulbright US LLP – Draft 11/23/15

\$ _____
**SUCCESSOR AGENCY TO THE TRACY COMMUNITY DEVELOPMENT AGENCY
2016 TAX ALLOCATION REFUNDING BONDS**

BOND PURCHASE AGREEMENT

_____, 2016

Successor Agency to the Tracy
Community Development Agency
333 Civic Center Plaza
Tracy, California 95376
Attention: Executive Director

Ladies and Gentlemen:

The undersigned, Stifel, Nicolaus & Company, Incorporated (the “Underwriter”), offers to enter into this Bond Purchase Agreement (this “Purchase Agreement”) with the Successor Agency to the Tracy Community Development Agency (the “Successor Agency”) which will be binding upon the Successor Agency and the Underwriter upon the acceptance hereof by the Successor Agency. This offer is made subject to its acceptance by the Successor Agency by execution of this Purchase Agreement and its delivery to the Underwriter on or before 11:59 p.m., California time, on the date hereof. All terms used herein and not otherwise defined shall have the respective meanings given to such terms in the Indenture (as hereinafter defined).

The Successor Agency acknowledges and agrees that: (i) the purchase and sale of the Bonds (as hereinafter defined) pursuant to this Purchase Agreement is an arm’s-length commercial transaction between the Successor Agency and the Underwriter; (ii) in connection therewith and with the discussions, undertakings and procedures leading up to the consummation of such transaction, the Underwriter is and has been acting solely as a principal and is not acting as a Municipal Advisor (as defined in Section 15B of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and has not assumed a fiduciary responsibility in favor of the Successor Agency with respect to the offering of the Bonds or the process leading thereto (whether or not the Underwriter has advised or is currently advising the Successor Agency on other matters); (iii) the only obligations the Underwriter has to the Successor Agency with respect to the transaction contemplated hereby are expressly set forth in this Purchase Agreement; (iv) the Successor Agency has consulted its own legal, financial and other advisors to the extent it has deemed appropriate; (v) the Underwriter has financial interests that may differ from and be adverse to those of the Successor Agency; and (vi) the Underwriter has provided the Successor Agency with certain disclosures required under the rules of the Municipal Securities Rulemaking Board (the “MSRB”).

ATTACHMENT 5

The Successor Agency hereby acknowledges receipt from the Underwriter of disclosures required by MSRB Rule G-17 (as set forth in MSRB Interpretive Notice on the Application of MSRB Rule G-17 to Underwriters of Municipal Securities (August 2, 2012)), relating to disclosures concerning the Underwriter's role in the transaction, disclosures concerning the Underwriter's compensation, conflict disclosures, if any, and disclosures concerning complex municipal securities financing, if any.

1. Purchase and Sale. Upon the terms and conditions and upon the basis of the representations, warranties and agreements hereinafter set forth, the Underwriter hereby agrees to purchase from the Successor Agency for offering to the public, and the Successor Agency hereby agrees to sell to the Underwriter for such purpose, all (but not less than all) of the \$_____ aggregate principal amount of the Successor Agency to the Tracy Community Development Agency 2016 Tax Allocation Refunding Bonds (the "Bonds") at a purchase price equal to \$_____ (being the aggregate principal amount thereof, [plus/less] a [premium/discount] of \$_____ and less an Underwriter's discount of \$_____). The payment for and delivery of the Bonds and the other actions contemplated hereby to take place at the time of such payment and delivery are herein sometimes called the "Closing."

[At the request of the Successor Agency, on the date of Closing, the Underwriter will wire to _____ (the "Insurer") an amount equal to \$_____, representing the sum of the premium (i) for the bond insurance policy, as described in greater detail below (the "Insurance Policy") and (ii) for the reserve surety bond (the "Surety Bond"), in each case to be issued by the Insurer simultaneously with the issuance and delivery of the Bonds maturing in the years 20__ and 20__ (the "Insured Bonds"). As a result, the net amount to be wired to the Successor Agency by the Underwriter in connection with the purchase of the Bonds will be \$_____.]

2. The Bonds and Related Documents. The Bonds shall be issued pursuant to an Indenture of Trust, dated as of _____ 1, 2016 (the "Indenture"), by and between the Successor Agency and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), Parts 1, 1.8 and 1.85 of Division 24 of the California Health and Safety Code (the "Law") and Article 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code (the "Refunding Law"), and Resolution No. ____ of the Successor Agency, adopted on December 1, 2015 (the "Successor Agency Resolution"). The issuance of the Bonds was approved by the Oversight Board for the Successor Agency by Resolution No. ____, adopted on December 1, 2015 (the "Oversight Board Resolution"). The Bonds shall be as described in the Indenture and the Official Statement dated the date hereof relating to the Bonds (which, together with all exhibits and appendices included therein or attached thereto and such amendments or supplements thereto which shall be approved by the Underwriter, is hereinafter called the "Official Statement").

The net proceeds of the Bonds will be used to redeem and defease all of the (i) \$35,095,000 Community Development Agency of the City of Tracy 2003 Tax Allocation Bonds, Series A ("2003 Senior Bonds") and (ii) \$20,625,000 Community Development Agency of the City of Tracy 2003 Subordinate Tax Allocation Bonds, Series B ("2003 Subordinate Bonds" and, together with the 2003 Senior Bonds, the "2003 Bonds").

The Successor Agency will undertake pursuant to the provisions of a Continuing Disclosure Certificate, to be dated the date of the Closing (the "Disclosure Certificate") and executed by the Successor Agency, to provide certain annual information and notices of the occurrence of certain

ATTACHMENT 5

enumerated events. A description of the undertaking is set forth in the Preliminary Official Statement (as defined below) and will also be set forth in the Official Statement.

The Indenture, the Disclosure Certificate, the Irrevocable Refunding Instructions from the Successor Agency to The Bank of New York Mellon Trust Company, N.A., as trustee for the 2003 Bonds (the “Refunding Instructions”) and this Purchase Agreement are sometimes collectively referred to herein as the “Successor Agency Legal Documents.”

3. Offering. It shall be a condition to the Successor Agency’s obligation to sell and to deliver the Bonds to the Underwriter and to the Underwriter’s obligations to purchase, to accept delivery of and to pay for the Bonds that the entire aggregate principal amount of the Bonds shall be issued, sold and delivered by the Successor Agency and purchased, accepted and paid for by the Underwriter at the Closing. The Underwriter agrees to make a *bona fide* public offering of all of the Bonds at the initial public offering prices or yields set forth in Exhibit A hereto. The Bonds may be offered and sold to certain dealers at prices lower than such initial public offering prices; provided, however, that the Underwriter may offer a portion of the Bonds for sale to selected dealers who are members of the Financial Industry Regulatory Authority and who agree to resell the Bonds to the public on terms consistent with this Purchase Agreement, and the Underwriter reserves the right to change such offering prices or yields as the Underwriter shall deem necessary in connection with the marketing of the Bonds and to offer and sell the Bonds to certain dealers (including dealers depositing the Bonds into investment trusts) and others at prices lower than the initial offering prices or at yields higher than the initial yields set forth on Exhibit A attached hereto. The Underwriter also reserves the right to over-allot or effect transactions that stabilize or maintain the market price of the Bonds at a level above that which might otherwise prevail in the open market and to discontinue such stabilizing, if commenced, at any time. None of such activities shall affect the principal amounts, maturity dates, interest rates, redemption or other provision of the Bonds or the amount to be paid by the Underwriter to the Successor Agency for the Bonds.

4. Use and Preparation of Documents. The Successor Agency has caused to be prepared and delivered to the Underwriter prior to the execution of this Purchase Agreement copies of the Preliminary Official Statement, dated _____, 2016, relating to the Bonds (the “Preliminary Official Statement”). The Successor Agency ratifies, confirms and approves the use by the Underwriter prior to the date hereof of the Preliminary Official Statement. The Successor Agency has previously deemed the Preliminary Official Statement to be final as of its date for purposes of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (“Rule 15c2-12”), except for information permitted to be omitted therefrom by Rule 15c2-12. The Successor Agency shall have executed and delivered to the Underwriter a certification to such effect in the form attached hereto as Exhibit B.

The Successor Agency hereby agrees to deliver or cause to be delivered to the Underwriter, not later than the earlier of: (i) the business day preceding the date of Closing (as defined herein); or (ii) the seventh (7th) business day following the date of this Purchase Agreement: (A) the form of the Official Statement relating to the Bonds in “designated electronic format” (as defined in MSRB Rule G-32); and (B) copies of the Official Statement, dated the date hereof, in the form of the Preliminary Official Statement, with such changes thereto, as may be approved by the Underwriter, in such quantity as the Underwriter shall reasonably request. The Successor Agency hereby approves of the distribution and use by the Underwriter of the Official Statement in connection with the offer and sale of the Bonds. The Preliminary Official Statement and/or the Official Statement may be delivered in printed and/or electronic form to the extent permitted by applicable rules of the MSRB

ATTACHMENT 5

and as may be agreed by the Successor Agency and the Underwriter. If the Official Statement is prepared for distribution in electronic form, the Successor Agency hereby confirms that it does not object to distributions of the Official Statement in electronic form. The Underwriter agrees that it will not confirm the sale of any Bonds unless the confirmation of sale is accompanied or preceded by the delivery of a copy of the Official Statement (which may be in electronic form).

5. Representations, Warranties and Agreements of the Successor Agency. The Successor Agency hereby represents, warrants and agrees as follows:

(a) The Successor Agency is a public entity existing under the Constitution and laws of the State of California (the "State"), including the Law;

(b) The Successor Agency has full legal right, power and authority to issue the Bonds, secure the Bonds in the manner contemplated by the Indenture and enter into the Successor Agency Legal Documents and carry out and consummate the transactions contemplated by the Successor Agency Legal Documents;

(c) By all necessary official action of the Successor Agency prior to or concurrently with the acceptance hereof, the Successor Agency has duly authorized and approved the preparation and use of the Preliminary Official Statement and the Official Statement, the execution and delivery of the Official Statement and the Successor Agency Legal Documents, and the performance by the Successor Agency of all transactions contemplated by the Successor Agency Legal Documents; and the Successor Agency Legal Documents will constitute legal, valid and binding obligations of the Successor Agency, enforceable in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or limiting creditors' rights generally;

(d) The Successor Agency is not in any material respect in breach of or default under any applicable constitutional provision, law or administrative regulation to which it is subject or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement (including, without limitation, the Indenture) or other instrument to which the Successor Agency is a party or to which the Successor Agency or any of its property or assets is otherwise subject, and no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute such a default or event of default under any such instrument; and the execution and delivery of the Successor Agency Legal Documents, and compliance with the provisions on the Successor Agency's part contained therein, will not conflict with or constitute a material breach of or a material default under any constitutional provision, law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Successor Agency is a party or to which the Successor Agency or any of its property or assets is otherwise subject, nor will any such execution, delivery, adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the Successor Agency or under the terms of any such constitutional provision, law, regulation or instrument, except as provided by the Indenture;

(e) Except as described in the Preliminary Official Statement and the Official Statement, all authorizations, approvals, licenses, permits, consents and orders of any governmental authority, board, agency or commission having jurisdiction of the matter which are required for the due authorization by, or which would constitute a condition precedent to or the absence of which

ATTACHMENT 5

would materially adversely affect the due performance by, the Successor Agency of its obligations under the Successor Agency Legal Documents have been duly obtained;

(f) Between the date of this Purchase Agreement and the date of the Closing, the Successor Agency will not, without the prior written consent of the Underwriter, offer or issue any bonds, notes or other obligations for borrowed money, or incur any material liabilities, direct or contingent, payable from Tax Revenues (as defined in the Indenture), nor will thereby any adverse change of a material nature in the financial position, results of operations or condition, financial or otherwise, of the Successor Agency;

(g) There is no action, suit, proceeding, inquiry or investigation, at law or in equity before or by any court, government agency, public board or body, pending or threatened against the Successor Agency, affecting the existence of the Successor Agency or the titles of its officers to their respective offices, or affecting or seeking to prohibit, restrain or enjoin the execution and delivery of the Indenture or the collection of the Tax Revenues or contesting or affecting, as to the Successor Agency, the validity or enforceability of the Successor Agency Legal Documents or contesting the exclusion from gross income of interest on the Bonds for federal income tax purposes, or contesting the completeness or accuracy of the Preliminary Official Statement or the Official Statement, or contesting the powers of the Successor Agency, or in any way contesting or challenging the consummation of the transactions contemplated hereby, or which might result in a material adverse change in the financial condition of the Successor Agency or which might materially adversely affect the Tax Revenues of the Successor Agency; nor, to the best knowledge of the Successor Agency, is there any known basis for any such action, suit, proceeding, inquiry or investigation, wherein an unfavorable decision, ruling or finding would materially adversely affect the validity of the authorization, execution, delivery or performance by the Successor Agency of the Successor Agency Legal Documents;

(h) As of the date of the Closing, the Successor Agency will not have outstanding any indebtedness which indebtedness is secured by a lien on the Tax Revenues of the Successor Agency senior to on a parity with the lien provided for in the Indenture on the Tax Revenues;

(i) As of the time of acceptance hereof and as of the date of the Closing, the Successor Agency has complied with the filing requirements of the Law, including, without limitation, the filing of all Recognized Obligation Payment Schedules, as required by the Law;

(j) As of the date thereof and hereof, the Preliminary Official Statement and the Official Statement did not and do not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein in light of the circumstances under which they were made, not misleading;

(k) As of the date thereof and at all times subsequent thereto to and including the date which is 25 days following the End of the Underwriting Period (as such term is hereinafter defined) for the Bonds, the Official Statement (including any amendment or supplement to the Official Statement as contemplated in (l) below) did not and will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made not misleading;

(l) If between the date hereof and the date which is 25 days after the End of the Underwriting Period for the Bonds, an event occurs which would cause the information contained in

ATTACHMENT 5

the Official Statement, as then supplemented or amended, to contain an untrue statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make such information herein, in the light of the circumstances under which it was presented, not misleading, the Successor Agency will notify the Underwriter, and, if in the opinion of the Underwriter or the Successor Agency, or their respective counsel, such event requires the preparation and publication of a supplement or amendment to the Official Statement, the Successor Agency will cooperate in the preparation of an amendment or supplement to the Official Statement in a form and manner approved by the Underwriter, and shall pay all expenses thereby incurred. For the purposes of this subsection, between the date hereof and the date which is 25 days after the End of the Underwriting Period for the Bonds, the Successor Agency will furnish such information with respect to itself as the Underwriter may from time to time reasonably request. As used herein, the term "End of the Underwriting Period" means the later of such time as: (i) the Successor Agency delivers the Bonds to the Underwriter; or (ii) the Underwriter does not retain, directly or as a member of an underwriting syndicate, an unsold balance of the Bonds for sale to the public. Notwithstanding the foregoing, unless the Underwriter gives notice to the contrary, the "End of the Underwriting Period" shall be the date of Closing;

(m) If the information contained in the Official Statement is amended or supplemented pursuant to paragraph (l) hereof, at the time of each supplement or amendment thereto and (unless subsequently again supplemented or amended pursuant to such subparagraph) at all times subsequent thereto up to and including the date which is 25 days after the End of the Underwriting Period for the Bonds, the portions of the Official Statement so supplemented or amended (including any financial and statistical data contained therein) will not contain any untrue statement of a material fact required to be stated therein or necessary to make such information therein in the light of the circumstances under which it was presented, not misleading;

(n) After the Closing, the Successor Agency will not participate in the issuance of any amendment of or supplement to the Official Statement to which, after being furnished with a copy, the Underwriter shall reasonably object in writing or which shall be disapproved by counsel for the Underwriter;

(o) Any certificate signed by any officer of the Successor Agency and delivered to the Underwriter shall be deemed a representation by the Successor Agency to the Underwriter as to the statements made therein;

(p) The Successor Agency will apply the proceeds from the sale of the Bonds for the purposes specified in the Official Statement;

(q) Neither the Successor Agency nor the City of Tracy (the "City") has been notified of any listing or proposed listing by the Internal Revenue Service to the effect that the Successor Agency or the City is a bond issuer whose arbitrage certifications may not be relied upon;

(r) The Successor Agency will furnish such information, execute such instruments and take such other action in cooperation with the Underwriter, at the expense of the Underwriter, as it may reasonably request in order to qualify the Bonds for offer and sale under the "blue sky" or other securities laws and regulations of such states and other jurisdictions of the United States of America as the Underwriter may designate; provided, however, that the Successor Agency will not be required to execute a special or general consent to service of process or qualify as a foreign corporation in connection with any such qualification in any jurisdiction.

ATTACHMENT 5

(s) The Successor Agency will refrain from taking any action with regard to which the Successor Agency may exercise control that results in the inclusion in gross income for federal income tax purposes of the interest on the Bonds or State income tax purposes of the interest on the Bonds;

(t) Except as disclosed in the Preliminary Official Statement and the Official Statement, neither the Successor Agency nor the Tracy Community Development Agency during the past five years has failed to comply in any material respect with any continuing disclosure undertaking;

(u) The Oversight Board has duly adopted the Oversight Board Resolution approving the issuance of the Bonds and no further Oversight Board approval or consent is required for the issuing of the Bonds or the consummation of the transactions described in the Preliminary Official Statement; and

(v) The Department of Finance of the State (the "Department of Finance") issued a letter, dated _____, 20__ (the "DOF Letter"), approving the issuance of the Bonds. No further Department of Finance approval or consent is required for the issuance of the Bonds or the consummation of the transactions described in the Preliminary Official Statement. Except as disclosed in the Preliminary Official Statement, the Successor Agency is not aware of the Department of Finance directing or having any basis to direct the County Auditor-Controller to deduct unpaid unencumbered funds from future allocations of property tax to the Successor Agency pursuant to Section 34183 of the Dissolution Act.

6. Closing. At 8:00 A.M., California time, on _____, 2016, or on such other date as may be mutually agreed upon by the Successor Agency and the Underwriter, the Successor Agency will, subject to the terms and conditions hereof, sell and deliver the Bonds to the Underwriter, duly executed and authenticated, together with the other documents hereinafter mentioned, and, subject to the terms and conditions hereof, the Underwriter will accept such delivery and pay the purchase price of the Bonds as set forth in Section 1 hereof in federal funds. Sale, delivery and payment as aforesaid shall be made at the offices of Jones Hall, A Professional Law Corporation ("Bond Counsel"), or such other place as shall have been mutually agreed upon by the Successor Agency and the Underwriter, except that the Bonds (with one certificate for each maturity and otherwise in a form suitable for the book-entry system) shall be delivered to the Underwriter through the book-entry system of The Depository Trust Company ("DTC"). Unless the DTC Fast Automated Securities Transfer ("FAST") is utilized, the Bonds will be made available for inspection by the Underwriter and DTC at least two business day prior to the Closing.

7. Closing Conditions. The Underwriter has entered into this Purchase Agreement in reliance upon the representations and warranties of the Successor Agency contained herein, and in reliance upon the representations and warranties to be contained in the documents and instruments to be delivered at the Closing and upon the performance by the Successor Agency of its obligations hereunder, both as of the date hereof and as of the date of the Closing. Accordingly, the Underwriter's obligations under this Purchase Agreement to purchase, to accept delivery of and to pay for the Bonds shall be conditioned upon the performance by the Successor Agency of its obligations to be performed hereunder and under such documents and instruments at or prior to the Closing, and shall also be subject to the following additional conditions:

ATTACHMENT 5

(a) The Underwriter shall receive, within seven (7) business days of the date hereof, but in no event less than one day prior to Closing, copies of the Official Statement (including all information previously permitted to have been omitted from the Preliminary Official Statement by Rule 15c2-12 and any amendments or supplements as have been approved by the Underwriter), in such reasonable quantity as the Underwriter shall have requested;

(b) The representations and warranties of the Successor Agency contained herein shall be true, complete and correct on the date hereof and on and as of the date of the Closing, as if made on the date of the Closing and the statements of the officers and other officials of the Successor Agency and the Trustee made in any certificate or other document furnished pursuant to the provisions hereof are accurate;

(c) At the time of the Closing, the Successor Agency Legal Documents shall have been duly authorized, executed and delivered by the respective parties thereto, and the Preliminary Official Statement and the Official Statement shall have been duly authorized, executed and delivered by the Successor Agency, all in substantially the forms heretofore submitted to the Underwriter, with only such changes as shall have been agreed to in writing by the Underwriter, and shall be in full force and effect; and there shall be in full force and effect such resolution or resolutions of the governing body of the Successor Agency as, in the opinion of Bond Counsel, shall be necessary or appropriate in connection with the transactions contemplated hereby;

(d) At the time of the Closing, all necessary official action of the Successor Agency relating to the Preliminary Official Statement and the Official Statement and the Successor Agency Legal Documents shall have been taken and shall be in full force and effect and shall not have been amended, modified or supplemented in any material respect;

(e) At or prior to the Closing, the Underwriter shall have received copies of each of the following documents:

(1) Bond Counsel Final Opinion. The approving opinion of Bond Counsel, dated the date of the Closing and substantially in the form included as Appendix E to the Official Statement;

(2) Supplemental Opinion of Bond Counsel. A supplemental opinion or opinions of Bond Counsel addressed to the Underwriter, in form and substance acceptable to the Underwriter, and dated the date of the Closing, stating that the Underwriter may rely on the opinions of Bond Counsel described in paragraph (1) above as if such opinion were addressed to the Underwriter and to the following effect:

(i) the Purchase Agreement has been duly executed and delivered by the Successor Agency and (assuming due authorization, execution and delivery by and validity against the Underwriter) constitutes the valid, binding and enforceable agreement of the Successor Agency, except as enforcement thereof may be limited by bankruptcy, insolvency or other laws affecting enforcement of creditors' rights and by the application of equitable principles;

ATTACHMENT 5

(ii) the statements contained in the Official Statement under the captions “INTRODUCTION,” “REFUNDING PLAN,” “THE BONDS,” “SECURITY FOR THE BONDS,” “TAX MATTERS” and in Appendix A insofar as such statements expressly summarize certain provisions of the Bonds, the Refunding Instructions, the Indenture or the opinion of Bond Counsel, are accurate in all material respects; and

(iii) the Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended (the “Securities Act”), and the Indenture is exempt from qualification pursuant to the Trust Indenture Act of 1939, as amended.

(3) Reserved;

(4) Successor Agency Counsel Opinion. An opinion of the City Attorney, as Counsel to the Successor Agency, dated the date of the Closing and addressed to the Underwriter, in form and substance acceptable to the Underwriter to the following effect:

(i) the Successor Agency is a public entity duly existing under the laws of the State, including the Law, with full right, power and authority to execute, deliver and perform its obligations under the Successor Agency Legal Documents;

(ii) the Successor Agency Resolution was duly adopted at a meeting of the Successor Agency, called and held pursuant to law, with all public notice required by law and at which a quorum was present and acting throughout; and the Successor Agency Resolution is in full force and effect and has not been modified amended or rescinded since its adoption date;

(iii) The Successor Agency Legal Documents have been duly authorized, executed and delivered by the Successor Agency and, assuming due authorization, execution and delivery by the other parties thereto, constitute the valid, legal and binding obligations of the Successor Agency enforceable in accordance with their respective terms, except as enforcement thereof may be limited by bankruptcy, insolvency or other laws affecting enforcement of creditors rights and by the application of equitable principles if equitable remedies are sought;

(iv) The execution and delivery of the Successor Agency Legal Documents and the Official Statement and compliance with the provisions of the Successor Agency Legal Documents, under the circumstances contemplated thereby, (1) do not and will not in any material respect conflict with or constitute on the part of the Successor Agency a breach of or default under any agreement or other instrument to which the Successor Agency is a party or by which it is bound, and (2) do not and will not in any material respect constitute on the part of the Successor Agency a violation, breach of or default under any existing law, regulation, court order or consent decree to which the Successor Agency is subject; and

(v) Except as otherwise disclosed in the Official Statement, there is no litigation or proceeding pending or threatened challenging the creation,

ATTACHMENT 5

organization or existence of the Successor Agency, or the validity of the Bonds or the Successor Agency Legal Documents or seeking to restrain or enjoin any of the transactions referred to therein or contemplated thereby, or under which a determination adverse to the Successor Agency would have a material adverse effect on the Tax Revenues or financial condition of the Successor Agency, or which, in any manner, questions the right of the Successor Agency to issue, sell and deliver the Bonds, to enter into the Indenture or to use the Tax Revenues for repayment of the Bonds or affects in any manner the right or ability of the Successor Agency to collect or pledge the Tax Revenues.

(5) Trustee Counsel Opinion. The opinion of counsel to the Trustee, dated the date of the Closing, addressed to the Underwriter, to the effect that:

(i) The Trustee is a national banking association, duly organized and validly existing under the laws of the United States of America, having full power to enter into, accept and administer the trusts created under the Indenture.

(ii) The Indenture has been duly authorized, executed and delivered by the Trustee and constitutes the legal, valid and binding obligation of the Trustee, enforceable in accordance with its terms, except as enforcement thereof may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally and by the application of equitable principles, if equitable remedies are sought.

(6) Successor Agency Certificate. A certificate of the Successor Agency, dated the date of the Closing, signed on behalf of the Successor Agency by a duly authorized officer of the Successor Agency, to the effect that:

(i) the representations and warranties of the Successor Agency contained in this Purchase Agreement are true and correct in all material respects on and as of the date of the Closing as if made on the date of the Closing;

(ii) no event affecting the Successor Agency has occurred since the date of the Official Statement which has not been disclosed therein or in any supplement or amendment thereto which event should be disclosed in the Official Statement in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; and

(iii) No further consent is required to be obtained for the inclusion of the Successor Agency financial statements for the Fiscal Year ending **[June 30, 2014]** as Appendix E to the Preliminary Official Statement and the Official Statement.

ATTACHMENT 5

(7) Trustee's Certificate. A certificate of the Trustee, dated the date of Closing, to the effect that:

(i) the Trustee is a national banking association duly organized and validly existing under the laws of the United States of America;

(ii) the Trustee has full power, authority and legal right to comply with the terms of the Indenture and to perform its obligations stated therein; and

(iii) the Indenture has been duly authorized, executed and delivered by the Trustee and (assuming due authorization, execution and delivery by the Successor Agency) constitutes a legal, valid and binding obligation of the Trustee in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or limiting creditors' rights generally.

(iv) The Bonds have been duly authenticated.

(v) No consent, approval, authorization or other action by any governmental or regulatory authority having jurisdiction over the Trustee that has not been obtained is or will be required for the execution and delivery of the Indenture or the consummation of the transactions contemplated by the Indenture.

(8) Legal Documents. Executed copies of this Purchase Agreement and the other Successor Agency Legal Documents.

(9) Rating Letter. A letter or letters from Standard & Poor's Financial Services, LLC to the effect that the Bonds have been assigned an underlying rating of "___" [and a rating of "___" based on the delivery of the Insurance Policy in connection with the Insured Bonds,] which ratings shall be in effect as of the Closing.

(10) Disclosure Letter. A letter of Jones Hall, A Professional Law Corporation ("Disclosure Counsel"), dated the date of the Closing, addressed to the Underwriter, to the effect that, based upon its participation in the preparation of the Preliminary Official Statement and the Official Statement and without having undertaken to determine independently the fairness, accuracy or completeness of the statements contained in the Official Statement, such counsel has no reason to believe that, as of the date of the Preliminary Official Statement and the date of the Official Statement and the Closing, the Preliminary Official Statement (excluding information permitted to be excluded under the Rule and excluded from the Official Statement pursuant to the next parenthetical) and the Official Statement (excluding therefrom the reports, financial and statistical data and forecasts therein and the information included in Appendices C, E and H thereto and information relating to DTC and its book-entry system, as to which no advice need be expressed) contains and contained any untrue statement of a material fact or omits or omitted to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

ATTACHMENT 5

(11) Underwriter's Counsel Opinion. An opinion of Underwriter's Counsel, dated the date of Closing and addressed to the Underwriter, in form and substance acceptable to the Underwriter.

(12) Fiscal Consultant Certificate. A certificate of Fraser & Associates (the "Fiscal Consultant"), dated the date of the Closing, addressed to the Successor Agency and the Underwriter, in form and substance acceptable to the Underwriter, certifying as to the accuracy of the information in the Preliminary Official Statement and the Official Statement attributed to the Fiscal Consultant and stating that to the best of such firm's knowledge, but without having conducted any investigation with respect thereto, nothing has come to such firm's attention between the date of such report and the date hereof which would materially alter any of the conclusions set forth in such report, and consenting to the use of their report as Appendix D to the Preliminary Official Statement and the Official Statement.

(13) Successor Agency Resolution. A certified copy of the Successor Agency Resolution.

(14) Oversight Board Resolution. A certified copy of the Oversight Board Resolution.

(15) Oversight Board Certificate. A certificate of the Clerk of the Oversight Board to the effect that the Oversight Board Resolution was validly adopted, remains in full force and effect, and has not been amended, rescinded or otherwise modified since its date of adoption.

(16) DOF Letter. A copy of the DOF Letter.

(17) [Bond Insurance Documents. A copy of the Insurance Policy and Surety Policy to be delivered in connection with the Insured Bonds, together with such certificates and opinions as required by Bond Counsel and the Underwriter.]

(18) CDIAC. Evidence of required filings with the California Debt and Investment Advisory Commission.

(19) An arbitrage and tax certificate.

(20) Additional Documents. Such additional certificates, instruments and other documents as Bond Counsel or the Underwriter may reasonably deem necessary.

All the opinions, letters, certificates, instruments and other documents mentioned above or elsewhere in this Purchase Agreement shall be deemed to be in compliance with the provisions hereof if, but only if, they are in form and substance satisfactory to the Underwriter.

If the Successor Agency or the Trustee shall be unable to satisfy the conditions to the obligations of the Underwriter to purchase, to accept delivery of and to pay for the Bonds contained in this Purchase Agreement, if the Successor Agency shall determine in good faith (and provide written notice to the Underwriter) that legislation has been introduced or proposals made by the Governor of the State which if enacted and effective would prohibit the issuance of the Bonds, or if

ATTACHMENT 5

the obligations of the Underwriter to purchase, to accept delivery of and to pay for the Bonds shall be terminated for any reason permitted by this Purchase Agreement, this Purchase Agreement shall terminate and neither the Underwriter nor the Successor Agency shall be under any further obligation hereunder.

8. Termination. The Underwriter shall have the right to terminate this Purchase Agreement, without liability therefor, by notification to the Successor Agency if at any time between the date hereof and prior to the Closing:

(a) any event shall occur which causes any statement contained in the Official Statement to be untrue or incorrect in any material respect or be materially misleading or results in a failure of the Official Statement to state a material fact necessary to make the statements in the Official Statement, in the light of the circumstances under which they were made, not misleading; or

(b) legislation introduced in or enacted (or resolution passed) by the Congress of the United States of America or recommended to the Congress by the President of the United States, the Department of the Treasury, the Internal Revenue Service, or any member of Congress, or favorably reported for passage to either House of Congress by any committee of such House to which such legislation had been referred for consideration or a decision rendered by a court established under Article III of the Constitution of the United States of America or by the Tax Court of the United States of America, or an order, ruling, regulation (final, temporary or proposed), press release or other form of notice issued or made by or on behalf of the Treasury Department or the Internal Revenue Service of the United States of America, with the purpose or effect, directly or indirectly, of imposing federal income taxation upon the interest that would be received by the holders of the Bonds beyond the extent to which such interest is subject to taxation as of the date hereof which, in the opinion of the Underwriter, materially adversely affects the market price of or market for the Bonds; or

(c) any legislation, ordinance, rule or regulation shall be introduced in, or be enacted by any governmental body, department or agency of the State, or a decision by any court of competent jurisdiction within the State or any court of the United States shall be rendered which, in the reasonable opinion of the Underwriter, materially adversely affects the market price of the Bonds or the ability of the Underwriter to enforce contracts for the sale of the Bonds; or

(d) legislation shall be enacted, or consideration for enactment with an effective date prior to the Closing Date, by the Congress of the United States, or a decision by a court of the United States shall be rendered, or a stop order, ruling, regulation or official statement by, or on behalf of, the Securities and Exchange Commission or any other governmental agency having jurisdiction of the subject matter shall be issued or made to the effect that the issuance, offering or sale of obligations of the general character of the Bonds, or the issuance, offering or sale of the Bonds, including all underlying obligations, as contemplated hereby or by the Official Statement, is in violation or would be in violation of, or that obligations of the general character of the Bonds, or the Bonds, are not exempt from registration under, any provision of the federal securities laws, including the Securities Act and as then in effect, or that the Indenture needs to be qualified under the Trust Indenture Act of 1939, as amended and as then in effect; or

ATTACHMENT 5

(e) additional material restrictions not in force as of the date hereof shall have been imposed upon trading in securities generally by any governmental authority or by any national securities exchange which restrictions materially adversely affect the Underwriter's ability to trade the Bonds; or

(f) a general banking moratorium shall have been established by federal, New York or State authorities; or

(g) there shall have occurred any outbreak of hostilities or any national or international calamity or crisis, including a financial crisis, the effect of which on the financial markets of the United States is such as, in the reasonable judgment of the Underwriter, would materially adversely affect the market for or market price of the Bonds; or

(h) any rating of the Bonds shall have been downgraded, suspended or withdrawn by a national rating service; or

(i) the commencement of any action, suit or proceeding described in Section 5(g) hereof which, in the judgment of the Underwriter, materially adversely affects the market price of the Bonds or the ability of the Underwriter to enforce contracts for the sale of the Bonds; or

(j) there shall exist any event which in the reasonable opinion of any of the Underwriter that either: (i) makes untrue or incorrect in any material respect any statement or information contained in the Official Statement; or (ii) is not reflected in the Official Statement but should be reflected therein to make the statements and information contained therein not misleading in any material respect; or

(k) there shall be in force a general suspension of trading on the New York Stock Exchange; or

(L) any proceeding shall be pending or threatened by the Securities and Exchange Commission against the Successor Agency; or

(M) any change, which in the reasonable opinion of the Underwriter, materially adversely affects the marketability of the Bonds, the financial condition of the Successor Agency or the availability of Tax Revenues.

9. Expenses. (a) The Underwriter shall be under no obligation to pay, and the Successor Agency shall pay, any expenses incident to the performance of the Successor Agency's obligations hereunder including, but not limited to: (i) the cost of preparation, printing and distribution of the Indenture and word processing, reproduction, printing and distribution costs relating to the Preliminary Official Statement, the Official Statement and any supplements or amendments thereto (incurred by Disclosure Counsel or an independent printer); (ii) the cost of preparation of the Bonds; (iii) the fees and disbursements of Bond Counsel and Disclosure Counsel and the fees and expenses of counsel to the Successor Agency; (iv) the fees and disbursements of the Financial Advisor and the Fiscal Consultant and any other experts, consultants or advisors retained by the Successor Agency; (v) the fees of the rating agency; and (vi) the costs of verifying compliance with Rule 15c2-12.

ATTACHMENT 5

(b) The Underwriter shall pay: (i) the fees and expenses of its Underwriter's counsel; (ii) fees, if any, payable to the California Debt and Investment Advisory Commission in connection with the issuance of the Bonds; (iii) CUSIP fees and (iv) all other expenses incurred by the Underwriter in connection with the public offering of the Bonds.

10. Notices. Any notice or other communication to be given to the Successor Agency under this Purchase Agreement may be given by delivering the same in writing at the Successor Agency's address set forth above, Attention: Executive Director; and to the Underwriter under this Purchase Agreement by delivering the same in writing to: Stifel, Nicolaus & Company, Incorporated, One Montgomery Street, 35th Floor, San Francisco, California 94104 Attention: Ralph J. Holmes, Managing Director.

11. Parties in Interest. This Purchase Agreement is made solely for the benefit of the Successor Agency and the Underwriter and no other person shall acquire or have any right hereunder or by virtue hereof. All of the representations, warranties and agreements of the Successor Agency contained in this Purchase Agreement shall remain operative and in full force and effect, regardless of: (i) any investigations made by or on behalf of the Underwriter; (ii) delivery of and payment for the Bonds pursuant to this Purchase Agreement; and (iii) any termination of this Purchase Agreement.

12. Effectiveness and Counterpart Signatures. This Purchase Agreement shall become effective upon the execution of the acceptance by an authorized officer of the Successor Agency and shall be valid and enforceable at the time of such acceptance and approval. This Purchase Agreement may be executed by the parties hereto by electronic transmission and in separate counterparts, each of which when so executed and delivered (including delivery by electronic transmission) shall be an original, but all such counterparts shall together constitute but one and the same instrument.

13. Headings. The headings of the sections of this Purchase Agreement are inserted for convenience only and shall not be deemed to be a part hereof.

[Remainder of page intentionally left blank.]

ATTACHMENT 5

14. Governing Law. This Purchase Agreement shall be construed in accordance with the laws of the State.

Very truly yours,

STIFEL, NICOLAUS & COMPANY,
INCORPORATED

By: _____
Ralph J. Holms
Managing Director

Accepted:

SUCCESSOR AGENCY TO THE TRACY
COMMUNITY DEVELOPMENT AGENCY

By: _____
Executive Director

Time of Execution: ____:____

[SIGNATURE PAGE TO BOND PURCHASE AGREEMENT
SUCCESSOR AGENCY TO THE TRACY COMMUNITY DEVELOPMENT AGENCY
2016 TAX ALLOCATION REFUNDING BONDS]

ATTACHMENT 5

EXHIBIT A

Maturity Date (August 1)	Amount	Coupon	Yield	Price
-------------------------------------	---------------	---------------	--------------	--------------

\$ _____ % Term Bond maturing August 1, 20____; Yield _____%

EXHIBIT B

RULE 15c2-12 CERTIFICATE

The undersigned hereby certifies and represents to Stifel, Nicolaus & Company, Incorporated (the "Underwriter") that the undersigned is a duly appointed and acting officer of the Successor Agency to the Tracy Community Development Agency (the "Successor Agency") and as such is to execute and deliver this Certificate and further hereby certify and reconfirm on behalf of the Successor Agency to the Underwriter as follows:

(1) This Certificate is delivered to enable the Underwriter to comply with Securities and Exchange Commission Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (the "Rule") in connection with the offering and sale of the Successor Agency to the Tracy Community Development Agency 2016 Tax Allocation Refunding Bonds (the "Bonds").

(2) In connection with the offering and sale of the Bonds, there has been prepared a Preliminary Official Statement, dated as of _____, 2016, setting forth information concerning the Bonds and the Successor Agency, as issuer of the Bonds, and the Successor Agency (the "Preliminary Official Statement").

(3) As used herein, "Permitted Omissions" shall mean the offering price(s), interest rate(s), selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, ratings and other terms of the Bonds depending on such matters and the identity of the underwriter(s), all with respect to the Bonds.

(4) The Preliminary Official Statement is, except for the Permitted Omissions, deemed final within the meaning of the Rule and has been, and the information therein is accurate and complete in all material respects except for the Permitted Omissions.

(5) If, at any time prior to the execution of the final contract of purchase, any event occurs as a result of which the Preliminary Official Statement might include an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, the Successor Agency shall promptly notify the Underwriter thereof.

IN WITNESS WHEREOF, I have hereunto set my hand as of the ___ day of _____ 2016.

SUCCESSOR AGENCY TO THE TRACY
COMMUNITY DEVELOPMENT AGENCY

By _____
Authorized Officer

IRREVOCABLE REFUNDING INSTRUCTIONS
Relating to

**\$35,095,000 Community Development
Agency of the City of Tracy 2003 Tax
Allocation Bonds, Series A**

**\$20,625,000 Community Development
Agency of the City of Tracy 2003
Subordinate Tax Allocation Bonds,
Series B**

These IRREVOCABLE REFUNDING INSTRUCTIONS (these "**Instructions**") are given by the SUCCESSOR AGENCY TO THE TRACY COMMUNITY DEVELOPMENT AGENCY, a public entity existing under the laws of the State of California (the "**Successor Agency**"), as successor agency to the former COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY (the "**Former Agency**"), to THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association organized and existing under the laws of the United States of America, acting as trustee and escrow agent for the hereinafter defined 2003 Bonds (the "**Prior Trustee**");

WITNESSETH:

WHEREAS, the Former Agency previously issued the following bonds:

(i) its \$35,095,000 Community Development Agency of the City of Tracy 2003 Tax Allocation Bonds, Series A ("**2003 Senior Bonds**") pursuant to an Indenture of Trust, dated as of November 1, 2003 (the "**2003 Senior Indenture**"), by and between the Former Agency and the Prior Trustee, and

(ii) its \$20,625,000 Community Development Agency of the City of Tracy 2003 Subordinate Tax Allocation Bonds, Series B ("**2003 Subordinate Bonds**"; together with the 2003 Senior Bonds, the "**2003 Bonds**") pursuant to an Indenture of Trust, dated as of November 1, 2003 (the "**2003 Subordinate Indenture**"; together with the 2003 Senior Indenture, the "**2003 Indentures**"), by and between the Former Agency and the Prior Trustee; and

WHEREAS, by implementation of California Assembly Bill X1 26, which amended provisions of the California Redevelopment Law, (found at Health and Safety Code Section 33000, *et.seq.*) and the California Supreme Court's decision in California Redevelopment Association v. Matosantos, the Former Agency was dissolved on February 1, 2012 in accordance with California Assembly Bill X1 26 approved by the Governor of the State of California on June 28, 2011 ("**AB 26**"), and on February 1, 2012, the Successor Agency, in accordance with and pursuant to AB 26, assumed the duties and obligations set forth in AB 26 for the Former Agency, including, without limitation, the obligations of the Former Agency under the 2003 Indentures and related documents to which the Former Agency was a party; and

WHEREAS, the Successor Agency has determined that it is in its best financial interests at this time to refund the currently outstanding 2003 Bonds; and

WHEREAS, in order to provide funds for such purpose (among others), the Successor Agency is issuing its Successor Agency to the Tracy Community Development Agency 2016

Tax Allocation Refunding Bonds (the “**2016 Bonds**”) pursuant to an Indenture of Trust, dated as of _____ 1, 2016 (the “**2016 Indenture**”), by and between the Successor Agency and The Bank of New York Mellon Trust Company, N.A., as trustee (the “**2016 Trustee**”), and applying a portion of the proceeds thereof, together with certain other moneys, to redeem the outstanding 2003 Bonds on _____, 2016; and

WHEREAS, the Successor Agency wishes to give these Instructions to the Prior Trustee for the purpose of providing the terms and conditions relating to the deposit and application of moneys and securities to provide for (i) the defeasance, payment and redemption of all of the outstanding 2003 Senior Bonds pursuant to Section 2.03(a) and Section 9.03 of the 2003 Senior Indenture and (ii) the defeasance, payment and redemption of all of the outstanding 2003 Subordinate Bonds pursuant to Section 2.03(a) and Section 9.03 of the 2003 Subordinate Indenture.

NOW, THEREFORE, the Successor Agency hereby irrevocably instructs the Prior Trustee as follows:

Section 1. Redemption Accounts.

(a) 2003 Senior Bonds. Pursuant to Section 4.03(e) of the 2003 Senior Indenture, there has heretofore been established an account held by the Prior Trustee known as the "Redemption Account" (the “**2003 Senior Redemption Account**”). All cash and securities deposited in the 2003 Senior Redemption Account pursuant to these Instructions are hereby irrevocably pledged as a special trust fund for the redemption of the remaining 2003 Senior Bonds on _____, 2016, in accordance with the 2003 Senior Indenture. The Prior Trustee shall have no lien upon or right of set off against the securities and cash at any time on deposit in the 2003 Senior Redemption Account, and such amounts shall be applied only as provided herein.

(b) 2003 Subordinate Bonds. Pursuant to Section 4.03(e) of the 2003 Subordinate Indenture, there has heretofore been established an account held by the Prior Trustee known as the "Redemption Account" (the “**2003 Subordinate Redemption Account**”; together with the 2003 Senior Redemption Account, the “**Redemption Accounts**”). All cash and securities deposited in the 2003 Subordinate Redemption Account pursuant to these Instructions are hereby irrevocably pledged as a special trust fund for the redemption of the remaining 2003 Subordinate Bonds on _____, 2016, in accordance with the 2003 Subordinate Indenture. The Prior Trustee shall have no lien upon or right of set off against the securities and cash at any time on deposit in the 2003 Subordinate Redemption Account, and such amounts shall be applied only as provided herein.

Section 2. Deposit into Redemption Accounts; Investment of Amounts.

(a) Concurrently with delivery of the 2016 Bonds, the Successor Agency shall cause to be transferred to the Prior Trustee the amount of \$_____ in immediately available funds to be derived from a portion of the proceeds of sale of the 2016 Bonds, which amount the Prior Trustee shall hold as escrow agent in an irrevocable escrow account (the “**Escrow Account**”) pending transfer by the Prior Trustee to the Redemption Accounts described in Section 1.

(b) On _____, 2016, the Prior Trustee shall transfer \$_____ of the amount in the Escrow Account into the 2003 Senior Redemption Account to be applied to the

ATTACHMENT 6

redemption of the outstanding 2003 Senior Bonds. Concurrently, the Prior Trustee shall transfer all other moneys held by it in the funds and accounts for the 2003 Senior Bonds (\$_____) into the 2003 Senior Redemption Account.

(c) On _____, 2016, the Prior Trustee shall transfer \$_____ of the amount in the Escrow Account into the 2003 Subordinate Redemption Account to be applied to the redemption of the outstanding 2003 Subordinate Bonds. Concurrently, the Prior Trustee shall transfer all other moneys held by it in the funds and accounts for the 2003 Subordinate Bonds (\$_____) into the 2003 Subordinate Redemption Account.

(d) Amounts on deposit in the Escrow Fund, the 2003 Senior Redemption Account and the 2003 Subordinate Redemption Account shall be held uninvested.

(e) The Successor Agency hereby confirms that by making the deposits described in this Section 2, it is (i) discharging the 2003 Senior Bonds pursuant to Section 9.03 of the 2003 Senior Indenture and (ii) discharging the 2003 Subordinate Bonds pursuant to Section 9.03 of the 2003 Subordinate Indenture.

Section 3. Proceedings for Redemption of 2003 Bonds. The Successor Agency hereby irrevocably elects, and directs the Prior Trustee, to redeem, on _____, 2016, the outstanding 2003 Bonds. The Trustee acknowledges that a conditional notice of such redemption in substantially the form of Exhibit A has heretofore been given by the Prior Trustee in accordance with Section 2.03(c) of the Prior Indenture. The Trustee is hereby directed to give notice of defeasance of the 2003 Bonds in substantially the form of Exhibit B on the date of delivery of the 2016 Bonds.

Section 4. Application of Funds to Redeem 2003 Bonds. The Prior Trustee shall redeem the remaining outstanding 2003 Bonds on _____, 2016 at a price equal to 100% of the principal amount thereof plus accrued and unpaid interest thereon.

Section 5. Transfer of Remaining Funds. On _____, following the payment and redemption of the 2003 Bonds as described in Sections 3 and 4, the Prior Trustee shall withdraw any amounts remaining on deposit in the Redemption Accounts and transfer such amounts to the 2016 Trustee for deposit into the Debt Service Fund established under the 2016 Indenture to be used to pay interest on the 2016 Bonds.

ATTACHMENT 6

Section 6. Amendment. These Instructions shall be irrevocable by the Successor Agency. These Instructions may be amended or supplemented by the Successor Agency, but only if the Successor Agency shall file with the Prior Trustee and the 2016 Trustee a certification of an independent accountant or independent financial adviser engaged by the Successor Agency stating that such amendment or supplement will not affect the sufficiency of funds held hereunder to make the payments required by Section 4.

Section 7. Governing Law. These Instructions shall be construed in accordance with and governed by the laws of the State of California.

Dated: _____, 2016

SUCCESSOR AGENCY TO THE TRACY
COMMUNITY DEVELOPMENT AGENCY

By _____
City Manager
City of Tracy

ACCEPTED:

THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A.,
as Prior Trustee

By _____
Authorized Officer

EXHIBIT A

FORM OF CONDITIONAL NOTICE OF FULL OPTIONAL REDEMPTION

\$35,095,000

**Community Development Agency of the City of Tracy
2003 Tax Allocation Bonds, Series A**

Date of Issuance: December 4, 2003

<u>Maturity Date</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>*CUSIP No.</u>
----------------------	---------------	----------------------	-------------------

NOTICE IS HEREBY GIVEN that all of the above described bonds (the "Bonds") have been called for optional redemption on _____, 20 (the "Redemption Date") pursuant to Section 2.03(a) of the Indenture of Trust, dated as of November 1, 2003, by and between the Successor Agency to the Tracy Community Development Agency, as successor to the Community Development Agency of the City of Tracy, and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), at a redemption price equal to the principal amount thereof, plus accrued interest to the redemption date, without premium (the "Redemption Price"). Interest will not accrue on the Bonds after the redemption date.

Redemption of the Bonds as described in this notice shall be conditioned upon the receipt by the Trustee of the proceeds of the sale and delivery of the Successor Agency to the Tracy Community Development Agency 2016 Tax Allocation Refunding Bonds in an amount sufficient for such redemption on or before the Redemption Date.

In the event such funds are not received by the Redemption Date, this notice shall be null and void and of no force and effect. The Bonds delivered for redemption shall be returned to the respective owners thereof, and said Bonds shall remain outstanding as though this notice of conditional redemption had not been given. Notice of a failure to receive funds, and cancellation of this redemption, shall be given by the Trustee by first class mail, postage prepaid, to the registered owners of the Bonds.

ATTACHMENT 6

Payment of the Redemption Price on the Bonds called for redemption will be paid upon presentation of the Bonds at the Principal Corporate Trust Office of the Trustee, in the following manner:

Delivery Instructions:

[to come]

IMPORTANT NOTICE

Under the Jobs and Growth Tax Relief Reconciliation Act of 2003 (the "Act"), 28% will be withheld if tax identification number is not properly certified.

**The Undersigned shall not be held responsible for the selection or use of the CUSIP number, nor is any representation made as to its correctness indicated in the Redemption Notice. It is included solely for the convenience of the Holders.*

Dated: _____, 2015

**The Bank of New York Mellon
Trust Company, N.A.,
as Trustee**

FORM OF CONDITIONAL NOTICE OF FULL OPTIONAL REDEMPTION

\$20,625,000

**Community Development Agency of the City of Tracy
2003 Subordinate Tax Allocation Bonds, Series B**

Date of Issuance: December 4, 2003

<u>Maturity Date</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>*CUSIP No.</u>
----------------------	---------------	----------------------	-------------------

NOTICE IS HEREBY GIVEN that all of the above described bonds (the "Bonds") have been called for optional redemption on _____, 20 (the "Redemption Date") pursuant to Section 2.03(a) of the Indenture of Trust, dated as of November 1, 2003, by and between the Successor Agency to the Tracy Community Development Agency, as successor to the Community Development Agency of the City of Tracy, and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), at a redemption price equal to the principal amount thereof, plus accrued interest to the redemption date, without premium (the "Redemption Price"). Interest will not accrue on the Bonds after the redemption date.

Redemption of the Bonds as described in this notice shall be conditioned upon the receipt by the Trustee of the proceeds of the sale and delivery of the Successor Agency to the Tracy Community Development Agency 2016 Tax Allocation Refunding Bonds in an amount sufficient for such redemption on or before the Redemption Date.

In the event such funds are not received by the Redemption Date, this notice shall be null and void and of no force and effect. The Bonds delivered for redemption shall be returned to the respective owners thereof, and said Bonds shall remain outstanding as though this notice of conditional redemption had not been given. Notice of a failure to receive funds, and cancellation of this redemption, shall be given by the Trustee by first class mail, postage prepaid, to the registered owners of the Bonds.

Payment of the Redemption Price on the Bonds called for redemption will be paid upon presentation of the Bonds at the Principal Corporate Trust Office of the Trustee, in the following manner:

ATTACHMENT 6

Delivery Instructions:

[to come]

IMPORTANT NOTICE

Under the Jobs and Growth Tax Relief Reconciliation Act of 2003 (the "Act"), 28% will be withheld if tax identification number is not properly certified.

**The Undersigned shall not be held responsible for the selection or use of the CUSIP number, nor is any representation made as to its correctness indicated in the Redemption Notice. It is included solely for the convenience of the Holders.*

Dated: _____, 2015

**The Bank of New York Mellon
Trust Company, N.A.,
as Trustee**

EXHIBIT B

FORM OF NOTICE OF DEFEASANCE

\$35,095,000

**Community Development Agency of the City of Tracy
2003 Tax Allocation Bonds, Series A**

Date of Issuance: December 4, 2003

<u>Maturity Date</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>*CUSIP No.</u>
----------------------	---------------	----------------------	-------------------

NOTICE IS HEREBY GIVEN, by the Successor Agency to the Tracy Community Development Agency (the "Successor Agency") with respect to the above captioned bonds (the "Bonds"), that the Bonds have been defeased and discharged under and within the meaning of the Indenture of Trust, dated as of November 1, 2003, authorizing the issuance of the Bonds (the "Indenture"). Funds for the payment of the Bonds have been deposited with The Bank of New York Mellon Trust Company, N.A., as escrow agent ("Escrow Agent"), and the sufficiency of the funds and investments for the purpose of paying the principal of and interest on the Bonds has been verified by an Independent Certified Public Accountant (as defined in the Indenture). As a consequence of the foregoing actions and in accordance with the Indenture, the Bonds are no longer secured by a pledge of revenues under the Indenture, and the Bonds are now payable solely from the moneys set aside in escrow as described above and, if necessary, from other legally available funds of the Successor Agency.

The Successor Agency has irrevocably elected to redeem all of the outstanding Bonds on _____, 2015, at a redemption price equal to the principal amount thereof, plus accrued interest to the redemption date, without premium.

*The Successor Agency and the Escrow Agent shall not be responsible for the selection or use of the CUSIP numbers selected, nor is any representation made as to their correctness indicated in the notice or as printed on any Bond. They are included solely for the convenience of the holders.

Dated: _____, 2015

**The Bank of New York Mellon
Trust Company, N.A.,
as Escrow Agent**

FORM OF NOTICE OF DEFEASANCE

\$35,095,000

**Community Development Agency of the City of Tracy
2003 Tax Allocation Bonds, Series A**

Date of Issuance: December 4, 2003

<u>Maturity Date</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>*CUSIP No.</u>
----------------------	---------------	----------------------	-------------------

NOTICE IS HEREBY GIVEN, by the Successor Agency to the Tracy Community Development Agency (the "Successor Agency") with respect to the above captioned bonds (the "Bonds"), that the Bonds have been defeased and discharged under and within the meaning of the Indenture of Trust, dated as of November 1, 2003, authorizing the issuance of the Bonds (the "Indenture"). Funds for the payment of the Bonds have been deposited with The Bank of New York Mellon Trust Company, N.A., as escrow agent ("Escrow Agent"), and the sufficiency of the funds and investments for the purpose of paying the principal of and interest on the Bonds has been verified by an Independent Certified Public Accountant (as defined in the Indenture). As a consequence of the foregoing actions and in accordance with the Indenture, the Bonds are no longer secured by a pledge of revenues under the Indenture, and the Bonds are now payable solely from the moneys set aside in escrow as described above and, if necessary, from other legally available funds of the Successor Agency.

The Successor Agency has irrevocably elected to redeem all of the outstanding Bonds on _____, 2015, at a redemption price equal to the principal amount thereof, plus accrued interest to the redemption date, without premium.

*The Successor Agency and the Escrow Agent shall not be responsible for the selection or use of the CUSIP numbers selected, nor is any representation made as to their correctness indicated in the notice or as printed on any Bond. They are included solely for the convenience of the holders.

Dated: _____, 2015

**The Bank of New York Mellon
Trust Company, N.A.,
as Escrow Agent**

PRELIMINARY OFFICIAL STATEMENT DATED _____, 2016**NEW ISSUE—BOOK-ENTRY**

RATINGS: Insured Rating: S&P: “_”
Underlying Rating: S&P: “_”
See “CONCLUDING INFORMATION – Ratings”

In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, subject, however to certain qualifications described in this Official Statement, under existing law, the interest on the Bonds is excluded from gross income for federal income tax purposes and such interest is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, although for the purpose of computing the alternative minimum tax imposed on certain corporations, such interest is taken into account in determining certain income and earnings. In the further opinion of Bond Counsel, such interest on the Bonds is exempt from California personal income taxes. See "TAX MATTERS."

**SUCCESSOR AGENCY TO THE TRACY COMMUNITY DEVELOPMENT AGENCY
 2016 TAX ALLOCATION REFUNDING BONDS**

Dated: Delivery Date**Due: August 1, as shown on the inside front cover**

Purpose of the Bonds. The above captioned bonds (the "Bonds") are being issued by the Successor Agency to the Tracy Community Development Agency (the "Successor Agency"), as successor agency to the former Community Development Agency of the City of Tracy (the "Former Agency") to refund two outstanding series of bonds issued by the Former Agency (the "2003 Bonds") payable from tax increment revenue generated in the Former Agency's Community Development Project Area (the "Project Area"), purchase a municipal bond insurance policy, purchase a debt service reserve fund surety policy pay costs of issuance.

Book-Entry. The Bonds will be delivered as fully registered bonds, registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"), and will be available to ultimate purchasers ("Beneficial Owners") in the denomination of \$5,000 or any integral multiple thereof, under the book-entry system maintained by DTC. Beneficial Owners will not be entitled to receive delivery of bonds representing their ownership interest in the Bonds.

Payments. Annual principal of, premium if any, and semiannual interest on the Bonds due February 1 and August 1 of each year, commencing August 1, 2016 will be payable by The Bank of New York Mellon Trust Company, N.A., as Trustee (the "Trustee"), to DTC for subsequent disbursement to DTC participants, so long as DTC or its nominee remains the registered owner of the Bonds. See "THE BONDS."

Redemption*. The Bonds are subject to optional redemption and mandatory sinking account redemption prior to maturity. See "THE BONDS – Redemption."

Security for the Bonds. The Bonds are payable from and secured by a pledge of Tax Revenues (as described herein) allocable to the Successor Agency under the Dissolution Act (described herein) to be derived from parcels in the Project Area, and from moneys in certain funds and accounts established under the Indenture of Trust, dated as of _____ 1, 2016 (the "Indenture"), by and between the Successor Agency and the Trustee, as further described in this Official Statement. See "SECURITY FOR THE BONDS."

The Successor Agency will initially fund a reserve account for the Bonds with a debt service reserve fund surety policy. See "SECURITY FOR THE BONDS – Debt Service Reserve Account."

Limited Obligations. The Bonds are special obligations of the Successor Agency and are secured by an irrevocable pledge of, and are payable as to principal, interest and premium, if any, from Tax Revenues and other funds described in this Official Statement. The Bonds, interest and premium, if any, thereon are not a debt of the City of Tracy (the "City"), the County of San Joaquin (the "County"), the State of California (the "State") or any of their political subdivisions except the Successor Agency, and none of the City, the County, the State nor any of their political subdivisions except the Successor Agency is liable thereon. The Bonds, interest thereon and premium, if any, are not payable out of any funds or properties other than those set forth in the Indenture. Neither the members of the Successor Agency, the Oversight Board of the Successor Agency, the County Board of Supervisors nor any persons executing the Bonds are liable personally on the Bonds.

Bond Insurance. The Successor Agency has received a commitment from [TBD] to provide a financial guaranty insurance policy for the Bonds; the Successor Agency may purchase such insurance to be delivered concurrently with the delivery of the Bonds for some or all maturities. Any such decision will be made at the time of pricing.

[Insurer Logo]

This cover page of the Official Statement contains information for quick reference only. It is not a complete summary of the Bonds. Investors must read the entire Official Statement to obtain information essential to the making of an informed investment decision. Attention is hereby directed to certain risk factors more fully described in this Official Statement. See "RISK FACTORS."

The Bonds are offered, when, as and if issued, subject to the approval of Jones Hall, A Professional Law Corporation, San Francisco, Bond Counsel to the Successor Agency. Jones Hall, A Professional Law Corporation, is also serving as Disclosure Counsel to the Successor Agency. In addition, certain legal matters will be passed upon for the Successor Agency by the City Attorney of the City, as Successor Agency general counsel. Certain legal matters will be passed on for the Underwriter by Norton Rose Fulbright US LLP, Underwriter's Counsel. It is anticipated that the Bonds will be available for delivery through the book-entry facilities of DTC in New York, New York, on or about _____, 2016.

[Stifel Logo]

The date of this Official Statement is _____, 2016.

* Preliminary, subject to change.

ATTACHMENT 7

MATURITY SCHEDULE*

<u>Maturity Date (August 1)</u>	<u>Principal Amount*</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>Price</u>	<u>CUSIP[†] (Base _____)</u>
-------------------------------------	------------------------------	--------------------------	--------------	--------------	---

*Preliminary; subject to change.

† Copyright 2016, CUSIP Global Services, and a registered trademark of the American Bankers Association. CUSIP data is provided by CUSIP Global Services, which is managed on behalf of American Bankers Association by S&P Capital IQ. Neither the Successor Agency nor the Underwriter assumes any responsibility for the accuracy of the CUSIP data.

ATTACHMENT 7

**SUCCESSOR AGENCY TO THE
TRACY COMMUNITY DEVELOPMENT AGENCY**

CITY COUNCIL/SUCCESSOR AGENCY BOARD

Michael Maciel, *Mayor*
Mary Mitracos, *Council Member*
Robert Rickman, *Council Member*
Nancy Young, *Council Member*
Veronica Vargas, *Council Member*

CITY/SUCCESSOR AGENCY STAFF

Troy Brown, *City Manager*
V. Rachelle McQuiston, *Administrative Services Director*
Nora Pimentel, *City Clerk*
Daniel Sodergren, *City Attorney*

SPECIAL SERVICES

Financial Advisor

Steven Gortler
San Francisco, California

Bond & Disclosure Counsel

Jones Hall, A Professional Law Corporation
San Francisco, California

Trustee

The Bank of New York Mellon Trust Company, N.A.
San Francisco, California

Redevelopment Consultant

Fraser & Associates
Roseville, California

Verification Agent

Causey Demgen & Moore
Denver, Colorado

ATTACHMENT 7

TABLE OF CONTENTS

	<u>Page</u>		<u>Page</u>
INTRODUCTION		Successor Agency Powers	33
Authority and Use of Proceeds	1	Status of Compliance with Dissolution Act	33
The City and the Successor Agency	2	THE PROJECT AREA	34
The Project Area	3	The Redevelopment Plan for the Project	
Security for the Bonds - Tax Allocation		Area	34
Financing	3	Land Use	34
Bond Insurance	5	Summary of Assessed Value History in the	
Limited Obligation.....	5	Project Area.....	36
Debt Service Reserve Account	5	Unitary Property.....	38
Professionals Involved in the Offering.....	5	Tax Rates	38
Further Information.....	6	Appeals of Assessed Values; Proposition 8	
REFUNDING PLAN.....	7	Reductions	38
Redemption of 2003 Bonds.....	7	Tax Sharing Payments	40
Estimated Sources and Uses of Funds.....	8	Housing Set-Aside	41
Debt Service Schedule.....	8	Historical Available Tax Increment	41
THE BONDS	9	Projected Tax Revenues and Estimated Debt	
Authority for Issuance.....	9	Service Coverage.....	42
Description of the Bonds	9	RISK FACTORS	45
Redemption	10	Recognized Obligation Payment Schedule	45
Additional Bonds	11	No Validation Proceedings Undertaken	46
TAX INCREMENT FINANCING GENERALLY....	13	Reduction in Taxable Value.....	46
Property Tax Allocation Procedures.....	13	Risks Associated with the Insurer	47
Appeals of Assessed Values.....	17	Risks to Real Estate Market	47
Low and Moderate Income Housing	18	Reduction in Inflationary Rate.....	48
Adjustments to Revenue	19	Levy and Collection of Taxes.....	48
THE DISSOLUTION ACT.....	19	Bankruptcy and Foreclosure	48
SECURITY FOR THE BONDS.....	21	Estimated Revenues.....	49
Limited Obligation.....	21	Hazardous Substances.....	49
Tax Revenues	21	Natural Disasters	49
Pledge Under the Indenture	21	Changes in the Redevelopment Law	49
Flow of Funds Under the Indenture.....	22	Loss of Tax-Exemption	50
Debt Service Reserve Account	24	Secondary Market.....	51
Recognized Obligation Payment Schedules ...	25	TAX MATTERS.....	51
Adjustments to Revenue	28	CONCLUDING INFORMATION.....	52
PROPERTY TAXATION IN CALIFORNIA	29	Underwriting.....	52
Article XIII A of the State Constitution	29	Legal Opinion.....	52
Appropriations Limitation - Article XIII B.....	30	Litigation	53
Proposition 87	31	Ratings.....	53
Appeals of Assessed Values.....	31	Continuing Disclosure	53
Future Initiatives.....	32	Audited Financial Statements	54
BOND INSURANCE.....	32	Miscellaneous	54
THE SUCCESSOR AGENCY TO THE TRACY			
COMMUNITY DEVELOPMENT AGENCY.....	33		
APPENDIX A – SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE			
APPENDIX B – FORM OF BOND COUNSEL OPINION			
APPENDIX C – BOOK-ENTRY ONLY SYSTEM			
APPENDIX D – FORM OF SUCCESSOR AGENCY CONTINUING DISCLOSURE CERTIFICATE			
APPENDIX E – SUCCESSOR AGENCY FINANCIAL STATEMENTS FOR FISCAL YEAR _____			
APPENDIX F – STATE DEPARTMENT OF FINANCE APPROVAL LETTER			
APPENDIX G – CITY OF TRACY AND SAN JOAQUIN COUNTY GENERAL INFORMATION			
APPENDIX H – SPECIMEN MUNICIPAL BOND INSURANCE POLICY			

ATTACHMENT 7

GENERAL INFORMATION ABOUT THIS OFFICIAL STATEMENT

No Offering May Be Made Except by this Official Statement. No dealer, broker, salesperson or other person has been authorized to give any information or to make any representations with respect to the Bonds other than as contained in this Official Statement, and if given or made, such other information or representation must not be relied upon as having been authorized.

No Unlawful Offers or Solicitations. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy in any state in which such offer or solicitation is not authorized or in which the person making such offer or solicitation is not qualified to do so or to any person to whom it is unlawful to make such offer or solicitation.

Effective Date. This Official Statement speaks only as of its date, and the information and expressions of opinion contained in this Official Statement are subject to change without notice. Neither the delivery of this Official Statement nor any sale of the Bonds will, under any circumstances, create any implication that there has been no change in the affairs of the Successor Agency or the Project Area since the date of this Official Statement.

Use of this Official Statement. This Official Statement is submitted in connection with the sale of the Bonds referred to in this Official Statement and may not be reproduced or used, in whole or in part, for any other purpose. This Official Statement is not a contract with the purchasers of the Bonds.

Preparation of this Official Statement. The information contained in this Official Statement has been obtained from sources that are believed to be reliable, but this information is not guaranteed as to accuracy or completeness.

The Underwriter has provided the following sentence for inclusion in this Official Statement: The Underwriter has reviewed the information in this Official Statement in accordance with, and as part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

Document References and Summaries. All references to and summaries of the Indenture or other documents contained in this Official Statement are subject to the provisions of those documents and do not purport to be complete statements of those documents.

Stabilization of and Changes to Offering Prices. The Underwriter may overallocate or take other steps that stabilize or maintain the market price of the Bonds at a level above that which might otherwise prevail in the open market. If commenced, the Underwriter may discontinue such market stabilization at any time. The Underwriter may offer and sell the Bonds to certain dealers, dealer banks and banks acting as agent at prices lower than the public offering prices stated on the cover page of this Official Statement, and those public offering prices may be changed from time to time by the Underwriter.

Bonds are Exempt from Securities Laws Registration. The issuance and sale of the Bonds have not been registered under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, in reliance upon exemptions for the issuance and sale of municipal securities provided under Section 3(a)(2) of the Securities Act of 1933 and Section 3(a)(12) of the Securities Exchange Act of 1934.

Estimates and Projections. Certain statements included or incorporated by reference in this Official Statement constitute "forward-looking statements" as described in the United States Private Securities Litigation Reform Act of 1995, Section 21E of the United States Securities Exchange Act of 1934, as amended, and Section 27A of the United States Securities Act of 1933, as amended. Such statements are generally identifiable by the terminology used such as "plan," "expect," "estimate," "budget" or other similar words.

THE ACHIEVEMENT OF CERTAIN RESULTS OR OTHER EXPECTATIONS CONTAINED IN SUCH FORWARD-LOOKING STATEMENTS INVOLVE KNOWN AND UNKNOWN RISKS, UNCERTAINTIES AND OTHER FACTORS WHICH MAY CAUSE ACTUAL RESULTS, PERFORMANCE OR ACHIEVEMENTS DESCRIBED TO BE MATERIALLY DIFFERENT FROM ANY FUTURE RESULTS, PERFORMANCE OR ACHIEVEMENTS EXPRESSED OR IMPLIED BY SUCH FORWARD-LOOKING STATEMENTS. THE SUCCESSOR AGENCY DOES NOT PLAN TO ISSUE ANY UPDATES OR REVISIONS TO THOSE FORWARD-LOOKING STATEMENTS IF OR WHEN ITS EXPECTATIONS, OR EVENTS, CONDITIONS OR CIRCUMSTANCES ON WHICH SUCH STATEMENTS ARE BASED OCCUR.

Website. The City maintains an Internet website, but the information on the website is not incorporated in this Official Statement.

OFFICIAL STATEMENT

SUCCESSOR AGENCY TO THE TRACY COMMUNITY DEVELOPMENT AGENCY

\$ _____ *
2016 TAX ALLOCATION REFUNDING BONDS

This Official Statement, including the cover page, is provided to furnish information in connection with the sale by the Successor Agency to the Tracy Community Development Agency (the "**Successor Agency**") of the above-captioned bonds (the "**Bonds**").

INTRODUCTION

This introduction is not a summary of this Official Statement. It is only a brief description and guide to, and is qualified by, the more complete and detailed information contained in the entire Official Statement including the cover page and the appendices hereto, and the documents summarized or described herein. A full review should be made of the entire Official Statement. The offering of the Bonds to potential investors is made only by means of the entire Official Statement.

Authority and Use of Proceeds

The Successor Agency is issuing the Bonds pursuant to authority granted by Part 1 (commencing with Section 33000) and Part 1.85 of Division 24 (commencing with Section 34170) of the California Health and Safety Code (the "**Redevelopment Law**"), Article 11 (commencing with Section 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California (the "**Refunding Law**"), including the Dissolution Act described herein, and an Indenture of Trust dated as of _____ 1, 2016 (the "**Indenture**") by and between the Successor Agency and The Bank of New York Mellon Trust Company, N.A., Los Angeles, California, as trustee (the "**Trustee**"). See "THE BONDS – Authority for Issuance."

* Preliminary, subject to change.

ATTACHMENT 7

The Successor Agency is issuing the Bonds in order to redeem and defease the following bonds issued by the Community Development Agency of the City of Tracy (the "**Former Agency**") (i) \$35,095,000 Community Development Agency of the City of Tracy 2003 Tax Allocation Bonds, Series A ("**2003 Senior Bonds**") and (ii) \$20,625,000 Community Development Agency of the City of Tracy 2003 Subordinate Tax Allocation Bonds, Series B ("**2003 Subordinate Bonds**"; together with the 2003 Senior Bonds, the "**2003 Bonds**"). The proceeds of the 2003 Bonds were used to finance or refinance redevelopment activities in the Successor Agency's Community Development Project Area (the "**Project Area**").

Proceeds of the Bonds will also be used to pay the costs of issuing the Bonds, including the premium for a municipal bond insurance policy for the Bonds and debt service reserve fund insurance policy.

The City and the Successor Agency

The City of Tracy (the "**City**") is located in San Joaquin County (the "**County**"). The City is a municipal corporation and general law city, duly organized and existing under the Constitution and the laws of the State of California (the "**State**"). The City was incorporated in 1910, and operates as a general law city. It maintains a council-manager form of government, with the Mayor elected at-large for a two-year-term and the Council Members elected at-large for four-year terms. For certain information regarding the City, see "APPENDIX G - City of Tracy and San Joaquin County General Information."

Former Agency. The Successor Agency is the successor entity to the Former Agency, which was dissolved under the Dissolution Act (described herein). The Former Agency was activated on February 17, 1970, by Ordinance No. 408 of the City Council, at which time the City Council declared itself to be the governing board of the Agency.

Dissolution Act. On June 29, 2011, Assembly Bill No. 26 ("**AB 1X 26**") was enacted together with a companion bill, Assembly Bill No. 27 ("**AB 1X 27**"). The provisions of AB 1X 26 provided for the dissolution of all redevelopment agencies statewide as of February 1, 2012. The provisions of AB 1X 27 permitted redevelopment agencies to avoid such dissolution by the payment of certain amounts. A lawsuit was brought in the California Supreme Court, *California Redevelopment Association, et al., v. Matosantos, et al.*, 53 Cal. 4th 231 (Cal. Dec. 29, 2011), challenging the constitutionality of AB 1X 26 and AB 1X 27. On December 19, 2012, the California Supreme Court largely upheld AB 1X 26, invalidated AB 1X 27, and held that AB 1X 26 may be severed from AB 1X 27 and enforced independently. As a result of AB 1X 26 and the decision of the California Supreme Court in the California Redevelopment Association case, as of February 1, 2012, all redevelopment agencies in the State were dissolved, including the Former Agency, and successor agencies were designated as successor entities to the former redevelopment agencies to expeditiously wind down the affairs of the former redevelopment agencies.

The primary provisions enacted by AB 1X 26 relating to the dissolution and wind down of former redevelopment agency affairs are found in Parts 1.8 (commencing with Section 34161) and 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code of the State, as amended on June 27, 2012 by Assembly Bill No. 1484 ("**AB 1484**") and on September 22, 2015 by Senate Bill 107 (as further amended from time to time, the "**Dissolution Act**").

Successor Agency. Pursuant to Section 34173 of the Dissolution Act, the City acts as the Successor Agency to the Former Agency. Subdivision (g) of Section 34173 of the

Dissolution Act, added by AB 1484, expressly affirms that the Successor Agency is a separate public and legal entity from the City, that the two entities shall not merge, and that the liabilities of the Former Agency will not be transferred to the City nor will the assets of the Former Agency become assets of the City.

The Project Area

The City Council adopted the Redevelopment Plan with respect to the Project Area on July 17, 1990 pursuant to its Ordinance No. 482. The Project Area, which is the sole project area of the Successor Agency, encompasses approximately 2,292 non-contiguous acres, covering approximately 17% of the land area within the City. The Redevelopment Plan was amended by the City Council by Ordinance No. 508, adopted November 15, 1994, in order to comply with Assembly Bill 1290. The Project Area includes low density and medium density residential, hotel/motel, commercial, industrial and public land uses, but is primarily residential in character. The assessed value of the Project Area in the Base Year, was \$288,387,821 compared to its 2015-16 assessed value of \$1,242,947,712.

See "THE PROJECT AREA" for additional information on land use and property ownership within the Project Area.

Security for the Bonds - Tax Allocation Financing

The Dissolution Act authorizes the Successor Agency to issue refunding bonds secured by a pledge of, and lien on, and repaid from incremental property tax revenues (the "**Tax Revenues**," as defined in the Indenture) deposited with respect to the Project Area from time to time in the Redevelopment Property Tax Trust Fund (the "**Redevelopment Property Tax Trust Fund**") established and held by the San Joaquin County Auditor-Controller (the "**County Auditor-Controller**"). See "SECURITY FOR THE BONDS - Tax Revenues" for the definition of "Tax Revenues." Section 34177.5(a)(1) authorizes the issuance of such refunding bonds to provide savings to the Successor Agency, provided that (i) the total interest cost to maturity on the refunding bonds or other indebtedness plus the principal amount of the refunding bonds or other indebtedness does not exceed the total remaining interest cost to maturity on the bonds or other indebtedness to be refunded plus the remaining principal of the bonds or other indebtedness to be refunded, and (ii) the principal amount of the refunding bonds or other indebtedness does not exceed the amount required to defease the refunded bonds or other indebtedness, to establish customary debt service reserves, and to pay related costs of issuance. See "SECURITY FOR THE BONDS."

Prior to the enactment of AB 1X 26, the Redevelopment Law authorized the financing of redevelopment projects through the use of tax increment revenues. This method provided that the taxable valuation of the property within a redevelopment project area on the property tax roll last equalized prior to the effective date of the ordinance which adopted the redevelopment plan became the base year valuation. Assuming the taxable valuation never dropped below the base year level, the taxing agencies receiving property taxes thereafter received only that portion of the taxes produced by applying then current tax rates to the base year valuation, and the redevelopment agency was allocated the remaining portion of property taxes produced by applying then current tax rates to the increase in valuation over the base year. Such incremental tax revenues allocated to a redevelopment agency were authorized to be pledged to the payment of redevelopment agency obligations.

ATTACHMENT 7

As a consequence of the dissolution of redevelopment agencies, all property tax revenues that would have been allocated to redevelopment agencies are now allocated to the applicable redevelopment property tax trust fund created by the county auditor-controller for the "successor agency." Such funds are to be used for payments on indebtedness and other "enforceable obligations" (as defined in the Dissolution Act), and to pay certain administrative costs, with amounts in excess of those to be considered property taxes that will be distributed to taxing agencies. In addition, under the Dissolution Act tax increment is no longer deemed to flow directly to the successor agency. Further, the Dissolution Act no longer requires successor agencies to deposit a portion of the tax increment into a low and moderate income housing fund. Rather, all funds are considered property taxes.

The Dissolution Act requires the County Auditor-Controller to determine the amount of property taxes that would have been allocated to the Former Agency from the Project Area had the Former Agency not been dissolved pursuant to the operation of AB 1X 26, using current assessed values on the last equalized roll on August 20, and to deposit that amount in the Redevelopment Property Tax Trust Fund. The Dissolution Act provides that any bonds authorized thereunder to be issued by the Successor Agency will be considered indebtedness incurred by the dissolved Former Agency, with the same lien priority and legal effect as if the Bonds had been issued prior to the effective date of AB 1X 26, in full conformity with the applicable provisions of the Redevelopment Law that existed prior to that date, and will be included in the Successor Agency's Recognized Obligation Payment Schedules (see "SECURITY FOR THE BONDS – Recognized Obligation Payment Schedules").

The Dissolution Act further provides that property tax revenues pledged to any bonds authorized under the Dissolution Act, such as the Bonds, are taxes allocated to the successor agency pursuant to the provisions of the Redevelopment Law and the State Constitution.

Property tax revenues will be allocated to the Successor Agency on a semi-annual basis based on a Recognized Obligation Payment Schedule submitted by the Successor Agency to an oversight board established for the Successor Agency (the "**Oversight Board**") and the State Department of Finance (the "**DOF**"). The County Auditor-Controller will distribute funds from the Redevelopment Property Tax Trust Fund for each six-month period in the order specified in the Dissolution Act. See "SECURITY FOR THE BONDS – Recognized Obligation Payment Schedules."

Successor agencies have no power to levy property taxes and must rely on the allocation of taxes as described above. See "RISK FACTORS."

[[Bond Insurance

The scheduled payment of principal of and interest on the Bonds when due will be guaranteed under an insurance policy (the "**Bond Insurance Policy**") to be issued concurrently with the delivery of the Bonds by _____ (the "**Bond Insurer**"). See "BOND INSURANCE" and "APPENDIX H - SPECIMEN MUNICIPAL BOND INSURANCE POLICY."]]

Limited Obligation

The Bonds are special obligations of the Successor Agency and are secured by an irrevocable pledge of and lien on, and are payable as to principal, interest and premium, if any, from Tax Revenues and other funds. The Bonds, interest and premium, if any, are not a debt of the City, the County, the State or any of their political subdivisions except the Successor Agency, and none of the City, the County, the State nor any of their political subdivisions (except the Successor Agency) are liable thereon. The Bonds, interest thereon and premium, if any, are not payable out of any funds or properties other than those set forth in the Indenture. No member, officer, agent, or employee of the Successor Agency, the Oversight Board, the County Board of Supervisors or any person executing the Bonds is liable personally on the Bonds by reason of their issuance.

Debt Service Reserve Account

Simultaneously with the issuance of the Bonds, in order to further secure the payment of the principal and interest on the Bonds, a debt service reserve account (the "**Reserve Account**") will be funded by the deposit of a "**Qualified Reserve Account Credit Instrument**" (as defined below) in the form of a _____ (the "**Reserve Policy**") in an amount equal to the "**Reserve Requirement**" (as defined herein) to be issued by the Bond Insurer. See "SECURITY FOR THE BONDS – Debt Service Reserve Account." For more information about the Bond Insurer see "BOND INSURANCE" herein.

Professionals Involved in the Offering

Steven Gortler, San Francisco, California, has served as financial advisor to the Successor Agency and has advised the Successor Agency with respect to the financial structure of the refinancing and as to other financial aspects of the transaction. *Payment of the fees and expenses of the financial advisor is contingent upon the sale and delivery of the Bonds.*

All proceedings in connection with the issuance of the Bonds are subject to the approval of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel to the Successor Agency. Jones Hall is also acting as Disclosure Counsel. Certain legal matters will be passed on for the Underwriter by Norton Rose Fulbright US LLP. In addition, certain legal matters will be passed upon for the Agency by the City Attorney of the City. *Payment of the fees and expenses of Bond Counsel, Disclosure Counsel and Underwriter's Counsel is contingent upon the sale and delivery of the Bonds.*

Further Information

Brief descriptions of the Redevelopment Law, the Dissolution Act, the Refunding Law, the Bonds, the Indenture, the Successor Agency, the Former Agency and the City are included in this Official Statement. Such descriptions and information do not purport to be comprehensive or definitive. All references in this Official Statement to the Redevelopment Law, the Dissolution Act, the Refunding Law, the Bonds, the Indenture, the Constitution and the laws of the State as well as the proceedings of the Former Agency, the Successor Agency, the County and the City are qualified in their entirety by reference to such documents and laws. References in this Official Statement to the Bonds are qualified in their entirety by the form included in the Indenture and by the provisions of the Indenture. Capitalized terms used in this Official Statement and not otherwise defined shall have the meanings given to such terms as set forth in the Indenture.

During the period of the initial offering of the Bonds, copies of the draft forms of all documents are available from the Underwriter or from the City Clerk, City of Tracy, 333 Civic Center Plaza, Tracy, CA 95376.

[End of Introduction]

REFUNDING PLAN

The Successor Agency is issuing the Bonds in order to redeem and defease the following bonds issued by the Community Development Agency of the City of Tracy (the "**Former Agency**") (i) \$35,095,000 Community Development Agency of the City of Tracy 2003 Tax Allocation Bonds, Series A ("**2003 Senior Bonds**") and (ii) \$20,625,000 Community Development Agency of the City of Tracy 2003 Subordinate Tax Allocation Bonds, Series B ("**2003 Subordinate Bonds**"; together with the 2003 Senior Bonds, the "**2003 Bonds**"). The proceeds of the 2003 Bonds were used to finance or refinance redevelopment activities in the Successor Agency's Community Development Project Area (the "**Project Area**").

The proceeds of the 2003 Bonds were used to finance or refinance redevelopment activities in the Project Area.

Redemption of the 2003 Bonds

At the time of issuance of the Bonds the Successor Agency will give Irrevocable Refunding Instructions to The Bank of New York Mellon Trust Company, N.A., as the Trustee for the 2003 Bonds (the "**2003 Bonds Trustee**"), for the purpose of providing the terms and conditions relating to the deposit and application of proceeds of the Bonds and other moneys to provide for the payment and redemption of all of the outstanding 2003 Bonds pursuant to an Indenture of Trust, dated as of November 1, 2003 (the "**2003 Senior Indenture**") and an Indenture of Trust, dated as of November 1, 2003 (the "**2003 Subordinate Indenture**"; together with the 2003 Senior Indenture, the "**2003 Indentures**"), by and between the Former Agency and the 2003 Bonds Trustee for the purpose of providing the terms and conditions relating to the deposit and application of moneys to provide for (i) redemption of the 2003 Senior Bonds on _____ (the "**Redemption Date**"); and (ii) redemption of the 2003 Subordinate Bonds on the Redemption Date, pursuant to the requirements of the Indenture under which each such prior series of bonds were issued.

Upon issuance of the Bonds, proceeds of the Bonds in the amount needed for redemption of the 2003 Bonds will be transferred to the Redemption Account established under each Indenture to be applied, pursuant to the Irrevocable Refunding Instructions for redemption of the 2003 Bonds on the Redemption Date. None of the amounts transferred to or on deposit in the Redemption Accounts will be applied for any purpose other than as provided in the Irrevocable Refunding Instructions.

Following redemption of the outstanding principal amount of all of the 2003 Bonds, any monies remaining in each respective Redemption Account will be transferred to the Trustee for deposit into the Debt Service Fund established under the Indenture to be used to pay interest on the Bonds.

The amounts held by the 2003 Bonds Trustee in the respective Redemption Account are pledged solely to the amounts due and payable by the Successor Agency with respect to the 2003 Bonds. Neither the funds deposited in the respective Redemption Account nor interest on the invested funds, if any, will be available for the payment of debt service with respect to the Bonds.

Verification of Mathematical Accuracy. The sufficiency of amounts on deposit in the Redemption Accounts together with investment earnings thereon to pay the principal and accrued interest with respect to the applicable 2003 Bonds being refunded, will be verified by

ATTACHMENT 7

Causey Demgen & Moore, Denver, Colorado, certified public accountants (the “**Verification Agent**”). The Verification Agent will deliver a report to that effect on the date of delivery of the Bonds.

Estimated Sources and Uses of Funds

The estimated sources and uses of funds are summarized below.

Sources:

Principal Amount of Bonds

Plus: 2003 Bonds - Available Funds

Plus: Net Original Issue Premium/*Less:* Net Original Issue

Discount

Total Sources

Uses:

Refunding of 2003 Bonds

Costs of Issuance Fund ⁽¹⁾

Underwriter’s Discount

Total Uses

(1) Costs of Issuance include fees and expenses for Bond Counsel, Disclosure Counsel, Financial Advisor, Trustee, Verification Agent, premium for bond insurance and a reserve fund insurance policy, administrative costs, Successor Agency Counsel, printing expenses, rating fee, and other costs related to the issuance of the Bonds.

Debt Service Schedule

The following table shows the annual debt service schedule for the Bonds, assuming no optional redemption of the Bonds.

Bond Year Ending August 1	2016 Bonds Principal	2016 Bonds Interest	Total Debt Service
2016			
2017			
2018			
2019			
2020			
2021			
2022			
2023			
2024			
2025			
2026			
2027			
2028			
2029			
2030			
2031			
2032			
2033			

THE BONDS

Authority for Issuance

The issuance of the Bonds and the execution and delivery of the Indenture were authorized by the Successor Agency pursuant to Resolution No. _____ adopted on [December 1, 2015] (the "**Resolution**"), and approved by the Oversight Board pursuant to Resolution No. OB _____ adopted on [December 1, 2015] (the "**Oversight Board Resolution**").

Pursuant to the Dissolution Act, written notice of the Oversight Board Resolution was provided to the DOF. On _____, 2015, the DOF provided a letter to the Successor Agency stating that based on the DOF's review and application of the law, the Oversight Board Resolution approving the Bonds is approved by the DOF. See "APPENDIX F – State Department of Finance Approval Letter."

Section 34177.5(f) of the Dissolution Act provides that when, as here, a successor agency issues refunding bonds with the approval of the oversight board and the DOF, the oversight board may not unilaterally approve any amendments to or early termination of the bonds, and the scheduled payments on the bonds shall be listed in the Recognized Obligation Payment Schedule and are not subject to further review and approval by the DOF or the California State Controller.

Description of the Bonds

The Bonds will be issued and delivered in fully-registered form without coupons in the denomination of \$5,000 or any integral multiple thereof for each maturity, initially in the name of Cede & Co., as nominee for The Depository Trust Company ("DTC"), New York, New York, as registered owner of all Bonds. The initially executed and delivered Bonds will be dated the date of delivery (the "**Closing Date**") and mature on August 1 in the years and in the amounts shown on the inside cover page of this Official Statement.

Interest on the Bonds (including the final interest payment upon maturity or earlier redemption) will be calculated on the basis of a 360-day year of twelve 30-day months at the rates shown on the inside cover page of this Official Statement, payable semiannually on February 1 and August 1 in each year, commencing on August 1, 2016 (each an "**Interest Payment Date**"), by check mailed to the registered owners thereof or upon the request of the Owners of \$1,000,000 or more in principal amount of Bonds, by wire transfer to an account in the United States which shall be designated in written instructions by such Owner to the Trustee on or before the Record Date preceding the Interest Payment Date. "Record Date" as defined in the Indenture means, with respect to any Interest Payment Date, the close of business on the fifteenth (15th) calendar day of the month preceding such Interest Payment Date, whether or not such fifteenth (15th) calendar day is a Business Day.

One fully-registered bond will be issued for each maturity of the Bonds, each in the aggregate principal amount of such maturity, and will be deposited with DTC. See "APPENDIX C – Book-Entry Only System."

Redemption*

Optional Redemption. The Bonds maturing on or before August 1, [2025] are not subject to optional redemption prior to maturity. The Bonds maturing on and after August 1, [2026], are subject to redemption, at the option of the Successor Agency on any date on or after August 1, [2025], as a whole or in part, by such maturities as shall be determined by the Successor Agency, and by lot within a maturity, from any available source of funds, at a redemption price equal to the principal amount of the Bonds to be redeemed, together with accrued interest thereon to the date fixed for redemption, without premium.

Mandatory Sinking Account Redemption. The Bonds that are Term Bonds maturing August 1, 20__ shall be subject to mandatory redemption in whole, or in part by lot, on August 1 in each year, commencing August 1, 20__, as set forth below, from sinking fund payments made by the Successor Agency, at a redemption price equal to the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts and on August 1 in the respective years as set forth in the following table; provided however, that (i) in lieu of redemption thereof such Term Bonds may be purchased by the Successor Agency pursuant to the Indenture, and (ii) if some but not all of such Term Bonds have been optionally redeemed, the total amount of all future sinking fund payments shall be reduced by the aggregate principal amount of such Term Bonds so redeemed, to be allocated among such sinking fund payments in integral multiples of \$5,000 as determined by the Successor Agency.

Bonds Maturing August 1, 20__

Sinking Account Redemption Date (August 1)	Principal Amount To Be Redeemed
---	--

In lieu of such redemption of the Bonds, amounts on deposit in the Special Fund or in the Principal Account or Sinking Account may also be used and withdrawn by the Successor Agency and the Trustee, respectively, at any time, upon the Written Request of the Successor Agency, for the purchase of the Term Bonds at public or private sale as and when and at such prices (including brokerage and other charges, but excluding accrued interest, which is payable from the Interest Account) as the Successor Agency may in its discretion determine. The par amount of any Term Bonds so purchased by the Successor Agency in any twelve-month period ending on July 1 in any year shall be credited towards and shall reduce the par amount of the Term Bonds required to be redeemed pursuant to subsection (d) on August 1 in each year; provided that evidence satisfactory to the Trustee of such purchase has been delivered to the Trustee by said July 1. In no event shall the Successor Agency purchase any Term Bonds in lieu of redemption without canceling such Term Bonds.

Notice of Redemption. The Trustee on behalf and at the expense of the Successor Agency shall mail (by first class mail, postage prepaid) notice of any redemption at least twenty

* Preliminary, subject to change.

(20) but not more than sixty (60) days prior to the redemption date, to (i) to the Owners of any Bonds designated for redemption at their respective addresses appearing on the Registration Books, and (ii) the Securities Depositories and to the Information Services; but such mailing shall not be a condition precedent to such redemption and neither failure to receive any such notice nor any defect therein shall affect the validity of the proceedings for the redemption of such 2016 Bonds or the cessation of the accrual of interest thereon. Such notice shall state the redemption date and the redemption price, shall state that optional redemption is conditioned upon the timely delivery of the redemption price by the Successor Agency to the Trustee for deposit in the Redemption Account, shall designate the CUSIP number of the Bonds to be redeemed, shall state the individual number of each Bond to be redeemed or shall state that all Bonds between two stated numbers (both inclusive) or all of the Bonds Outstanding are to be redeemed, and shall require that such Bonds be then surrendered at the Principal Corporate Trust Office of the Trustee for redemption at the redemption price, giving notice also that further interest on such Bonds will not accrue from and after the redemption date.

The Successor Agency has the right to rescind any notice of the optional redemption of Bonds by written notice to the Trustee on or prior to the date fixed for redemption. Any notice of optional redemption will be cancelled and annulled if for any reason funds will not be or are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation will not constitute an Event of Default. The Successor Agency and the Trustee have no liability to the Owners or any other party related to or arising from such rescission of redemption. The Trustee will mail notice of such rescission of redemption in the same manner as the original notice of redemption was sent.

Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose will, to the extent practicable, bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

Partial Redemption of Bonds. In the event only a portion of any Bond is called for redemption, then upon surrender of such Bond the Successor Agency will execute and the Trustee will authenticate and deliver to the Owner thereof, at the expense of the Successor Agency, a new Bond or Bonds of the same interest rate and maturity, of authorized denominations, in aggregate principal amount equal to the unredeemed portion of the Bond to be redeemed.

Effect of Redemption. From and after the date fixed for redemption, if funds available for the payment of the redemption price of and interest on the Bonds so called for redemption have been duly deposited with the Trustee, the Bonds so called will cease to be entitled to any benefit under the Indenture other than the right to receive payment of the redemption price and accrued interest to the redemption date, and no interest will accrue thereon from and after the redemption date specified in such notice.

Manner of Redemption. Whenever any Bonds or portions thereof are to be selected for redemption by lot, the Trustee will make the selection, in such manner as the Trustee deems appropriate.

Additional Bonds

Parity Debt. In the Indenture, the Successor Agency covenants that it will not issue any bonds, notes or other obligations, enter into any agreement or otherwise incur any

ATTACHMENT 7

indebtedness, which is payable from Tax Revenues on a parity with the Bonds ("**Parity Debt**"), provided, that the Successor Agency may issue and sell refunding bonds as Parity Debt payable from Tax Revenues on a parity with the Bonds to refund, in part or whole, the Bonds, provided further that, with respect to any such refunding (i) annual debt service on such Parity Debt, as applicable, is lower than annual debt service on the obligations being refunded during every year the obligations would otherwise be outstanding, (ii) the final maturity of any such Parity Debt does not exceed the final maturity of the obligations being refunded, (iii) the refunding bonds shall be fixed-rate only, (iv) principal payments shall be on August 1 and interest payments on August 1 and February 1, and (v) prior to the issuance of any Parity Debt, the Successor Agency shall, to the best of its ability, subordinate all amounts, if any, payable to a taxing entity pursuant to Section 33607.5, 33607.7 and 33676 to the payment of debt service on such Parity Debt.

After the defeasance of the 2003 Bonds, there will be no other outstanding bonds of the Successor Agency with a parity pledge and lien on Tax Revenues.

Subordinate Debt. The Indenture permits the Successor Agency to issue subordinated obligations which are either: (a) payable from, but not secured by a pledge of or lien upon, the Tax Revenues, including revenue bonds and other debts and obligations scheduled for payment pursuant to Section 34183(a)(2) of the Redevelopment Law; or (b) secured by a pledge of or lien upon the Tax Revenues which is subordinate to the pledge of and lien upon the Tax Revenues under the Indenture for the security of the Bonds and any Parity Debt ("**Subordinate Debt**"). Any Subordinate Debt shall be payable on the same dates as the Bonds and shall be in all respect, including security and payments, subordinate and junior to the Bonds.

TAX INCREMENT FINANCING GENERALLY

Property Tax Allocation Procedures

Tax Revenues to be used for payment of the Bonds are generated from increases in the total assessed value above the base year value. See "SECURITY FOR THE BONDS." The method by which a county allocates property taxes and tax increment revenues can have a significant impact on the receipt of such revenues. The County calculates tax increment to the Project Area by applying the one percent tax rate and certain overrides to incremental taxable value. Tax rates in excess of one percent are not levied in the Project Area. The County also allocates supplemental property tax revenues to the Project Area.

The County Auditor-Controller reduces the total amount of tax increment revenue by administrative expenses and the amount of property tax revenue to be distributed to those taxing entities which have elected to receive additional property tax allocations pursuant to former Health and Safety Code Section 33676, and also pursuant to Section 33401 tax sharing agreements. The County annually reports the tax increment levy due the Project Area to the Successor Agency.

Tax increment is allocated based on 100% of the County calculated levy, under the Teeter Plan. See "Teeter Plan" below.

Classification. In California, property which is subject to ad valorem taxes is classified as "secured" or "unsecured." Secured and unsecured property are entered on separate parts of the assessment roll maintained by the County assessor. The secured classification includes property on which any property tax levied by a county becomes a lien on that property. A tax levied on unsecured property does not become a lien against the taxed unsecured property, but may become a lien on certain other property owned by the taxpayer. Every tax which becomes a lien on secured property has priority over all other liens on the secured property arising pursuant to State law, regardless of the time of the creation of other liens.

Generally, ad valorem taxes are collected by a county (the "**Taxing Authority**") for the benefit of the various entities (e.g., cities, schools and special districts) that share in the ad valorem tax (each a taxing entity) and successor agencies eligible to receive distributions from the respective Redevelopment Property Tax Trust Funds.

Collections. The method of collecting delinquent taxes is substantially different for secured and unsecured property. Counties have four ways of collecting unsecured personal property taxes: (a) initiating a civil action against the taxpayer; (b) filing a certificate in the office of the county clerk specifying certain facts in order to obtain a judgment lien on certain property of the taxpayer; (c) filing a certificate of delinquency for record in the county recorder's office to obtain a lien on certain property of the taxpayer; and (d) seizing and selling personal property, improvements or possessory interests belonging or assessed to the assessee. The exclusive means of enforcing the payment of delinquent taxes with respect to property on the secured roll is the sale of the property securing the taxes to the State for the amount of taxes which are delinquent.

Penalty. A 10% penalty is added to delinquent taxes which have been levied with respect to property on the secured roll. In addition, property on the secured roll on which taxes are delinquent is declared in default by operation of law and declaration of the tax collector on or about June 30 of each fiscal year. Such property may thereafter be redeemed by payment of

ATTACHMENT 7

the delinquent taxes and a delinquency penalty, plus a redemption penalty of 1.5% per month to the time of redemption. If taxes are unpaid for a period of five years or more, the property is deeded to the State and then is subject to sale by the county tax collector. A 10% penalty also applies to delinquent taxes with respect to property on the unsecured roll, and further, an additional penalty of 1.5% per month accrues with respect to such taxes beginning on varying dates related to the tax bill mailing date.

Delinquencies. The valuation of property is determined as of the January 1 lien date as equalized in August of each year and equal installments of taxes levied upon secured property become delinquent on the following December 10 and April 10. Taxes on unsecured property are due January 1 and become delinquent August 31. Under the Alternative Method of Distribution of Tax Levies and Collections and of Tax Sale Proceeds (known as the Teeter Plan), as provided for in Section 4701 *et seq.* of the Revenue and Taxation Code of the State, tax increment revenues are allocated to each taxing agency in a county without regard to delinquencies in the payment of property taxes. The County uses the Teeter Plan and the Agency participates in the County's Teeter Plan. As a result of this allocation method, the Agency receives no adjustments for redemption payments on delinquent collections. The Agency does receive supplemental taxes and refunds, if any, are deducted from amounts available for deposit to the Redevelopment Property Tax Trust Fund. There can be no assurance that the County Auditor-Controller will not change its policies with respect to delinquencies in property tax payments in the future.

Unitary Property. Assembly Bill 2890 (Statutes of 1986, Chapter 1457) provides that, commencing with fiscal year 1988-89, tax revenues derived from unitary property and assessed by the State Board of Equalization are accumulated in a single Tax Rate Area for the County. The tax revenues are then to be allocated to each taxing entity county-wide in accordance with AB 454 (Statutes of 1987, Chapter 921) which provides for the consolidation of all State-assessed property, except for regulated railroad property, into a single tax rate area in each county. Chapter 921 further provides for a new method of establishing tax rates on State-assessed property and distribution of property tax revenue derived from State-assessed property to taxing jurisdictions within each county in accordance with a new formula. Railroads will continue to be assessed and revenues allocated to all tax rate areas where railroad property is sited.

For fiscal year 2015-16 unitary revenues are estimated to equal \$_____ based on the actual unitary revenues allocated in 2014-15.

Supplemental Assessments. California Revenue and Taxation Code Section 75.70 provides for the supplemental assessment and taxation of property as of the occurrence of a change of ownership or completion of new construction. Before the enactment of this law, the assessment of such changes was permitted only as of the next tax lien date following the change, which delayed the realization of increased property taxes from the new assessments for up to 14 months. Revenue and Taxation Code Section 75.70 provides increased revenue to the Redevelopment Property Tax Trust Fund to the extent that supplemental assessments of new construction or changes of ownership occur within the boundaries of the Project Area subsequent to the January 1 lien date. To the extent that such supplemental assessments occur within the Project Area, Tax Revenues may increase.

Property Tax Administrative Costs. In 1990, the Legislature enacted SB 2557 (Chapter 466, Statutes of 1990) which allows counties to charge for the cost of assessing, collecting and allocating property tax revenues to local government jurisdictions in proportion to

the tax-derived revenues allocated to each. SB 1559 (Chapter 697, Statutes of 1992) explicitly includes redevelopment agencies among the jurisdictions which are subject to such charges.

In addition, Sections 34182(e) and 34183(a) of the Dissolution Act allow administrative costs of the County Auditor-Controller for the cost of administering the provisions of the Dissolution Act, as well as the foregoing SB 2557/SB 1559 amounts, to be deducted from property tax revenues before monies are deposited into the Redevelopment Property Tax Trust Fund available as Tax Revenues for payment of the Bonds.

Article XIII A of the State Constitution

On June 6, 1978, State voters approved an amendment (commonly known as Proposition 13 or the Jarvis-Gann Initiative) which added Article XIII A to the State Constitution. Article XIII A limits the amount of *ad valorem* taxes on real property to 1% of "full cash value" of such property, as determined by the county assessor. Article XIII A defines "full cash value" to mean "the county assessor's valuation of real property as shown on the State fiscal year 1975-76 tax bill under 'full cash value,' or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment." Furthermore, the "full cash value" of all real property may be increased to reflect the rate of inflation, as shown by the consumer price index, not to exceed 2% per year, or may be reduced.

Article XIII A has subsequently been amended to permit reduction of the "full cash value" base in the event of declining property values caused by substantial damage, destruction or other factors, and to provide that there would be no increase in the "full cash value" base in the event of reconstruction of property damaged or destroyed in a disaster and in other special circumstances.

Article XIII A (a) exempts from the 1% tax limitation the taxes to pay debt service on: (a) indebtedness approved by the voters before July 1, 1978; or (b) bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition; (b) requires a vote of two-thirds of the qualified electorate to impose special taxes, or certain additional *ad valorem* taxes; and (c) requires the approval of two-thirds of all members of the State Legislature to change any State tax laws resulting in increased tax revenues.

The validity of Article XIII A has been upheld by both the State Supreme Court and the United States Supreme Court.

In the general election held on November 4, 1986, voters of the State approved two measures, Propositions 58 and 60, which further amended Article XIII A. Proposition 58 amended Article XIII A to provide that the terms "purchase" and "change of ownership," for the purposes of determining full cash value of property under Article XIII A, do not include the purchase or transfer of (a) real property between spouses; and (b) the principal residence and the first \$1,000,000 of other property between parents and children. This amendment to Article XIII A may reduce the rate of growth of local property tax revenues.

Proposition 60 amended Article XIII A to permit the State Legislature to allow persons over the age of 55 who sell their residence and buy or build another of equal or lesser value within two years in the same county to transfer the old residence assessed value to the new

residence. As a result of the State Legislature's action, the growth of property tax revenues may decline.

Legislation enacted by the State Legislature to implement Article XIII A provides that all taxable property is shown at full assessed value as described above. In conformity with this procedure, all taxable property value included in this Official Statement is shown at 100% of assessed value and all general tax rates reflect the \$1 per \$100 of taxable value (except as noted). Tax rates for voter-approved bonded indebtedness and pension liabilities are also applied to 100% of assessed value.

Appropriations Limitation – Article XIII B

On November 6, 1979, State voters approved Proposition 4 (also known as the Gann Initiative), which added Article XIII B to the State Constitution. Article XIII B limits the annual appropriations of the State and its political subdivisions to the level of appropriations for the prior fiscal year, as adjusted for changes in the cost of living, population and services rendered by the government entity. The "base year" for establishing such appropriations limit is State fiscal year 1978-79, and the limit is to be adjusted annually to reflect changes in population, consumer prices and certain increases in the cost of services provided by these public agencies.

Section 33678 of the Redevelopment Law provides that the allocation of taxes to a redevelopment agency for the purpose of paying principal of, or interest on, loans, advances, or indebtedness is not deemed to be the receipt by an agency of proceeds of taxes levied by or on behalf of an agency within the meaning of Article XIII B, nor will such portion of taxes be deemed receipt of proceeds of taxes by, or an appropriation subject to the limitation of, any other public body within the meaning or for the purpose of the Constitution and laws of the State, including Section 33678 of the Redevelopment Law. The constitutionality of Section 33678 has been upheld in two State appellate court decisions. On the basis of these decisions, the Agency does not believe that it is subject to Article XIII B and has not adopted an appropriations limit.

Articles XIII C and XIII D of the State Constitution

At the election held on November 5, 1996, Proposition 218 was passed by the voters of California. The initiative added Articles XIII C and XIII D to the State Constitution. Provisions in the two articles affect the ability of local government to raise revenues. The Bonds are secured by sources of revenues that are not subject to limitation by Proposition 218. See the caption "— Propositions 218 and 26."

Proposition 87

In 1993, the State legislature passed AB 1290, Chapter 942, Statutes 1993, which, among other things, required redevelopment agencies to adopt time limits in each redevelopment plan specifying (a) the last date to incur debt for a redevelopment project; (b) the last date to undertake redevelopment activity within a project area; and (c) the last date to collect tax increment revenue from a project area to repay debt.

In 2001, the State Legislature enacted SB 211, Chapter 741, Statutes 2001, effective January 1, 2002 ("**SB 211**"), which authorized, among other things, the deletion of the AB 1290 limitation on incurring indebtedness contained in a redevelopment plan adopted before January 1, 1994. SB 211 also prescribed additional requirements that a redevelopment agency would have to meet upon extending the time limit on the effectiveness of a redevelopment plan,

including requiring an increased percentage of new and substantially rehabilitated dwelling units to be available at affordable housing cost to persons and families of low or moderate income before the termination of the effectiveness of the plan.

The various amendments adopted by the City and the Former Agency included changes to the financial and time limits of the Project Area, however under SB 107 enacted in September 2015 the applicability of plan limits have been eliminated; as such, all provisions of the Redevelopment Law that depend on the allocation of tax increment to redevelopment agencies will become inoperative commencing January 1, 2016. However, SB 107 provides that, solely for the purposes of the payment of enforceable obligations under the Dissolution Act, the limitations relating to time, number of tax dollars or any other matters will continue to apply to successor agencies.

Appeals of Assessed Values

Under State law, a property owner may apply for a reduction of the property tax assessment for such owner's property by filing a written application, in a form prescribed by the State Board of Equalization, with the appropriate county board of equalization or assessment appeals board.

In the County, a property owner desiring to reduce the assessed value of such owner's property in any one year must submit an application to the County Assessment Appeals Board (the "**Appeals Board**"). Applications for any tax year must be submitted by November 30 of such tax year. Following a review of each application by the staff of the County Assessor's Office, the staff makes a recommendation to the Appeals Board on each application which has not been rejected for incompleteness or untimeliness or withdrawn. The Appeals Board holds a hearing and either reduces or confirms the assessment. The Appeals Board generally is required to determine the outcome of appeals within two years of each appeal's filing date. Any reduction in the assessment ultimately granted applies only to the year for which application is made and during which the written application is filed. The assessed value increases to its pre-reduction level for Fiscal Years following the year for which the reduction application is filed. However, if the taxpayer establishes through proof of comparable values that the property continues to be overvalued (known as "ongoing hardship"), the Assessor has the power to grant a reduction not only for the year for which application was originally made, but also for the then-current year as well. Appeals for reduction in the "base year" value of an assessment, which generally must be made within three years of the date of change in ownership or completion of new construction that determined the base year, if successful, reduce the assessment for the year in which the appeal is taken and prospectively thereafter. Moreover, in the case of any reduction in any one year of assessed value granted for "ongoing hardship" in the then-current year, and also in any cases involving stipulated appeals for prior years relating to base year and personal property assessments, the property tax revenues from which Tax Revenues are derived attributable to such properties will be reduced in the then-current year. In practice, such a reduced assessment may remain in effect beyond the year in which it is granted.

Due to the impact that assessment appeals can have on the taxable values and tax increment revenues of a project area, a review of recently resolved and open appeals for the top ___ assessees was conducted. The County does not provide a database that includes all appeals, so the _____ checked the status of appeals for the top ten taxpayers. The review revealed that there are currently ___ outstanding appeals for the top ten taxpayers. It is possible that there are other open appeals that could affect the future generation of tax increment, although the _____'s review of prior year assessed values did not reveal

any major reductions from appeals. See "THE PROJECT AREA - Appeals of Assessed Values; Proposition 8 Reductions."

Proposition 8 Reductions. Proposition 8, approved in 1978 (California Revenue and Taxation Code Section 51(b)), provides for the assessment of real property at the lesser of its originally determined (base year) full cash value compounded annually by the inflation factor, or its full cash value as of the lien date, taking into account reductions in value due to damage, destruction, obsolescence or other factors causing a decline in market value. Reductions under this code section may be initiated by the County Assessor or requested by the property owner.

In most cases, the appeal is filed because the applicant believes that present market conditions (such as residential home prices) cause the property to be worth less than its current assessed value. These market-driven appeals are known as Proposition 8 appeals. Under this section of the code, the value of property can be reduced due to damage, destruction, removal of property or other factors that cause a decline in value.

Any county may, on its own initiative, also process temporary assessed value reductions for certain properties (where the assessed values exceeded the market value of properties as of the January 1 lien date) without prompting from individual taxpayers. Typically, the properties to be reviewed by the various counties for these "automatic" reductions were single-family homes and condominiums which transferred ownership between 2003 and 2010. These reductions were triggered because residential property values decreased in many areas of the State through the 2012-13 fiscal year. **[[VERIFY:]]]** Between 2008-09 and 2012-13 the County made across the board reductions pursuant to Proposition 8 to residential property that reduced value significantly, however reversals of some of the reductions have occurred since then. See "THE PROJECT AREA - "Appeals of Assessed Values; Proposition 8 Reductions."

Any reduction in the assessed value ultimately granted as a Proposition 8 appeal applies to the year for which application is made and during which the written application was filed. These reductions are often temporary and are adjusted back to their original values when market conditions improve. Once the property has regained its prior value, adjusted for inflation, it once again is subject to the annual inflationary factor growth rate allowed under Article XIII A. See also "RISK FACTORS – Reduction in Inflationary Rate."

Base Year Appeals. A second type of assessment appeal is called a Base Year appeal, where the property owners challenge the original (basis) value of their property. Appeals for reduction in the "base year" value of an assessment, if successful, reduce the assessment for the year in which the appeal is taken and prospectively thereafter. The base year is determined by the completion date of new construction or the date of change of ownership. Any base year appeal must be made within four years of the change of ownership or new construction date.

Low and Moderate Income Housing

Before the Dissolution Act, the Redevelopment Law required the Former Agency to set aside not less than 20% of all tax increment generated in the Project Area into a low and moderate income housing fund to be used for the purpose of increasing, improving and/or preserving the supply of low and moderate income housing. These tax increment revenues were commonly referred to as "**Housing Set-Aside.**"

The Dissolution Act eliminated the Housing Set-Aside requirement. As a result, and because the Successor Agency has no obligations that are payable from Housing Set-Aside,

the amount of tax increment that would have been the former Housing Set-Aside is available to pay debt service on the Bonds. Accordingly, the projection of Tax Revenues set forth in the section of this Official Statement entitled "PROJECTED TAX REVENUES AND DEBT SERVICE COVERAGE" assumes the availability of the former Housing Set-Aside for payment of the Bonds.

Adjustments to Revenue

State law allows counties to charge taxing entities, including redevelopment agencies, for the cost of administering the property tax collection system. In addition, the Dissolution Act allows counties to recover their costs in implementing the redevelopment Dissolution Act.

Tax Sharing Payments. The Redevelopment Law authorized the Former Agency to enter into agreements with taxing agencies whose territory was located within the Project Area, whereby the Former Agency would pay tax increment revenues to such taxing agencies to alleviate the financial burden or detriment caused by the Redevelopment Project. Additionally, Sections 33607.5 and 33607.7 of the Redevelopment Law require successor agencies, under certain circumstances, to make statutory pass-through payments to taxing agencies whose territory is located within the Project Area, to alleviate the financial burden or detriment caused by the Redevelopment Project. See "THE PROJECT AREA - Tax Sharing Agreements" below.

THE DISSOLUTION ACT

The Dissolution Act requires the County Auditor-Controller to determine the amount of property taxes that would have been allocated to the Former Agency (pursuant to subdivision (b) of Section 16 of Article XVI of the State Constitution) had the Former Agency not been dissolved pursuant to the operation of AB 1X 26, using current assessed values on the last equalized roll on August 20, and to deposit that amount in the Redevelopment Property Tax Trust Fund for the Successor Agency established and held by the County Auditor-Controller pursuant to the Dissolution Act.

The Dissolution Act provides that any bonds authorized thereunder to be issued by the Successor Agency will be considered indebtedness incurred by the Former Agency, with the same lien priority and legal effect as if the bonds had been issued prior to the effective date of AB 1X 26, in full conformity with the applicable provisions of the Redevelopment Law that existed prior to that date, and will be included in the Successor Agency's Recognized Obligation Payment Schedule (see "SECURITY FOR THE BONDS – Recognized Obligation Payment Schedules").

The Dissolution Act further provides that bonds authorized by the Dissolution Act to be issued by the Successor Agency will be secured by a pledge of, and lien on, and will be repaid from moneys deposited from time to time in the Redevelopment Property Tax Trust Fund, and that property tax revenues pledged to any bonds authorized to be issued by the Successor Agency under the Dissolution Act, including the Bonds, are taxes allocated to the Successor Agency pursuant to subdivision (b) of Section 33670 of the Redevelopment Law and Section 16 of Article XVI of the State Constitution.

Pursuant to subdivision (b) of Section 33670 of the Redevelopment Law and Section 16 of Article XVI of the State Constitution and as provided in the Redevelopment Plan for the project area, taxes levied upon taxable property in the Project Area each year by or for the

ATTACHMENT 7

benefit of the State, any city, county, city and county, district, or other public corporation (herein sometimes collectively called "**taxing agencies**") after the effective date of the ordinance approving the applicable Redevelopment Plan, or the respective effective dates of ordinances approving amendments to the applicable Redevelopment Plan that added territory to the Project Area, as applicable, are to be divided as follows:

(a) To Taxing Agencies: That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of the taxing agencies upon the total sum of the assessed value of the taxable property in the Project Area as shown upon the assessment roll used in connection with the taxation of such property by such taxing agency last equalized prior to the effective date of the ordinance adopting the applicable Redevelopment Plan, or the respective effective dates of ordinances approving amendments to the applicable Redevelopment Plan that added territory to the Project Area, as applicable (each, a "**base year valuation**"), will be allocated to, and when collected will be paid into, the funds of the respective taxing agencies as taxes by or for the taxing agencies on all other property are paid; and

(b) To the Former Agency/Successor Agency: Except for that portion of the taxes in excess of the amount identified in (a) above which are attributable to a tax rate levied by a taxing agency for the purpose of producing revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness approved by the voters of the taxing agency on or after January 1, 1989 for the acquisition or improvement of real property, which portion shall be allocated to, and when collected shall be paid into, the fund of that taxing agency, that portion of the levied taxes each year in excess of such amount, annually allocated within limitations established by the applicable Redevelopment Plan, following the date of issuance of the Bonds, when collected will be paid into a special fund of the Successor Agency. Section 34172 of the Dissolution Act provides that, for purposes of Section 16 of Article XVI of the State Constitution, the Redevelopment Property Tax Trust Fund shall be deemed to be a special fund of the Successor Agency to pay the debt service on indebtedness incurred by the Former Agency or the Successor Agency to finance or refinance the redevelopment projects of the Former Agency.

That portion of the levied taxes described in paragraph (b) above, less amounts deducted pursuant to Section 34183(a) of the Dissolution Act for permitted administrative costs of the County Auditor-Controller, constitute the amounts required under the Dissolution Act to be deposited by the County Auditor-Controller into the Redevelopment Property Tax Trust Fund. In addition, Section 34183 of the Dissolution Act effectively eliminates the January 1, 1989 date from paragraph (b) above.

SECURITY FOR THE BONDS

Limited Obligation

The Bonds are limited obligations of the Agency secured by and payable from a pledge of, and lien on, and repaid from incremental property tax revenues (the "**Tax Revenues**," as defined in the Indenture) deposited with respect to the Project Area from time to time in the Redevelopment Property Tax Trust Fund described herein and held by the County Auditor-Controller. See "- Tax Revenues" below.

The Bonds are not a debt of the City, the County, the State or any of their political subdivisions except the Successor Agency, and none of the City, the County, the State or any of their political subdivisions except the Successor Agency are liable therefor. The Bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. No member of the Successor Agency, the Oversight Board or the Board of Supervisors of the County shall be individually or personally liable for the payment of the principal of or interest or redemption premium, if any, on the Bonds.

Tax Revenues

Definition. "**Tax Revenues**" is defined in the Indenture to mean all taxes annually allocated and paid to the Successor Agency with respect to the Project Area pursuant to Article 6 of Chapter 6 (commencing with Section 33670) of the Law and Section 16 of Article XVI of the Constitution of the State, or pursuant to other applicable State laws, and as provided in the Redevelopment Plan, and all payments, subventions and reimbursements, if any, to the Successor Agency specifically attributable to ad valorem taxes lost by reason of tax exemptions and tax rate limitations, in each case that are deposited in the Redevelopment Property Tax Trust Fund for transfer to the Successor Agency for deposit into the Redevelopment Obligation Retirement Fund, but excluding amounts, if any, payable by the Successor Agency pursuant to Sections 33676, 33607.5 and 33607.7 of the Law and Section 34183(a)(1) of the Dissolution Act, except and to the extent that any amounts so payable are payable on a basis subordinate to the payment of debt service on the Bonds or any additional bonds pursuant to Section 33607.5(e) of the Law and 34177.5(c) of the Dissolution Act.

Pledge Under the Indenture

Except as described in "- Redevelopment Obligation Retirement Fund" below and as required to compensate or indemnify the Trustee, the Bonds and any Parity Debt are equally secured by a pledge of, security interest in and lien on all of the Tax Revenues including all of the Tax Revenues in the Redevelopment Obligation Retirement Fund and by a first and exclusive pledge and lien upon all of the moneys in the Debt Service Fund (including the Interest Account, the Principal Account, the Sinking Account, and the Redemption Account) without preference or priority for series, issue, number, dated date, sale date, date of execution or date of delivery. The Bonds and any Parity Debt are additionally secured by a first and exclusive pledge of, security interest in and lien upon all of the moneys in the Reserve Account established for the Bonds established by the Indenture.

The County Auditor-Controller will deposit property tax revenues into the Redevelopment Property Tax Trust Fund pursuant to the requirements of the Dissolution Act, including *inter alia* Health and Safety Code sections 34183 and 34170.5(b). The Bonds are also equally secured by the pledge and lien created with respect to the Bonds by Section 34177.5(g) of the

Dissolution Act on moneys deposited from time to time in the Redevelopment Property Tax Trust Fund described below. Except for the Tax Revenues and such other moneys, no funds or properties of the Successor Agency are pledged to, or otherwise liable for, the payment of principal of or interest on the Bonds.

After the defeasance of the 2003 Bonds, there will be no other outstanding bonds of the Successor Agency with a parity pledge and lien on Tax Revenues.

In consideration of the acceptance of the Bonds by purchasers of the Bonds, the Indenture will be deemed to be and will constitute a contract between the Successor Agency and the Trustee for the benefit of the Owners from time to time of the Bonds, and the covenants and agreements set forth in the Indenture to be performed on behalf of the Successor Agency are for the equal and proportionate benefit, security and protection of all Owners of the Bonds without preference, priority or distinction as to security or otherwise of any of the Bonds over any of the others by reason of the number or date thereof or the time of sale, execution and delivery thereof, or otherwise for any cause whatsoever, except as expressly provided therein or in the Indenture.

Flow of Funds Under the Indenture

General. The Successor Agency previously established the Redevelopment Obligation Retirement Fund pursuant to Section 34170.5(a) of the Dissolution Act and agrees to hold and maintain the Redevelopment Obligation Retirement Fund as long as any of the Bonds are Outstanding.

Deposit in Redevelopment Obligation Retirement Fund; Transfer to Debt Service Fund. The Indenture provides that the Successor Agency shall deposit all of the Tax Revenues received with respect to any Bond Year into the Redevelopment Obligation Retirement Fund promptly upon receipt thereof by the Successor Agency. All Tax Revenues received by the Successor Agency in excess of the amount required to pay debt service on the Bonds and any Parity Debt in any Bond Year, and except as may be provided to the contrary in the Indenture or in any Supplemental Indenture or authorizing document for such Parity Debt, shall be released from the pledge and lien under the Indenture and shall be applied in accordance with the Redevelopment Law, including but not limited to the payment of debt service on any Subordinate Debt. Prior to the payment in full of the principal of and interest and redemption premium (if any) on the Bonds and the payment in full of all other amounts payable under the Indenture and under any Supplemental Indentures, the Successor Agency shall not have any beneficial right or interest in the moneys on deposit in the Redevelopment Obligation Retirement Fund, except as may be provided in the Indenture and in any Supplemental Indenture.

Deposit of Amounts by Trustee. A trust fund to be known as the Debt Service Fund, will be established and held in trust by the Trustee under the Indenture. The Successor Agency will transfer moneys on deposit in the Redevelopment Obligation Retirement Fund that have been deposited therein for the payment of debt service on the Bonds or for the replenishment of the Reserve Account within 10 days of the receipt thereof to the Trustee for deposit in the Debt Service Fund. The Trustee will transfer amounts on deposit in the Debt Service Fund in the following amounts, at the following times and in the following respective special accounts, which are established in the Debt Service Fund, and in the following order of priority:

Interest Account. On or before the fifth Business Day preceding each Interest Payment Date, the Successor Agency shall withdraw from the Redevelopment

ATTACHMENT 7

Obligation Retirement Fund and transfer to the Trustee, for deposit in the Interest Account an amount which, when added to the amount contained in the Interest Account on that date, will be equal to the aggregate amount of the interest becoming due and payable on the Outstanding Bonds and any Parity Debt on such Interest Payment Date. No such deposit need be made to the Interest Account if the amount contained therein is at least equal to the interest to become due on the next succeeding Interest Payment Date upon all of the Outstanding Bonds and any Parity Debt. All moneys in the Interest Account shall be used and withdrawn by the Trustee solely for the purpose of paying the interest on the Bonds and any Parity Debt as it shall become due and payable.

Principal Account. On or before the fifth Business Day preceding each August 1 on which the principal of the Bonds becomes due and payable, and at maturity, the Successor Agency shall withdraw from the Redevelopment Obligation Retirement Fund and transfer to the Trustee for deposit in the Principal Account an amount which, when added to the amount then on deposit in the Principal Account, will be equal to the amount of principal coming due and payable on such date on the Bonds. No such deposit need be made to the Principal Account if the amount contained therein is at least equal to the principal to become due on the next August 1 on all of the Outstanding Bonds and any Parity Debt. All moneys in the Principal Account shall be used and withdrawn by the Trustee solely for the purpose of paying the principal of the Bonds and any Parity Debt as it shall become due and payable.

Sinking Account. No later than the fifth Business Day preceding each August 1 on which any Term Bond becomes subject to mandatory sinking account redemption, the Successor Agency shall withdraw from the Redevelopment Obligation Retirement Fund and transfer to the Trustee for deposit in the Sinking Account an amount which, when added to the amount then contained in the Sinking Account, will be equal to the aggregate principal amount of the Term Bonds required to be redeemed on such August 1. No such deposit need be made to the Sinking Account if the amount contained therein is at least equal to the Sinking Account payments to become due on the next August 1 on all of the Outstanding Bonds and any Parity Debt. All moneys on deposit in the Sinking Account shall be used and withdrawn by the Trustee for the sole purpose of paying the principal of the Term Bonds as it shall become due and payable upon redemption or purchase pursuant to the Indenture.

Reserve Account. Within the Debt Service Fund there will be established a separate account known as the "Reserve Account" solely as security for payments payable by the Successor Agency pursuant to the Indenture and pursuant to any other Parity Debt Instrument, which shall be held by the Trustee in trust for the benefit of the Owners of the Bonds and any Parity Debt. See "Debt Service Reserve Account" below.

In the event that the amount on deposit in the Reserve Account at any time becomes less than the Reserve Requirement, the Trustee shall promptly notify the Successor Agency of such fact. Upon receipt of any such notice and as promptly as is permitted by the Redevelopment Law, the Successor Agency shall transfer to the Trustee an amount sufficient to maintain the Reserve Requirement on deposit in the Reserve Account.

Redemption Account. On or before the Business Day preceding any date on which Bonds are to be redeemed pursuant to the optional redemption provisions of the Indenture, other than mandatory Sinking Account redemption of Term Bonds, the

Trustee will withdraw from the Debt Service Fund any amount transferred by the Successor Agency for deposit in the Redemption Account, such amount being the amount required to pay the principal of and premium, if any, on the Bonds to be redeemed on such date. All moneys in the Redemption Account will be used and withdrawn by the Trustee solely for the purpose of paying the principal of and premium, if any, on the Bonds to be redeemed pursuant to an optional redemption on the date set for such redemption, other than mandatory Sinking Account redemption of Term Bonds. Interest due on the Bonds to be redeemed on the date set for redemption will, if applicable, be paid from funds available therefor in the Interest Account.

Debt Service Reserve Account

Definition of Reserve Requirement. The Indenture defines "**Reserve Requirement**" to mean, with respect to the Bonds and any Parity Debt, the lesser of (i) 125% of the average Annual Debt Service with respect to the Bonds and such Parity Debt, as applicable or (ii) Maximum Annual Debt Service with respect to the Bonds and such Parity Debt, as applicable; provided, that in no event shall the Successor Agency, in connection with the issuance of the Bonds or any Parity Debt in the form of Bonds pursuant to a Supplemental Indenture be obligated to deposit an amount in the Reserve Account which is in excess of the amount permitted by the applicable provisions of the Code to be so deposited from the proceeds of tax-exempt bonds without having to restrict the yield of any investment purchased with any portion of such deposit and, in the event the amount of any such deposit into the Reserve Account is so limited, the Reserve Requirement shall, in connection with the issuance of such Parity Debt issued in the form of Bonds, be increased only by the amount of such deposit as permitted by the Code; and, provided further that the Successor Agency may meet all or a portion of the Reserve Requirement by depositing a Qualified Reserve Account Credit Instrument meeting the requirements of the Indenture.

The amount on deposit in the Reserve Account will be maintained at the Reserve Requirement at all times prior to the payment of the Bonds and any Parity Debt in full. If there are insufficient Tax Revenues to maintain the Reserve Requirement, the Successor Agency is obligated under the Indenture to continue making transfers as Tax Revenues become available until there is an amount sufficient to maintain the Reserve Requirement (including the payment of all amounts due and payable to Insurer in connection with the _____ [Reserve Account Policy]) on deposit in the Reserve Account. No such transfer and deposit need be made to the Reserve Account so long as there is on deposit therein a sum at least equal to the Reserve Requirement.

Initial Deposit into the Reserve Account. On the date of issuance of the Bonds, the Successor Agency expects to purchase a Qualified Reserve Account Credit Instrument in the form of a reserve fund surety bond or policy in that amount, which is equal to the initial "Reserve Requirement. In the event that the amount on deposit in the Reserve Account at any time because of a draw thereon becomes less than the Reserve Requirement, the Trustee will promptly notify the Successor Agency of such fact. Upon receipt of any such notice and as promptly as is permitted by the Redevelopment Law, the Successor Agency shall transfer to the Trustee an amount sufficient to maintain the Reserve Requirement on deposit in the Reserve Account.

Use of Moneys in the Reserve Account. All money in the Reserve Account will be used and withdrawn by the Trustee solely for the purpose of making transfers to the Interest Account, the Principal Account and the Sinking Account in the event of any deficiency at any

time in any of such accounts or for the retirement of all the Bonds then Outstanding, except that so long as the Successor Agency is not in default under the Indenture, any amount in the Reserve Account in excess of the Reserve Requirement will be withdrawn from the Reserve Account semiannually on or before two Business Days preceding each February 1 and August 1 by the Trustee and deposited in the Interest Account or, if applicable, be applied pro rata in accordance with any applicable provision with respect to Parity Debt.

All amounts in the Reserve Account on the Business Day preceding the final Interest Payment Date will be withdrawn from the Reserve Account and will be transferred to the Interest Account and the Principal Account, in such order, to the extent required to make the deposits then required to be made from the Reserve Account or will be applied pro rata as required with respect to any Parity Debt, as applicable.

If the Reserve Requirement with respect to a particular series of bonds is secured by a Qualified Reserve Account Credit Instrument that relates only to such series of bonds, the calculation of Reserve Requirement for such series of bonds shall be calculated on a stand alone basis.

Recognized Obligation Payment Schedules

Submission of Recognized Obligation Payment Schedule. When initially enacted, the Dissolution required that not less than 90 days prior to each January 2 and June 1 successor agencies prepare and submit to the successor agency's oversight board and the DOF for approval, a Recognized Obligation Payment Schedule (the "**Recognized Obligation Payment Schedule** or "**ROPS**") pursuant to which enforceable obligations (as defined in the Dissolution Act) of the successor agency are listed, together with the source of funds to be used to pay for each enforceable obligation. On September 22, 2015, the Governor of the State signed into law legislation adopted by the Legislature in Senate Bill 107 ("**SB 107**"), which requires the preparation of a ROPS process once each year (rather than twice each year under the former law) beginning with the annual ROPS period that commences on July 1, 2016. SB 107 alternatively allows, subject to meeting certain conditions, an optional "Last and Final Recognized Obligation Payment Schedule" to be submitted on or after January 1, 2016. The Last and Final ROPS is binding on all parties and the successor agency would no longer submit a periodic ROPS. Under that procedure, the county auditor-controller remits the authorized funds to the successor agency in accordance with the approved Last and Final ROPS until each remaining enforceable obligation has been fully paid. SB 107 provides that a Last and Final ROPS can only be amended twice, and only with DOF and county auditor-controller approval.

In order to ensure that amounts are available for the Trustee to pay debt service on all Outstanding Bonds and all amounts due and owing to the Bond Insurer on a timely basis, not later than February 1, of each year (or such other time as may be required by the Dissolution Act), commencing February 1, 2016, the Successor Agency shall submit an Oversight Board-approved Recognized Obligation Payment Schedule to the State Department of Finance and to the San Joaquin County Auditor-Controller that shall include:

(i) all of the debt service due on all Outstanding Bonds on February 1 and August 1 of the Bond Year ending on August 1 of the next calendar year, which amount shall be distributed in full to the Successor Agency on January 2 of such year, and

ATTACHMENT 7

(ii) any amount required to cure any deficiency in the Reserve Account pursuant to this Indenture (including any amounts required due to a draw on the Qualified Reserve Account Credit Instrument as well as all amounts due and owing to the 2016 Insurer hereunder).

In addition to the amounts described in clauses (i) and (ii) of the previous paragraph, if the amount of Tax Revenues distributed to the Successor Agency on January 2 in any year is less than the sum of the amounts specified in clauses (i) and (ii) of the previous paragraph, then not later than February 1 of such year (or on such other date as may be required by the Dissolution Act), the Successor Agency shall submit an Oversight Board-approved Recognized Obligation Payment Schedule to the State Department of Finance and to the San Joaquin County Auditor-Controller that shall include the balance due to the Successor Agency, which amount shall be distributed in full to the Successor Agency on June 1 of such year.

In the event the provisions set forth in the Dissolution Act as of the Closing Date of the 2016 Bonds that relate to the filing of Recognized Obligation Payment Schedules are amended or modified in any manner, the Successor Agency agrees to take all such actions as are necessary to comply with such amended or modified provisions so as to ensure the timely payment of debt service on the Bonds and, if the timing of distributions of the Redevelopment Property Tax Trust Fund is changed, the receipt of (i) not less than one of half of debt service due during each Bond Year on all Outstanding Bonds prior to February 1 of such Bond Year, and (ii) the remainder of debt service due during such Bond Year on all Outstanding Bonds prior to the next succeeding August 1.

The Successor Agency has no power to levy and collect taxes, and various factors beyond its control could affect the amount of Tax Revenues available in any six-month period to pay the principal of and interest on the Bonds (see "RISK FACTORS").

Payment of Amounts Listed on the Recognized Obligation Payment Schedule. As defined in the Dissolution Act, "**enforceable obligation**" includes bonds, including the required debt service, reserve set-asides, and any other payments required under the indenture or similar documents governing the issuance of the outstanding bonds of the former redevelopment agency or the successor agency, as well as other obligations such as loans, judgments or settlements against the former redevelopment agency or the successor agency, any legally binding and enforceable agreement that is not otherwise void as violating the debt limit or public policy, contracts necessary for the administration or operation of the successor agency, and, under certain circumstances, amounts borrowed from the successor agency's low and moderate income housing fund.

A reserve may be included on the Recognized Obligation Payment Schedule and held by the successor agency when required by a bond indenture or when the next property tax allocation will be insufficient to pay all obligations due under the provisions of the bonds for the next payment due in the following half of the calendar year.

Sources of Payments for Enforceable Obligations. Under the Dissolution Act, the categories of sources of payments for enforceable obligations listed on a Recognized Obligation Payment Schedule are the following: (i) the low and moderate income housing fund, (ii) bond proceeds, (iii) reserve balances, (iv) administrative cost allowance (successor agencies are entitled to receive not less than \$250,000, unless that amount is reduced by the oversight board), (v) the Redevelopment Property Tax Trust Fund (but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation or otherwise required under the Dissolution Act), or (vi) other revenue sources

(including rents, concessions, asset sale proceeds, interest earnings, and any other revenues derived from the redevelopment agency, as approved by the oversight board).

The Dissolution Act provides that only those payments listed in the Recognized Obligation Payment Schedule may be made by a successor agency and only from the funds specified in the Recognized Obligation Payment Schedule.

Order of Priority of Distributions from Redevelopment Property Tax Trust Fund. Typically, under the Redevelopment Property Tax Trust Fund distribution provisions of the Dissolution Act, a county auditor-controller is to distribute funds for each six-month period in the following order specified in Section 34183 of the Dissolution Act:

(i) first, subject to certain adjustments for subordinations to the extent permitted under the Dissolution Act (if any, as described above under "TAX INCREMENT FINANCING GENERALLY - Adjustment to Revenue - Statutory Pass-Through Payments") and no later than each January 2 and June 1, to each local successor agency and school entity, to the extent applicable, amounts required for pass-through payments such entity would have received under provisions of the Redevelopment Law, as those provisions read on January 1, 2011, including negotiated pass-through agreements and statutory pass-through obligations (note however, the such pass-through payments have been made subordinate to debt service on the Bonds);

(ii) second, on each January 2 and June 1, to the successor agency for payments listed in its Recognized Obligation Payment Schedule, with debt service payments scheduled to be made for tax allocation bonds having the highest priority over payments scheduled for other debts and obligations listed on the Recognized Obligation Payment Schedule;

(iii) third, on each January 2 and June 1, to the successor agency for the administrative cost allowance, as defined in the Dissolution Act; and

(iv) fourth, on each January 2 and June 1, to taxing entities any moneys remaining in the Redevelopment Property Tax Trust Fund after the payments and transfers authorized by clauses (i) through (iii), in an amount proportionate to such taxing entity's share of property tax revenues in the tax rate area in that fiscal year (without giving effect to any pass-through obligations that were established under the Redevelopment Law).

Failure to Submit a Recognized Obligation Payment Schedule. The Recognized Obligation Payment Schedule must be approved by the oversight board and must be submitted by a successor agency to the county administrative office, the county auditor-controller, the DOF, and the State Controller by each February 1. If the successor agency does not submit a Recognized Obligation Payment Schedule by the applicable deadline, the city or county that established the former redevelopment agency will be subject to a civil penalty equal to \$10,000 per day for every day the schedule is not submitted to the DOF. For additional information regarding procedures under the Dissolution Act relating to late Recognized Obligation Payment Schedules and implications thereof on the Bonds, see "RISK FACTORS – Recognized Obligation Payment Schedule."

Adjustments to Revenue

State law allows counties to charge taxing entities, including redevelopment agencies, for the cost of administering the property tax collection system. In addition, the Dissolution Act allows counties to recover their costs in implementing the redevelopment Dissolution Act.

For project areas adopted prior to 1994, taxing entities could elect to receive additional property taxes above the base year revenue amount. Such amounts are calculated by increasing the real property portion of base year values by an inflation factor of up to 2% annually. Taxing entities can receive a proportionate share of such revenues if they elected to do so prior to adoption of the redevelopment plan. The Project Area was adopted before 1994, so the increase is not applicable.

PROPERTY TAXATION IN CALIFORNIA

Article XIII A of the State Constitution

Article XIII A limits the amount of ad valorem taxes on real property to 1% of "full cash value" of such property, as determined by the county assessor. Article XIII A defines "full cash value" to mean "the County Assessor's valuation of real property as shown on the 1975-76 tax bill under 'full cash value,' or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment." Furthermore, the "full cash value" of all real property may be increased to reflect the rate of inflation, as shown by the consumer price index, not to exceed 2% per year, or may be reduced.

Article XIII A has subsequently been amended to permit reduction of the "full cash value" base in the event of declining property values caused by substantial damage, destruction or other factors, and to provide that there would be no increase in the "full cash value" base in the event of reconstruction of property damaged or destroyed in a disaster and in other special circumstances.

Article XIII A (i) exempts from the 1% tax limitation taxes to pay debt service on (a) indebtedness approved by the voters prior to July 1, 1978 or (b) bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition; (ii) requires a vote of two-thirds of the qualified electorate to impose special taxes, or certain additional ad valorem taxes; and (iii) requires the approval of two-thirds of all members of the State Legislature to change any State tax laws resulting in increased tax revenues.

The validity of Article XIII A has been upheld by both the California Supreme Court and the United States Supreme Court.

In the general election held November 4, 1986, voters of the State approved two measures, Propositions 58 and 60, which further amended Article XIII A. Proposition 58 amended Article XIII A to provide that the terms "purchase" and "change of ownership," for the purposes of determining full cash value of property under Article XIII A, do not include the purchase or transfer of (1) real property between spouses and (2) the principal residence and the first \$1,000,000 of other property between parents and children. This amendment to Article XIII A may reduce the rate of growth of local property tax revenues.

Proposition 60 amended Article XIII A to permit the Legislature to allow persons over the age of 55 who sell their residence and buy or build another of equal or lesser value within two years in the same county, to transfer the old residence assessed value to the new residence. As a result of the Legislature's action, the growth of property tax revenues may decline.

Legislation enacted by the Legislature to implement Article XIII A provides that all taxable property is shown at full assessed value as described above. In conformity with this procedure, all taxable property value included in this Official Statement is shown at 100% of assessed value and all general tax rates reflect the \$1 per \$100 of taxable value (except as noted). Tax rates for voter-approved bonded indebtedness and pension liabilities are also applied to 100% of assessed value.

Each year the State Board of Equalization announces the applicable adjustment factor. Since the adoption of Proposition 13, inflation has, in most years, exceeded 2% and the

ATTACHMENT 7

announced factor has reflected the 2% cap. The changes in the California Consumer Price Index from October of one year and October of the next year are used to determine the adjustment factor for the January assessment date. Through fiscal year 2010-11 there were six occasions when the inflation factor was less than 2%. Until fiscal year 2010-11 the annual adjustment never resulted in a reduction to the base year values of individual parcels; however, the factor that was applied to real property assessed values for the January 1, 2010 assessment date was -0.237% and this resulted in a reductions to the adjusted base year value of parcels. The table below reflects the inflation adjustment factors for the current fiscal year and 12 prior fiscal years. Although the State Board of Equalization has announced an inflation factor of 1.998% for fiscal year 2015-16, the projections of Tax Revenues in Table 8.2 herein assumes an annual growth factor of 2% per year commencing fiscal year 2016-17. See "THE PROJECT AREA - Projected Tax Revenues and Estimated Debt Service Coverage."

Historical Inflation Adjustment Factors

<u>Fiscal Year</u>	<u>Base Year Value Change</u>
2003-04	2.000%
2004-05	1.867
2005-06	2.000
2006-07	2.000
2007-08	2.000
2008-09	2.000
2009-10	2.000
2010-11	-0.237
2011-12	0.753
2012-13	2.000
2013-14	2.000
2014-15	0.454
2015-16	1.998

Appropriations Limitation - Article XIII B

Article XIII B limits the annual appropriations of the State and its political subdivisions to the level of appropriations for the prior fiscal year, as adjusted for changes in the cost of living, population and services rendered by the government entity. The "base year" for establishing such appropriations limit is the 1978-79 fiscal year, and the limit is to be adjusted annually to reflect changes in population, consumer prices and certain increases in the cost of services provided by these public agencies.

Section 33678 of the Redevelopment Law provides that the allocation of taxes to a redevelopment agency for the purpose of paying principal of, or interest on, loans, advances, or indebtedness shall not be deemed the receipt by a redevelopment agency of proceeds of taxes levied by or on behalf of a redevelopment agency within the meaning of Article XIII B, nor shall such portion of taxes be deemed receipt of proceeds of taxes by, or an appropriation subject to the limitation of, any other public body within the meaning or for the purpose of the Constitution and laws of the State, including Section 33678 of the Redevelopment Law. The constitutionality of Section 33678 has been upheld in two California appellate court decisions. On the basis of these decisions, the Successor Agency has not adopted an appropriations limit.

Proposition 87

On November 8, 1988, the voters of the State approved Proposition 87, which amended Article XVI, Section 16 of the State Constitution to provide that property tax revenue attributable to the imposition of taxes on property within a redevelopment project area for the purpose of paying debt service on certain bonded indebtedness issued by a taxing entity (not the Former Agency or the Successor Agency) and approved by the voters of the taxing entity after January 1, 1989 will be allocated solely to the payment of such indebtedness and not to redevelopment agencies.

Appeals of Assessed Values

Pursuant to California law, a property owner may apply for a reduction of the property tax assessment for such owner's property by filing a written application, in a form prescribed by the State Board of Equalization, with the appropriate county board of equalization or assessment appeals board.

In the County, a property owner desiring to reduce the assessed value of such owner's property in any one year must submit an application to the County Assessment Appeals Board (the "**Appeals Board**"). Applications for any tax year must be submitted by September 15 of such tax year. Following a review of each application by the staff of the County Assessor's Office, the staff makes a recommendation to the Appeals Board on each application which has not been rejected for incompleteness or untimeliness or withdrawn. The Appeals Board holds a hearing and either reduces the assessment or confirms the assessment. The Appeals Board generally is required to determine the outcome of appeals within two years of each appeal's filing date. Any reduction in the assessment ultimately granted applies only to the year for which application is made and during which the written application is filed. The assessed value increases to its pre-reduction level for fiscal years following the year for which the reduction application is filed. However, if the taxpayer establishes through proof of comparable values that the property continues to be overvalued (known as "ongoing hardship"), the Assessor has the power to grant a reduction not only for the year for which application was originally made, but also for the then current year as well. Appeals for reduction in the "base year" value of an assessment, which generally must be made within three years of the date of change in ownership or completion of new construction that determined the base year, if successful, reduce the assessment for the year in which the appeal is taken and prospectively thereafter. Moreover, in the case of any reduction in any one year of assessed value granted for "ongoing hardship" in the then current year, and also in any cases involving stipulated appeals for prior years relating to base year and personal property assessments, the property tax revenues from which Tax Revenues are derived attributable to such properties will be reduced in the then current year. In practice, such a reduced assessment may remain in effect beyond the year in which it is granted.

See "THE PROJECT AREA" for information regarding historical and pending appeals of assessed valuations by property owners in the Project Area.

Future Initiatives

Article XIII A, Article XIII B, Article XIII C and Article XIII D and certain other propositions affecting property tax levies were each adopted as measures which qualified for the ballot pursuant to California's initiative process. From time to time other initiative measures could be adopted, further affecting Successor Agency revenues or the Successor Agency's ability to expend revenues.

BOND INSURANCE

[to come, if applicable]

**THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT AGENCY
OF THE CITY OF TRACY**

As described in "INTRODUCTION," the Dissolution Act dissolved the Former Agency as of February 1, 2012. Thereafter, pursuant to Section 34173 of the Dissolution Act, the City became the Successor Agency to the Former Agency. Subdivision (g) of Section 34173 of the Dissolution Act, added by AB 1484, expressly affirms that the Successor Agency is a separate public entity from the City, that the two entities shall not merge, and that the liabilities of the Former Agency will not be transferred to the City nor will the assets of the Former Agency become assets of the City.

Successor Agency Powers

All powers of the Successor Agency are vested in its five members who are elected members of the City Council. Pursuant to the Dissolution Act, the Successor Agency is a separate public body from the City and succeeds to the organizational status of the Former Agency but without any legal authority to participate in redevelopment activities, except to complete any work related to an approved enforceable obligation. The Successor Agency is tasked with expeditiously winding down the affairs of the Former Agency, pursuant to the procedures and provisions of the Dissolution Act. Under the Dissolution Act, substantially all Successor Agency actions are subject to approval by the Oversight Board, as well as review by the DOF.

Status of Compliance with Dissolution Act

The Dissolution Act requires a due diligence review to determine the unobligated balances of each successor agency that are available for transfer to taxing entities. The due diligence review involves separate reviews of each successor agency's low and moderate income housing fund and of all other funds and accounts. Once a successor agency completes the due diligence review and any transfers to taxing entities, the DOF will issue a finding of completion that expands the authority of each successor agency in carrying out the wind down process. A finding of completion allows a successor agency to, among other things, retain real property assets of the dissolved redevelopment agency and utilize proceeds derived from bonds issued prior to January 1, 2011.

After receiving a finding of completion, each successor agency is required to submit a Long Range Property Management Plan detailing what it intends to do with its inventory of properties. Successor agencies are not required to immediately dispose of their properties but are limited in terms of what they can do with the retained properties. Permissible uses include: sale of the property, use of the property to satisfy an enforceable obligation, retention of the property for future redevelopment, and retention of the property for governmental use. These plans must be filed by successor agencies within six months of receiving a finding of completion, and the DOF will review these plans as submitted on a rolling basis.

The Successor Agency received DOF approval of its finding of completion on _____ and its Long Range Property Management Plan on _____.

THE PROJECT AREA

The Redevelopment Plan for the Project Area

The Project Area, which is the sole project area of the Former Agency, consists of approximately 2,292 non-contiguous acres covering approximately 17% of the land within the City's boundaries. The Report on the Tracy Community Development Project adopted by the City Council in May 1990 identified 52 projects that the Agency intended to undertake as part of its efforts to revitalize and redevelop the Project Area. The 52 projects fall into seven broad categories: (1) streets and circulation, (2) general economic development, (3) utilities, (4) central business district, (5) public services, (6) public recreation/social/cultural/governmental facilities and (7) housing.

The City Council of the City adopted the Redevelopment Plan with respect to the Project Area on July 17, 1990 pursuant to its Ordinance No. 482. The Redevelopment Plan was amended by the City Council by Ordinance No. 508, adopted November 15, 1994, in order to comply with Assembly Bill 1290. The Redevelopment Plan was designed to enable the Former Agency to, among other things, eliminate blighting influences; encourage existing owners, businesses and tenants within the Project Area to participate in redevelopment activities; to sustain the existing residential, commercial and industrial base of the community; to provide required public improvements so as to encourage new construction by private enterprise; to mitigate development limitations which have and will continue to result in the lack of optimum utilization of the Project Area; and provide construction and employment opportunities in the development of new and rehabilitated facilities.

Land Use

The table below shows the land uses in the Project Area based on the 2015-16 property tax roll.

TABLE 1
COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY
Community Development Project
2015/16 Secured Valuation and Number of Parcels by Land Use Category

	2015/16 Secured Value	% of Total	No. of Parcels	% of Total
Non-Residential:				
Commercial/Office	\$387,200,174	35.9%	389	12.0%
Vacant Commercial	22,103,394	2.0	71	2.2
Hotel/Motel	32,554,261	3.0	11	0.3
Industrial	66,617,740	6.2	84	2.6
Vacant Industrial	3,193,123	0.3	10	0.3
Recreational	4,769,858	0.4	9	0.3
Government/Social/Institutional	2,236,376	0.2	47	1.5
Miscellaneous	2,032,737	0.2	31	1.0
Subtotal Non-Residential	\$520,707,663	48.3%	652	20.1%
Residential:				
Single Family Residence	\$425,106,358	39.4	1,951	60.3%
Condominium	36,881,687	3.4	245	7.6
Rural Residential	1,822,096	0.2	11	0.3

ATTACHMENT 7

Mobile Home	603,747	0.1	20	0.6
Mobile Home Park	2,124,546	0.2	5	0.2
2-4 Residential Units	41,880,039	3.9	210	6.5
5+ Residential Units/Apartments	45,712,092	4.2	53	1.6
Vacant Residential	4,010,984	0.4	89	2.8
Subtotal Residential	\$558,141,549	51.7%	2,584	79.9%
Total	\$1,078,849,212	100.0%	3,236	100.0%

Source: California Municipal Statistics, Inc.

ATTACHMENT 7

Major Taxable Property Owners. The following table lists the 20 largest taxable property owners within the Project Area for fiscal year 2015-16. Based on fiscal year 2015-16 locally assessed taxable valuations, the top 20 taxable property owners in the Project Area represent approximately 19.2% of the total assessed value of the Project Area.

**TABLE 2
SUCCESSOR AGENCY TO THE
COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY
20 Largest Taxpayers in Fiscal Year 2015-16**

<u>Assessee</u>	<u>Primary Land Use</u>	<u>2015/16 Secured Value</u>	<u>% of Total</u>	<u>% of Incremental Ass'd Value</u>
1. Car Corral Hollow LLC	Shopping Center	\$31,934,745	2.96%	3.35%
2. Kaiser Foundation Health Plan	Medical Offices	21,341,966	1.98	2.24%
3. Save Mart Supermarket	Shopping Center	17,433,951	1.62	1.83%
4. Shirlee M. Queirolo Trust	Shopping Center	16,717,701	1.55	1.75%
5. Stuart LP	Shopping Center	13,955,578	1.29	1.46%
6. McCorduck Properties LLC	Shopping Center	10,758,217	1.00	1.13%
7. Pak & Pak Hospitality LLC	Hotel/Motel	9,354,379	0.87	0.98%
8. Triad Tracy II LP	Office Building	9,047,405	0.84	0.95%
9. Tracy Mini Storage LLC	Public Storage	8,250,256	0.76	0.86%
10. Calstone Holdings LLC	Light Industrial	7,029,199	0.65	0.74%
11. ESH/ESA Properties LLC	Hotel/Motel	6,958,793	0.65	0.73%
12. Pacific Bowie Martin Partnership	Commercial	6,921,996	0.64	0.73%
13. Doane Products Company	Light Industrial	6,772,721	0.63	0.71%
14. Driftwood Apartments	Apartments	6,771,211	0.63	0.71%
15. Public Storage Inc.	Public Storage	6,460,652	0.60	0.68%
16. Pacific World Investment Inc.	Shopping Center	6,303,000	0.58	0.66%
17. Tracy Orchard Plaza LP	Shopping Center	5,408,390	0.50	0.57%
18. Michele Lissberger Trust	Shopping Center	5,370,000	0.50	0.56%
19. Hirahara III LLC	Commercial	5,324,397	0.49	0.56%
20. Granville LLC	Apartments	5,310,724	0.49	0.56%
Total, 20 Largest Taxpayers		\$207,425,281	19.2%	21.7%
Total, 2015/16 Secured Value		\$1,078,849,212		

Source: California Municipal Statistics, Inc.

Summary of Assessed Value History in the Project Area

General. Taxable values are prepared and reported by the County Auditor-Controller each fiscal year and represent the aggregation of all locally assessed properties that are part of the Project Area. The parcels are assigned to Tax Rate Areas which collectively have the same boundaries as the Project Area.

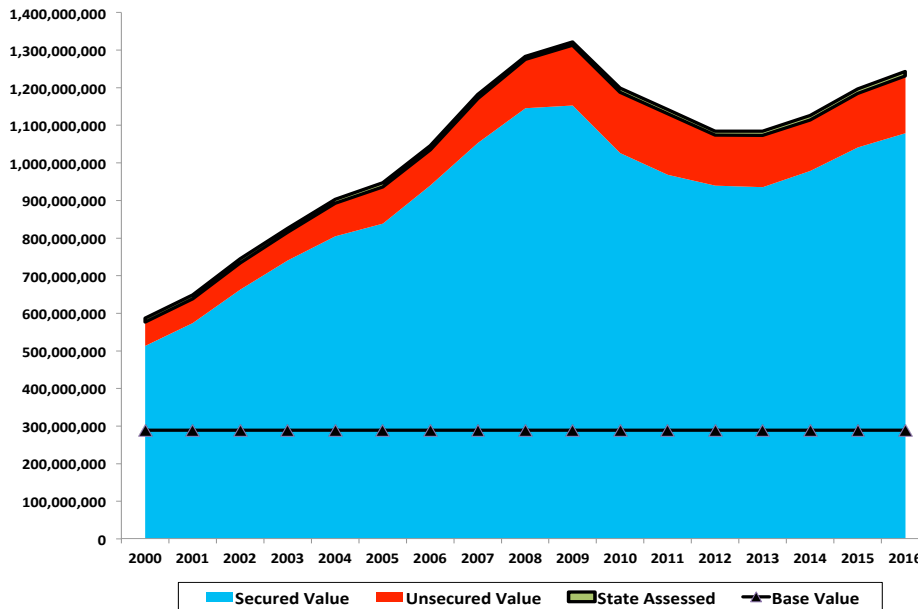
ATTACHMENT 7

The following table and graphic summarizes the historic assessed valuation and tax increment for the Project Area since fiscal year 1999-2000:

**TABLE 3
SUCCESSOR AGENCY TO THE
COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY
Historical Assessed Valuation and Incremental Value**

Fiscal Year	Secured Value	Unsecured Value	State Assessed	Total Value	% Change	Base Value	Incremental Value	% Change
2000	\$512,659,673	\$63,881,414	\$10,889,760	\$587,430,847		\$288,387,821	\$299,043,026	
2001	573,364,694	64,880,261	10,832,613	649,077,568	10.5%	288,387,821	360,689,747	20.6%
2002	662,611,486	71,126,276	11,137,763	744,875,525	14.8	288,387,821	456,487,704	26.6
2003	740,091,148	75,293,195	10,837,829	826,222,172	10.9	288,387,821	537,834,351	17.8
2004	804,131,872	88,173,000	10,875,153	903,180,025	9.3	288,387,821	614,792,204	14.3
2005	838,188,791	97,885,651	11,397,412	947,471,854	4.9	288,387,821	659,084,033	7.2
2006	939,715,330	94,790,962	11,215,065	1,045,721,357	10.4	288,387,821	757,333,536	14.9
2007	1,053,234,834	118,029,640	10,765,249	1,182,029,723	13.0	288,387,821	893,641,902	18.0
2008	1,145,377,660	129,426,090	8,282,250	1,283,086,000	8.5	288,387,821	994,698,179	11.3
2009	1,152,328,187	160,763,544	8,282,250	1,321,373,981	3.0	288,387,821	1,032,986,160	3.8
2010	1,025,922,288	161,787,633	11,041,870	1,198,751,791	-9.3	288,387,821	910,363,970	-11.9
2011	968,008,540	162,630,569	11,041,870	1,141,680,979	-4.8	288,387,821	853,293,158	-6.3
2012	938,925,411	134,763,611	11,041,870	1,084,730,892	-5.0	288,387,821	796,343,071	-6.7
2013	935,097,985	138,021,493	11,041,870	1,084,161,348	-0.1	288,387,821	795,773,527	-0.1
2014	978,597,126	135,223,860	12,164,031	1,125,985,017	3.9	288,387,821	837,597,196	5.3
2015	1,040,761,437	143,997,675	12,164,031	1,196,923,143	6.3	288,387,821	908,535,322	8.5
2016	1,078,849,212	151,934,469	12,164,031	1,242,947,712	3.8	288,387,821	954,559,891	5.1

Source: California Municipal Statistics, Inc.



Unitary Property

Unitary revenues are allocated to the Project Area based on a formula contained in AB 454. Generally, the Agency receives unitary revenues on the basis of amounts that were received in the prior fiscal year. The prior year allocations are adjusted annually based on changes in unitary revenue on a countywide basis. The amount of unitary revenues to be allocated to the Successor Agency from the Project Area for fiscal year 2015-16 is estimated to be \$_____.

Tax Rates

Tax rates will vary from area to area within the State, as well as within a community and a redevelopment project area. The tax rate for any particular parcel is based upon the jurisdictions levying the tax rate for the area where the parcel is located. The tax rate consists of the general levy rate of \$1.00 per \$100 of taxable value and any over-ride tax rate. The over-ride rate is that portion of the tax rate that exceeds the general levy tax rate and is levied to pay voter approved indebtedness or contractual obligations that existed prior to the enactment of Proposition XIII.

Section 34183(a)(1) of the Dissolution Act requires the County Auditor-Controller to allocate all revenues attributable to tax rates levied to make annual repayments of the principal of and interest on any bonded indebtedness for the acquisition or improvement of real property to the taxing entity levying the tax rate. As a result, the tax increment revenues being deposited into the Redevelopment Property Tax Trust Fund include only revenues derived from the general 1% levy and includes no revenues derived from over-ride tax rates that had been included in tax increment revenues prior to the dissolution of redevelopment agencies. The projections of tax increment available to pay debt service on the Bonds are based only on revenue derived from the general levy tax rate.

Appeals of Assessed Values; Proposition 8 Reductions

Pursuant to California law, property owners may apply for a reduction of their property tax assessment by filing a written application, in form prescribed by the State Board of Equalization, with the appropriate county board of equalization or assessment appeals board.

After the applicant and the assessor have presented their arguments, the Appeals Board makes a final decision on the proper assessed value. The Appeals Board may rule in the assessor's favor, in the applicant's favor, or the Board may set their own opinion of the proper assessed value, which may be more or less than either the assessor's opinion or the applicant's opinion.

Any reduction in the assessment ultimately granted applies to the year for which the application is made and may also affect the values in subsequent years. Refunds for taxpayer overpayment of property taxes may include refunds for overpayment of taxes in years after that which was appealed. Current year values may also be adjusted as a result of a successful appeal of prior year values. Any taxpayer payment of property taxes that is based on a value that is subsequently adjusted downward will require a refund for overpayment.

Appeals for reduction in the "base year" value of an assessment, if successful, reduce the assessment for the year in which the appeal is made and prospectively thereafter. The base year is determined by the completion date of new construction or the date of change of

ATTACHMENT 7

ownership. Any base year appeal must be made within four years of the change of ownership or new construction date. [[_____ has determined that there are currently ____ outstanding appeals for the 20 LargestTaxpayers shown on Table 2.]]

Appeals may also be filed under Section 51 of the Revenue and Taxation Code, which requires that for each lien date the value of real property shall be the lesser of its base year value annually adjusted by the inflation factor pursuant to Article XIII A of the State Constitution or its full cash value, taking into account reductions in value due to damage, destruction, depreciation, obsolescence, removal of property or other factors causing a decline in value. Significant reductions have taken place in some counties due to declining real estate values. Reductions made under this code section may be initiated by the County Assessor or requested by a property owner. After a roll reduction is granted under this section, the property is reviewed on an annual basis to determine its full cash value and the valuation is adjusted accordingly. This may result in further reductions or in value increases. Such increases must be in accordance with the full cash value of the property and it may exceed the maximum annual inflationary growth rate allowed on other properties under Article XIII A of the State Constitution. Once the property has regained its prior value, adjusted for inflation, it once again is subject to the annual inflationary factor growth rate allowed under Article XIII A. See "PROPERTY TAXATION IN CALIFORNIA" above.

Proposition 8, approved in 1978 (California Revenue and Taxation Code Section 51(b)), provides for the assessment of real property at the lesser of its originally determined (base year) full cash value compounded annually by the inflation factor, or its full cash value as of the lien date, taking into account reductions in value due to damage, destruction, obsolescence or other factors causing a decline in market value. Reductions under this code section may be initiated by the County Assessor or requested by the property owner.

After such reductions in value are implemented, the County Assessor is required to review the property's market value as of each subsequent lien date and adjust the value of real property to the lesser of its base year value as adjusted by the inflation factor pursuant to Article XIII A of the California Constitution or its full cash value taking into account reductions in value due to damage, destruction, depreciation, obsolescence, removal of property or other factors causing a decline in value. Reductions made under Proposition 8 to residential properties are normally initiated by the County Assessor but may also be requested by the property owner. Reductions of value for commercial, industrial and other land use types under Proposition 8 are normally initiated by the property owner as an assessment appeal.

After a roll reduction is granted under this code section, the property is reviewed on an annual basis to determine its full cash value and the valuation is adjusted accordingly. This may result in further reductions or in value increases. Such increases must be in accordance with the full cash value of the property and may exceed the maximum annual inflationary growth rate allowed on other properties under Article XIII A of the State Constitution. Once the property has regained its prior value, adjusted for inflation, it once again is subject to the annual inflationary factor growth rate allowed under Article XIII A.

_____ reviewed Proposition 8 Adjustments from the County for the past _____ fiscal years, 20____-____ through 2015-16, to determine the number of residential properties that were not reduced and the corresponding number of reversals. The results of the review are shown on the following table.

**TABLE 4
SUCCESSOR AGENCY TO THE
COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY
Proposition 8 Residential Impacts**

Source: Fraser and Associates.

[[As shown above, _____ residential parcels (inclusive of both single and multifamily parcels) had been reduced as of fiscal year 2012-13 tax roll, with a value reduction of almost \$_____ million. Proposition 8 value reductions are temporary, and once the market value of property goes back up, the value for the parcels under Proposition 8 status can increase up to their Proposition 13 base, including the compounded 2 percent inflation adjustment. Beginning in 2013-14, and continuing through 2015-16, the County has partially or fully reversed the prior Proposition 8 reductions and increased value by \$_____ million in 2014-15 and by an additional \$_____ million in 2015-16. The total number of reversals is actually greater than the reductions shown in the table above, most likely because certain property sold during the intervening period and were then reduced pursuant to Proposition 8.]]

In terms of future residential Proposition 8 reductions, recent sales data indicates that property is selling for more than the value recorded on the current tax roll. The table below shows the recent trends for calendar years 2014 and 2015 (through _____ 2015).

**TABLE 5
SUCCESSOR AGENCY TO THE
COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY
Proposition 8 Residential Impacts - Recent Trends, As of _____ 2015**

Source: Fraser and Associates.

Tax Sharing Payments

Negotiated Tax Sharing Payments. The Redevelopment Law authorized the Former Agency to enter into agreements with taxing agencies whose territory was located within the Project Area, whereby the Former Agency would pay tax increment revenues to such taxing agencies to alleviate the financial burden or detriment caused by the Redevelopment Project. The Former Agency entered into such tax-sharing agreements that applies to the tax increment revenues of the Project Area with the County of San Joaquin and related entities, the Tracy Elementary School District, the San Joaquin Delta College District and the San Joaquin County Superintendent of Schools. ***[All of the statutory requirements necessary to subordinate the***

payment of all amounts payable pursuant to the aforementioned negotiated tax-sharing agreements to the payment of debt service on the 2016 Bonds have been fully satisfied.]

Statutory Payments. Pursuant to former Health & Safety Code Section 33676, in lieu of entering into a negotiated tax-sharing agreement with the Former Agency, certain taxing entities whose territory is located within the Project Area elected to receive pass-through payments pursuant to a "2% unilateral election" to alleviate the financial burden or detriment caused by the Redevelopment Project. Such taxing entities include Tracy Public Cemetery District, San Joaquin County Mosquito & Vector Control District, Byron-Bethany Irrigation District, Naglee Burk Irrigation District, West Side Irrigation District and City of Tracy.

The Successor Agency's obligation to make statutory (2% election) pass-through payments to the aforementioned taxing entities is senior to its obligation to pay debt service on the 2016 Bonds. Housing Set-Aside

Before it was amended by the Dissolution Act, the Redevelopment Law required the Former Agency to set aside not less than 20% of all tax increment generated in the Project Area into a low and moderate income housing fund to be used for the purpose of increasing, improving and/or preserving the supply of low and moderate income housing. These tax increment revenues were commonly referred to as "Housing Set-Aside."

The Dissolution Act eliminated the Housing Set-Aside requirement. As a result, and because the Successor Agency has no obligations that are payable from Housing Set-Aside, the Dissolution Act has been interpreted to provide that the amount of the tax increment that would have been the former Housing Set-Aside is available to pay debt service on the Bonds. Accordingly, the projection of Tax Revenues set forth in the section of this Official Statement entitled "THE PROJECT AREA – Projected Tax Revenues and Estimated Debt Service Coverage," assumes the availability of the former Housing Set-Aside for this purpose. The Successor Agency has no obligations payable from the Housing Set-Aside.

Historical Available Tax Increment

A calculation of net deposits to the Successor Agency's Redevelopment Property Tax Trust Fund since 2013 is shown in the following table.

**TABLE 6
SUCCESSOR AGENCY TO THE
COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY
Net Deposits to Tracy Successor Agency Redevelopment Property Tax Trust Fund (RPTTF)
2013 - 2015**

RPTTF Deposits:	<u>2013</u>	<u>2014</u>	<u>2015</u>
Property taxes	\$7,919,287	\$8,339,395	\$9,072,933
Interest Earnings/Other	(2,181)	3,149	3,487
Total RPTTF Deposit	7,917,106	8,342,544	9,076,420
(less) County Administration Fee	184,557	184,753	182,266
(equals) Net Deposit to RPTTF	7,732,549	8,157,791	8,894,154

ATTACHMENT 7

(less) Senior Pass-through Payments	243,606	257,647	260,334
(less) Enforceable Obligations	4,346,950	4,083,025	3,939,516
(less) Subordinate Pass-through Payments	1,891,155	2,031,364	2,218,044
(equals) RPTTF Residual Revenues	1,250,837	1,785,755	2,476,260

Source: Office of the San Joaquin County Auditor-Controller.

Property tax revenues in the Project Area do not reflect actual collections because the County has adopted the Teeter Plan. See "TAX INCREMENT FINANCING GENERALLY – Property Tax Allocation Procedures - Teeter Plan."

Projected Tax Revenues and Estimated Debt Service Coverage

Low and Moderate Income Housing Set-Aside. As described in "SECURITY FOR THE BONDS - Housing Set-Aside," the Dissolution Act eliminated the distinction between the former 20% Housing Set-Aside and non-Housing Set-Aside property tax revenues. As a result, and because the Successor Agency has no obligations that are payable from Housing Set-Aside, the Dissolution Act is interpreted to provide that the former Housing Set-Aside requirement is available to pay debt service on the Bonds. The projection of Tax Revenues set forth below assumes the availability of the former Housing Set-Aside for this purpose, followed by a table showing the projected debt service coverage on the Bonds.

ATTACHMENT 7

2015-16 Estimate of Tax Revenue. The following table shows the estimated Tax Revenues for Fiscal Year 2015-16.

**TABLE 7
SUCCESSOR AGENCY TO THE
COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY
Estimate of Incremental Value and Tax Increment Revenue
Fiscal Year 2015-16⁽¹⁾**

Local Secured:	
Real Property	\$1,072,122,327
Homeowners Exemption	6,726,885
Net Local Secured	<u>1,078,849,212</u>
State Assessed	12,164,031
Unsecured Property	151,934,469
Total Assessed Value	1,242,947,712
Base Year Value	(288,387,821)
Incremental Value	<u>954,559,891</u>
Incremental Revenue ⁽¹⁾	9,545,599
County Administration Fee ⁽²⁾	(190,912)
Senior Pass-Through Payments ⁽³⁾	(270,344)
Tax Revenue	<u>9,354,687</u>

(1) Incremental Revenue equals 1.00% of Incremental Value.

(2) County Administration Fee equals 2.00% of Incremental Revenue.

(3) Certain pass-through payments payable pursuant to H&S Code Section 33676 (e.g. the 2% Election) are not eligible to be subordinated to the payment of debt service on the Bonds.

Source: _____.

Estimated Debt Service Coverage. The following table shows the projected debt service schedule coverage of the Bonds, assuming no annual assessed valuation growth and no optional redemption of the Bonds.

TABLE 8
SUCCESSOR AGENCY TO THE
COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY
Projection of Incremental Value and Tax Revenues - No Annual Growth

12-Mo. Ending Aug 1,	Total Assessed Value	% Change	Base Value	Incremental Value	Incremental Revenue ⁽¹⁾	County Admin. Fee ⁽²⁾	Senior Pass- Through Payments ⁽³⁾	Pledged Tax Revenue	Estimated Debt Service*	Debt Service Coverage
2016 ⁽⁴⁾	\$1,242,947,712	0.0%	\$288,387,821	\$954,559,891	\$9,545,599	\$(190,912)	\$(270,344)	\$4,542,171	\$1,110,673	409%
2017	1,242,947,712	0.0	288,387,821	954,559,891	9,545,599	(190,912)	(270,344)	9,084,343	2,982,100	305%
2018	1,242,947,712	0.0	288,387,821	954,559,891	9,545,599	(190,912)	(270,344)	9,084,343	2,970,900	306%
2019	1,242,947,712	0.0	288,387,821	954,559,891	9,545,599	(190,912)	(270,344)	9,084,343	2,977,900	305%
2020	1,242,947,712	0.0	288,387,821	954,559,891	9,545,599	(190,912)	(270,344)	9,084,343	2,972,300	306%
2021	1,242,947,712	0.0	288,387,821	954,559,891	9,545,599	(190,912)	(270,344)	9,084,343	2,964,500	306%
2022	1,242,947,712	0.0	288,387,821	954,559,891	9,545,599	(190,912)	(270,344)	9,084,343	2,964,500	306%
2023	1,242,947,712	0.0	288,387,821	954,559,891	9,545,599	(190,912)	(270,344)	9,084,343	2,966,900	306%
2024	1,242,947,712	0.0	288,387,821	954,559,891	9,545,599	(190,912)	(270,344)	9,084,343	2,956,500	307%
2025	1,242,947,712	0.0	288,387,821	954,559,891	9,545,599	(190,912)	(270,344)	9,084,343	2,955,500	307%
2026	1,242,947,712	0.0	288,387,821	954,559,891	9,545,599	(190,912)	(270,344)	9,084,343	2,955,000	307%
2027	1,242,947,712	0.0	288,387,821	954,559,891	9,545,599	(190,912)	(270,344)	9,084,343	2,949,750	308%
2028	1,242,947,712	0.0	288,387,821	954,559,891	9,545,599	(190,912)	(270,344)	9,084,343	2,944,750	308%
2029	1,242,947,712	0.0	288,387,821	954,559,891	9,545,599	(190,912)	(270,344)	9,084,343	2,939,750	309%
2030	1,242,947,712	0.0	288,387,821	954,559,891	9,545,599	(190,912)	(270,344)	9,084,343	2,934,500	310%
2031	1,242,947,712	0.0	288,387,821	954,559,891	9,545,599	(190,912)	(270,344)	9,084,343	2,933,750	310%
2032	1,242,947,712	0.0	288,387,821	954,559,891	9,545,599	(190,912)	(270,344)	9,084,343	2,927,000	310%
2033	1,242,947,712	0.0	288,387,821	954,559,891	9,545,599	(190,912)	(270,344)	9,084,343	2,924,250	311%

(1) Incremental Revenue equals 1.00% of Incremental Value

(2) County Administration Fee equals 2.00% of Incremental Revenue.

(3) Certain pass-through payments payable pursuant to H&S Code Section 33676 (e.g. the 2% Election) are not eligible to be subordinated to the payment of debt service on the Bonds.

(4) Pledged Tax Revenue and Estimated Debt Service in 2016 is for six-month period only.

Source: _____.

* Preliminary, subject to change.

RISK FACTORS

The following information should be considered by prospective investors in evaluating the Bonds. However, the following does not purport to be an exhaustive listing of risks and other considerations which may be relevant to investing in the Bonds. In addition, the order in which the following information is presented is not intended to reflect the relative importance of any such risks.

The various legal opinions to be delivered concurrently with the issuance of the Bonds will be qualified as to the enforceability of the various legal instruments by limitations imposed by State and federal laws, rulings and decisions affecting remedies, and by bankruptcy, reorganization or other laws of general application affecting the enforcement of creditors' rights, including equitable principles.

Recognized Obligation Payment Schedule

The Dissolution Act provides that only those payments listed in a Recognized Obligation Payment Schedule may be made by a successor agency from the funds specified in the Recognized Obligation Payment Schedule. Pursuant to Section 34177 of the Dissolution Act, by the February 1st prior to each July 1st of each year, the Successor Agency shall submit to the Oversight Board and the DOF, a Recognized Obligation Payment Schedule. For each annual period, the Dissolution Act requires each successor agency to prepare and approve, and submit to the successor agency's oversight board and the DOF for approval, a Recognized Obligation Payment Schedule pursuant to which enforceable obligations (as defined in the Dissolution Act) of the successor agency are listed, together with the source of funds to be used to pay for each enforceable obligation. Consequently, Tax Revenues will not be withdrawn from the Redevelopment Property Tax Trust Fund by the county auditor-controller and remitted to the Successor Agency without a duly approved and effective Recognized Obligation Payment Schedule to pay debt service on the Bonds and to pay other enforceable obligations. In the event the Successor Agency were to fail to file a Recognized Obligation Payment Schedule, the availability of Tax Revenues to the Successor Agency could be adversely affected. See "SECURITY FOR THE BONDS - Recognized Obligation Payment Schedules."

For a description of the covenants made by the Successor Agency in the Indenture relating to the obligation to submit Recognized Obligation Payment Schedules on a timely basis, and the Successor Agency's history of submissions of Recognized Obligation Payment Schedules, see "SECURITY FOR THE BONDS – Recognized Obligation Payment Schedules."

AB 1484 also added provisions to the Dissolution Act implementing certain penalties in the event a successor agency does not timely submit a Recognized Obligation Payment Schedule. Specifically, a Recognized Obligation Payment Schedule must be submitted by the successor agency to the oversight board, to the county administrative officer, the county auditor-controller, the DOF, and the State Controller no later than the mandated deadlines. If a successor agency does not submit a Recognized Obligation Payment Schedule by such deadlines, the city or county that established the redevelopment agency will be subject to a civil penalty equal to \$10,000 per day for every day the schedule is not submitted to the DOF. Additionally, a successor agency's maximum administrative cost allowance is reduced by 25% if the successor agency does not submit an oversight board-approved Recognized Obligation Payment Schedule within 10 days of the deadline.

No Validation Proceedings Undertaken

Code of Civil Procedure Section 860 authorizes public agencies to institute a process, otherwise known as a "validation proceeding," for purposes of determining the validity of a resolution or any action taken pursuant thereto. Section 860 authorizes a public agency to institute validation proceedings in cases where another statute authorizes its use. Relevant to the Bonds, Government Code Section 53511 authorizes a local agency to "bring an action to determine the validity of its bonds, warrants, contracts, obligations or evidences of indebtedness." Under Code of Civil Procedure Section 870, a final favorable judgment issued in a validation proceeding will, notwithstanding any other provision of law, be forever binding and conclusive, as to all matters herein adjudicated or which could have been adjudicated, against all persons: "The judgment shall permanently enjoin the institution by any person of any action or proceeding raising any issue as to which the judgment is binding and conclusive."

The Successor Agency has not undertaken or endeavored to undertake any validation proceeding in connection with the issuance of the Bonds. The Successor Agency and Bond Counsel have relied on the provisions of AB 1484 authorizing the issuance of the Bonds and specifying the related deadline for any challenge to the Bonds to be brought. Specifically, Section 34177.5(e) of the Dissolution Act provides that notwithstanding any other law, an action to challenge the issuance of bonds (such as the Bonds), the incurrence of indebtedness, the amendment of an enforceable obligation, or the execution of a financing agreement authorized under Section 34177.5, must be brought within 30 days after the date on which the oversight board approves the resolution of the successor agency approving such financing. Such challenge period has expired with respect to the Bonds and the Oversight Board Resolution approving the Bonds.

Reduction in Taxable Value

Tax increment revenue available to pay principal of and interest on the Bonds are determined by the amount of incremental taxable value in the Project Area and the current rate or rates at which property in the Project Area is taxed. The reduction of taxable values of property in the Project Area caused by economic factors beyond the Successor Agency's control, such as relocation out of the Project Area by one or more major property owners, sale of property to a non-profit corporation exempt from property taxation, or the complete or partial destruction of such property caused by, among other eventualities, earthquake or other natural disaster, could cause a reduction in the tax increment available to pay debt service on the Bonds. Such reduction of tax increment available to pay debt service on the Bonds could have an adverse effect on the Successor Agency's ability to make timely payments of principal of and interest on the Bonds; this risk could be increased by the significant concentration of property ownership in the Project Area.

The County calculates tax increment to redevelopment project areas by applying a one percent rate to the secured and unsecured incremental taxable values. The County also allocates unitary revenue on the basis of the total unitary revenue in a project area, without reductions for base year revenues. The allocation of unitary revenue is based on revenues received in 1987-88, adjusted by the actual growth or decline in unitary revenues on a countywide basis.

As described in greater detail under the heading "PROPERTY TAXATION IN CALIFORNIA – Article XIII A of the State Constitution," Article XIII A provides that the full cash value base of real property used in determining taxable value may be adjusted from year to year

to reflect the inflation rate, not to exceed a two percent increase for any given year, or may be reduced to reflect a reduction in the consumer price index, comparable local data or any reduction in the event of declining property value caused by damage, destruction or other factors (as described above). Such measure is computed on a calendar year basis. Any resulting reduction in the full cash value base over the term of the Bonds could reduce tax increment available to pay debt service on the Bonds.

In addition to the other limitations on, and required application under the Dissolution Act of Tax Revenues on deposit in the Redevelopment Property Tax Trust Fund, the State electorate or Legislature could adopt a constitutional or legislative property tax reduction with the effect of reducing Tax Revenues allocated to the Redevelopment Property Tax Trust Fund and available to the Successor Agency. Although the federal and State Constitutions include clauses generally prohibiting the Legislature's impairment of contracts, there are also recognized exceptions to these prohibitions. There is no assurance that the State electorate or Legislature will not at some future time approve additional limitations that could reduce the tax increment available to pay debt service on the Bonds and adversely affect the source of repayment and security of the Bonds.

Risks Associated with the Insurer

Before the delivery of the Bonds, the Successor Agency will pay the premium for the Bond Insurance Policy for the Bonds, and the reserve fund insurance policy. The Successor Agency can provide no assurances that the Bond Insurer will be able to meet its obligations under the Bond Insurance Policy or the reserve fund insurance policy, if and when required to do so. In addition, any change in the ratings of the Insurer could impact the price of the Bonds in the secondary market.

Risks to Real Estate Market

The Successor Agency's ability to make payments on the Bonds will be dependent upon the economic strength of the Project Area. The general economy of the Project Area will be subject to all of the risks generally associated with urban real estate markets. Real estate prices and development may be adversely affected by changes in general economic conditions, fluctuations in the real estate market and interest rates, unexpected increases in development costs and by other similar factors. Further, real estate development within the Project Area could be adversely affected by limitations of infrastructure or future governmental policies, including governmental policies to restrict or control development. The Project Area experienced significant declines in value due to Proposition 8 reductions. In addition, if there is a significant decline in the general economy of the Project Area, the owners of property within the Project Area may be less able or less willing to make timely payments of property taxes or may petition for reduced assessed valuation causing a delay or interruption in the receipt of Tax Revenues by the Successor Agency from the Project Area. See "THE PROJECT AREA - Projected Tax Revenues and Estimated Debt Service Coverage" for a description of the debt service coverage on the Bonds.

Reduction in Inflationary Rate

As described in greater detail below, Article XIII A of the State Constitution provides that the full cash value of real property used in determining taxable value may be adjusted from year to year to reflect the inflationary rate, not to exceed a 2% increase for any given year, or may be reduced to reflect a reduction in the consumer price index or comparable local data. Such measure is computed on a calendar year basis. Because Article XIII A limits inflationary assessed value adjustments to the lesser of the actual inflationary rate or 2%, there have been years in which the assessed values were adjusted by actual inflationary rates, which were less than 2%. The Successor Agency is unable to predict if any further adjustments to the full cash value base of real property within the Project Area, whether an increase or a reduction, will be realized in the future.

Levy and Collection of Taxes

The Successor Agency has no independent power to levy or collect property taxes. Any reduction in the tax rate or the implementation of any constitutional or legislative property tax decrease could reduce the tax increment available to pay debt service on the Bonds.

Although delinquencies in the payment of property taxes by the owners of land in the Project Area, and the impact of bankruptcy proceedings on the ability of taxing agencies to collect property taxes, could have an adverse effect on the Successor Agency's ability to make timely payments on the Bonds, the Successor Agency believes any such adverse impact is unlikely in light of the debt service coverage provided net tax increment. In addition, the County could elect to alter or terminate its Teeter Plan policy and, in such event, the amount of the levy of property tax revenue that could be allocated to the Successor Agency would depend upon the actual collections of the secured taxes within the Project Area. Substantial delinquencies in the payment of property taxes could impair the timely receipt by the Successor Agency of Tax Revenues. See "THE PROJECT AREA - Projected Tax Revenues and Estimated Debt Service Coverage" for a description of the debt service coverage on the Bonds.

Bankruptcy and Foreclosure

The payment of the property taxes from which Tax Revenues are derived and the ability of the County to foreclose the lien of a delinquent unpaid tax may be limited by bankruptcy, insolvency, or other laws generally affecting creditors' rights or by the laws of the State relating to judicial foreclosure. The various legal opinions to be delivered concurrently with the delivery of the Bonds (including Bond Counsel's approving legal opinion) will be qualified as to the enforceability of the various legal instruments by bankruptcy, insolvency, reorganization, moratorium, or other similar laws affecting creditors' rights, by the application of equitable principles and by the exercise of judicial discretion in appropriate cases.

Although bankruptcy proceedings would not cause the liens to become extinguished, bankruptcy of a property owner could result in a delay in prosecuting superior court foreclosure proceedings. Although such delay would increase the possibility of delinquent tax installments not being paid in full and thereby increase the likelihood of a delay or default in payment of the principal of and interest on the Bonds, the Successor Agency believes any such adverse impact is unlikely in light of the debt service coverage provided by fiscal year 2015-16 net tax increment. See "THE PROJECT AREA - Projected Tax Revenues and Estimated Debt Service Coverage" for a description of the debt service coverage on the Bonds.

Estimated Revenues

In estimating that net tax increment will be sufficient to pay debt service on the Bonds, the Successor Agency has made certain assumptions with regard to present and future assessed valuation and new development in the Project Area, future tax rates and percentage of taxes collected. The Successor Agency believes these assumptions to be reasonable, but there is no assurance these assumptions will be realized and to the extent that the assessed valuation and the tax rates are less than expected, the net tax increment available to pay debt service on the Bonds will be less than those projected and such reduced net tax increment may be insufficient to provide for the payment of principal of, premium (if any) and interest on the Bonds.

Hazardous Substances

An additional environmental condition that may result in the reduction in the assessed value of property would be the discovery of a hazardous substance that would limit the beneficial use of taxable property within the Project Area. In general, the owners and operators of property may be required by law to remedy conditions of the property relating to releases or threatened releases of hazardous substances. The owner or operator may be required to remedy a hazardous substance condition of property whether or not the owner or operator has anything to do with creating or handling the hazardous substance. The effect, therefore, should any of the property within the Project Area be affected by a hazardous substance, could be to reduce the marketability and value of the property by the costs of remedying the condition.

Natural Disasters

The value of the property in the Project Area in the future can be adversely affected by a variety of additional factors, particularly those which may affect infrastructure and other public improvements and private improvements on property and the continued habitability and enjoyment of such private improvements. Such additional factors include, without limitation, geologic conditions such as earthquakes, topographic conditions such as earth movements, landslides and floods and climatic conditions such as droughts. In the event that one or more of such conditions occur, such occurrence could cause damages of varying seriousness to the land and improvements and the value of property in the Project Area could be diminished in the aftermath of such events. A substantial reduction of the value of such properties and could affect the ability or willingness of the property owners to pay the property taxes.

Seismic. Earthquake faults exist in many parts of Northern California, including in areas near to the Project Area. Most new construction is required to be built in accordance with the Uniform Building Code which contains standards designed to minimize structural damage caused by seismic events however, the occurrence of severe seismic activity affecting the Project Area could result in substantial damage to property located in the Project Area, and could lead to successful appeals for reduction of assessed values of such property. Such a reduction of assessed valuations could result in a reduction of the Tax Revenues that secure the Bonds.

Changes in the Redevelopment Law

There can be no assurance that the California electorate will not at some future time adopt initiatives or that the Legislature will not enact legislation that will amend the Dissolution

Act, the Redevelopment Law or other laws or the Constitution of the State resulting in a reduction of tax increment available to pay debt service on the Bonds.

It is possible that the definition of Tax Revenues could be affected by changes in law or judicial decisions relating to the dissolution of redevelopment agencies. The Indenture provides that if, and to the extent, that the provisions of Section 34172 or paragraph (2) of subdivision (a) of Section 34183 of the Redevelopment Law are invalidated by judicial decision, then "Tax Revenues" will include all tax increment revenues allocated to the payment of indebtedness in accordance with Section 33670 of the Redevelopment Law or such other section as may be in effect at the time providing for the allocation of tax increment revenues in accordance with Article XVI, Section 16 of the State Constitution; excluding moneys required to pay Senior Obligations payable during such period. Additionally, any action by a court to invalidate provisions of the Dissolution Act required for the timely payment of principal of, and interest on, the Bonds could be subject to issues regarding unconstitutional impairment of contracts and unconstitutional taking without just compensation. The Successor Agency believes that the aforementioned considerations would provide some protections against the adverse consequences upon the Successor Agency and the availability of Tax Revenues for the payment of debt service on the Bonds in the event of successful challenges to the Dissolution Act or portions thereof. However, the Successor Agency provides no assurance that any other lawsuit challenging the Dissolution Act or portions thereof will not result in an outcome that may have a detrimental effect on the Successor Agency's ability to timely pay debt service on the Bonds.

Loss of Tax-Exemption

As discussed under the caption "TAX MATTERS," interest on the Bonds could become includable in gross income for purposes of federal income taxation retroactive to the date the Bonds were issued, as a result of future acts or omissions of the Successor Agency in violation of its covenants in the Indenture.

In addition, current and future legislative proposals, if enacted into law, may cause interest on the Bonds to be subject, directly or indirectly, to federal income taxation by, for example, changing the current exclusion or deduction rules to limit the aggregate amount of interest on state and local government bonds that may be treated as tax exempt by individuals.

Should such an event of taxability occur, the Bonds are not subject to special redemption and will remain outstanding until maturity or until redeemed under other provisions set forth in the Indenture.

Secondary Market

There can be no guarantee that there will be a secondary market for the Bonds, or, if a secondary market exists, that the Bonds can be sold for any particular price. Occasionally, because of general market conditions or because of adverse history or economic prospects connected with a particular issue, secondary marketing practices in connection with a particular issue are suspended or terminated. Additionally, prices of issues for which a market is being made will depend upon the then prevailing circumstances.

TAX MATTERS

In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, subject, however to the qualifications set forth below, under existing law, the interest on the Bonds is excluded from gross income for federal income tax purposes and such interest is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, provided, however, that, for the purpose of computing the alternative minimum tax imposed on corporations (as defined for federal income tax purposes), such interest is taken into account in determining certain income and earnings.

The opinions set forth in the preceding paragraph are subject to the condition that the Successor Agency comply with all requirements of the Internal Revenue Code of 1986, as amended (the "**Tax Code**") that must be satisfied subsequent to the issuance of the Bonds. The Successor Agency has covenanted to comply with each such requirement. Failure to comply with certain of such requirements may cause the inclusion of such interest in gross income for federal income tax purposes to be retroactive to the date of issuance of the Bonds.

If the initial offering price to the public (excluding bond houses and brokers) at which a Bond is sold is less than the amount payable at maturity thereof, then such difference constitutes "original issue discount" for purposes of federal income taxes and State of California personal income taxes. If the initial offering price to the public (excluding bond houses and brokers) at which a Bond is sold is greater than the amount payable at maturity thereof, then such difference constitutes "original issue premium" for purposes of federal income taxes and State of California personal income taxes. De minimis original issue discount and original issue premium is disregarded.

Under the Tax Code, original issue discount is treated as interest excluded from federal gross income and exempt from State of California personal income taxes to the extent properly allocable to each owner thereof subject to the limitations described in the first paragraph of this section. The original issue discount accrues over the term to maturity of the Bond on the basis of a constant interest rate compounded on each interest or principal payment date (with straight-line interpolations between compounding dates). The amount of original issue discount accruing during each period is added to the adjusted basis of such Bonds to determine taxable gain upon disposition (including sale, redemption, or payment on maturity) of such Bond. The Tax Code contains certain provisions relating to the accrual of original issue discount in the case of purchasers of the Bonds who purchase the Bonds after the initial offering of a substantial amount of such maturity. Owners of such Bonds should consult their own tax advisors with respect to the tax consequences of ownership of Bonds with original issue discount, including the treatment of purchasers who do not purchase in the original offering, the allowance of a deduction for any loss on a sale or other disposition, and the treatment of accrued original issue discount on such Bonds under federal individual and corporate alternative minimum taxes.

ATTACHMENT 7

Under the Tax Code, original issue premium is amortized on an annual basis over the term of the Bond (said term being the shorter of the Bond's maturity date or its call date). The amount of original issue premium amortized each year reduces the adjusted basis of the owner of the Bond for purposes of determining taxable gain or loss upon disposition. The amount of original issue premium on a Bond is amortized each year over the term to maturity of the Bond on the basis of a constant interest rate compounded on each interest or principal payment date (with straight-line interpolations between compounding dates). Amortized Bond premium is not deductible for federal income tax purposes. Owners of premium Bonds, including purchasers who do not purchase in the original offering, should consult their own tax advisors with respect to State of California personal income tax and federal income tax consequences of owning such Bonds.

In the further opinion of Bond Counsel, interest on the Bonds is exempt from State of California personal income taxes.

Owners of the Bonds should also be aware that the ownership or disposition of, or the accrual or receipt of interest on, the Bonds may have federal or state tax consequences other than as described above. Bond Counsel expresses no opinion regarding any federal or state tax consequences arising with respect to the Bonds other than as expressly described above.

CONCLUDING INFORMATION

Underwriting

The Bonds are being purchased by Stifel, Nicolaus & Company, Inc (the "**Underwriter**"). The Underwriter has agreed to purchase the Bonds at a price of \$_____ (being the principal amount of the Bonds [less a net original issue discount/plus a net original issue premium] of \$_____ and less an Underwriter's discount of \$_____). The Underwriter will purchase all of the Bonds if any are purchased.

The Underwriter may offer and sell Bonds to certain dealers and others at a price lower than the offering price stated on the inside cover page of this Official Statement. The offering price may be changed from time to time by the Underwriter.

Legal Opinion

The final approving opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, will be furnished to the purchaser at the time of delivery of the Bonds. A copy of the proposed form of Bond Counsel's final approving opinion with respect to the Bonds is attached hereto as Appendix B.

Certain legal matters will be passed on by Jones Hall, A Professional Law Corporation, as Disclosure Counsel and Norton Rose Fulbright US LLP, as Underwriter's Counsel.

In addition, certain legal matters will be passed upon for the Successor Agency by the City Attorney of the City.

Compensation paid to Bond Counsel, Disclosure Counsel and Underwriter's Counsel is contingent upon the sale and delivery of the Bonds.

Litigation

There is no action, suit or proceeding known to the Successor Agency to be pending and notice of which has been served upon and received by the Successor Agency, or threatened, restraining or enjoining the execution or delivery of the Bonds or the Indenture or in any way contesting or affecting the validity of the foregoing or any proceedings of the Successor Agency taken with respect to any of the foregoing. See, however, "RISK FACTORS- Challenges to Dissolution Act."

Ratings

Standard & Poor's Ratings Services ("**S&P**"), is expected to assigned its municipal bond rating of "_____" to the Bonds with the understanding that _____ will issue the Policy with respect to the Bonds at the time of delivery of the Bonds. In addition, S&P has assigned an underlying rating of "_____" to the Bonds.

The ratings issued reflect only the view of S&P, and any explanation of the significance of such ratings should be obtained from S&P. There is no assurance that such ratings will be retained for any given period of time or that it will not be revised downward or withdrawn entirely by S&P if, in the judgment of S&P, circumstances so warrant. Any such downward revision or withdrawal of any rating obtained may have an adverse effect on the market price of the Bonds.

Generally, a rating agency bases its rating on the information and materials furnished to it and on investigations, studies and assumptions of its own. The Successor Agency has provided certain additional information and materials to S&P (some of which does not appear in this Official Statement).

There is no assurance that these ratings will continue for any given period of time or that these ratings will not be revised downward or withdrawn entirely by S&P, if in the judgment of S&P, circumstances so warrant. Any such downward revision or withdrawal of any rating on the Bonds may have an adverse effect on the market price or marketability of the Bonds.

Continuing Disclosure

The Successor Agency will covenant for the benefit of owners of the Bonds to provide certain financial information and operating data relating to the Successor Agency by not later than April 1 after the end of each fiscal year of the Successor Agency (currently June 30th), commencing not later than April 1, 2017 with the report for the 2015-16 fiscal year (the "**Annual Report**"), and to provide notices of the occurrence of certain listed events. The specific nature of the information to be contained in the Annual Report or the notices of listed events is summarized in "APPENDIX D - FORM OF SUCCESSOR AGENCY CONTINUING DISCLOSURE CERTIFICATE," attached to this Official Statement. These covenants have been made in order to assist the Underwriter (as defined below) in complying with Securities Exchange Commission Rule 15c2-12(b)(5) (the "**Rule**").

[[[**VERIFY:** In the past five years, the Successor Agency has had no instances of non-compliance with any previous continuing disclosure undertaking.]]]

Audited Financial Statements

The City of Tracy's Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2015 (the "**City CAFR**") is attached as Appendix E. The City's CAFR includes the Successor Agency's audited financial statements for the fiscal year ended June 30, _____. The Successor Agency's audited financial statements were audited by Badawi and Associates, Certified Public Accountants (the "**Auditor**"). The Auditor has not been asked to consent to the inclusion of the Successor Agency's audited financial statements in this Official Statement and has not reviewed this Official Statement.

As described in "SECURITY FOR THE BONDS - Limited Obligation," the Bonds are payable from and secured by a pledge of Tax Revenues and the Bonds are not a debt of the City. The City's CAFR is attached as Appendix E to this Official Statement only because it includes the Successor Agency's audited financial statements.

Miscellaneous

All of the preceding summaries of the Indenture, the Redevelopment Law, the Dissolution Act, other applicable legislation, the Redevelopment Plan for the Project Area, agreements and other documents are made subject to the provisions of such documents respectively and do not purport to be complete statements of any or all of such provisions. Reference is hereby made to such documents on file with the Successor Agency for further information in connection therewith.

This Official Statement does not constitute a contract with the purchasers of the Bonds. Any statements made in this Official Statement involving matters of opinion or estimates, whether or not so expressly stated, are set forth as such and not as representations of fact, and no representation is made that any of the estimates will be realized.

ATTACHMENT 7

The execution and delivery of this Official Statement by its Executive Director has been duly authorized by the Successor Agency.

**SUCCESSOR AGENCY TO THE TRACY
COMMUNITY DEVELOPMENT AGENCY**

By: _____
Executive Director

ATTACHMENT 7

APPENDIX A

SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE

APPENDIX B

FORM OF BOND COUNSEL OPINION

_____, 2016

Successor Agency to the Community Development
Agency of the City of Tracy
333 Civic Center Plaza
Tracy, California 95376

OPINION: \$ _____ Successor Agency to the Tracy Community Development
Agency 2016 Tax Allocation Refunding Bonds

Members of the Successor Agency:

We have acted as bond counsel in connection with the issuance by the Successor Agency to the Tracy Community Development Agency (the "Successor Agency"), of \$ _____ Successor Agency to the Tracy Community Development Agency 2016 Tax Allocation Refunding Bonds (the "Bonds"), pursuant to the Community Redevelopment Law, constituting Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code of the State of California (the "Law"), Part 1.85 (commencing with Section 34170) of Division 24 of the California Health and Safety Code (the "Dissolution Act"), and Article 11 (commencing with Section 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California (the "Refunding Law"). The Bonds are being issued pursuant to an Indenture of Trust, dated as of _____ 1, 2016 (the "Indenture"), by and between the Successor Agency and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"). We have examined the law and such certified proceedings and other papers as we deem necessary to render this opinion.

As to questions of fact material to our opinion, we have relied upon representations of the Successor Agency contained in the Indenture, and in certified proceedings and other certifications of public officials furnished to us, without undertaking to verify such facts by independent investigation.

Based upon the foregoing, we are of the opinion, under existing law, as follows:

1. The Successor Agency is validly existing as a public entity, with the power to enter into the Indenture, perform the agreements on its part contained therein, and issue the Bonds.
2. The Indenture has been duly approved by the Successor Agency, and constitutes a valid and binding obligation of the Successor Agency, enforceable against the Successor Agency in accordance with its terms.

ATTACHMENT 7

3. Pursuant to the Law, the Dissolution Act and the Refunding Law, the Indenture creates a valid lien on the funds pledged by the Indenture for the security of the Bonds, subject to no prior lien granted under the Law, the Dissolution Act and the Refunding Law, except to the extent described in the Indenture.

4. The Bonds have been duly authorized, executed and delivered by the Successor Agency, and are valid and binding special obligations of the Successor Agency, payable solely from the sources provided therefor in the Indenture.

5. The interest on the Bonds is excluded from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; although for the purpose of computing the alternative minimum tax imposed on corporations (as defined for federal income tax purposes), such interest is taken into account in determining certain income and earnings. The opinions set forth in the preceding sentence are subject to the condition that the Successor Agency comply with all requirements of the Internal Revenue Code of 1986 that must be satisfied subsequent to the issuance of the Bonds in order that interest thereon be, or continue to be, excluded from gross income for federal income tax purposes. The Successor Agency has covenanted to comply with each such requirement. Failure to comply with certain of such requirements may cause the inclusion of interest on the Bonds in gross income for federal income tax purposes to be retroactive to the date of issuance of the Bonds. We express no opinion regarding other federal tax consequences arising with respect to the ownership, sale or disposition of the Bonds, or the amount, accrual or receipt of interest on the Bonds.

6. The interest on the Bonds is exempt from personal income taxation imposed by the State of California.

The rights of the owners of the Bonds, and the enforceability of the Bonds and the Indenture, may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted, and may also be subject to the exercise of judicial discretion in appropriate cases. This opinion is given as of the date hereof, and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention, or any changes in law that may hereafter occur. Our engagement with respect to this matter has terminated as of the date hereof.

Respectfully submitted,

A Professional Law Corporation

APPENDIX C

BOOK-ENTRY ONLY SYSTEM

The information in this Appendix C concerning The Depository Trust Company ("DTC"), New York, New York, and DTC's book-entry system has been obtained from DTC and the Successor Agency takes no responsibility for the completeness or accuracy thereof. The Successor Agency cannot and does not give any assurances that DTC, DTC Participants or Indirect Participants will distribute to the Beneficial Owners (a) payments of interest, principal or premium, if any, with respect to the Bonds, (b) certificates representing ownership interest in or other confirmation or ownership interest in the Bonds, or (c) redemption or other notices sent to DTC or Cede & Co., its nominee, as the registered owner of the Bonds, or that they will so do on a timely basis, or that DTC, DTC Participants or DTC Indirect Participants will act in the manner described in this Appendix. The current "Rules" applicable to DTC are on file with the Securities and Exchange Commission and the current "Procedures" of DTC to be followed in dealing with DTC Participants are on file with DTC.

The Depository Trust Company ("DTC"), New York, NY, will act as securities depository for the Bonds. The Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered certificate will be issued for each maturity of the Bonds, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing Successor Agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has a Standard & Poor's rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com. The information set forth on such website is not incorporated herein by reference.

Purchases of Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond ("Beneficial Owner") is in turn to be recorded on the

ATTACHMENT 7

Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Bond documents. For example, Beneficial Owners of Bonds may wish to ascertain that the nominee holding the Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Bonds within a maturity are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Successor Agency as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal, premium (if any), and interest payments on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the Successor Agency or the Trustee, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee, or the Successor Agency, subject to any statutory or regulatory requirements as may be in effect from time to time. Principal, premium (if any), and interest payments with respect to the Bonds to

ATTACHMENT 7

Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Successor Agency or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Bonds at any time by giving reasonable notice to the Successor Agency or the Trustee. Under such circumstances, in the event that a successor depository is not obtained, certificates representing the Bonds are required to be printed and delivered.

The Successor Agency may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, representing the Bonds will be printed and delivered to DTC in accordance with the provisions of the Indenture.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the Successor Agency believes to be reliable, but the Successor Agency takes no responsibility for the accuracy thereof.

APPENDIX D

FORM OF SUCCESSOR AGENCY CONTINUING DISCLOSURE CERTIFICATE

This CONTINUING DISCLOSURE CERTIFICATE (this "Disclosure Certificate") is executed and delivered by the SUCCESSOR AGENCY OF THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY (the "Successor Agency") in connection with the issuance of \$_____ Successor Agency to the Tracy Community Development Agency 2016 Tax Allocation Refunding Bonds (the "Bonds"). The Bonds are being issued pursuant to an Indenture of Trust dated as of _____, 2016 (the "Indenture"), by and between the Successor Agency and The Bank of New York Mellon Trust Company, N.A., as trustee. The Successor Agency covenants and agrees as follows:

Section 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the Successor Agency for the benefit of the holders and beneficial owners of the Bonds and in order to assist the Participating Underwriter in complying with S.E.C. Rule 15c2-12(b)(5).

Section 2. Definitions. In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Disclosure Certificate, unless otherwise defined, the following capitalized terms shall have the following meanings:

"*Annual Report*" shall mean any Annual Report provided by the Successor Agency pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

"*Dissemination Agent*" shall mean _____, or any successor Dissemination Agent designated in writing by the Successor Agency and which has filed with the Successor Agency a written acceptance of such designation.

"EMMA System" shall mean the Electronic Municipal Market Access system of the MSRB or such other electronic system designated by the MSRB or the Securities and Exchange Commission for compliance with S.E.C Rule 15c2-12(b).

"*Listed Events*" shall mean any of the events listed in Section 5(a) of this Disclosure Certificate.

"MSRB" means the Municipal Securities Rulemaking Board, which has been designated by the Securities and Exchange Commission as the sole repository of disclosure information for purposes of the Rule.

"*Participating Underwriter*" shall mean any of the original underwriters of the Bonds required to comply with the Rule in connection with offering of the Bonds.

"*Rule*" shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

Section 3. Provision of Annual Reports.

ATTACHMENT 7

(a) The Successor Agency shall, or shall cause the Dissemination Agent to, not later than nine (9) months after the end of the Successor Agency's fiscal year (which date currently would be April 1, based upon the June 30 end of the Successor Agency's fiscal year), commencing with the report for the 2015-16 fiscal year, provide to the MSRB through the EMMA System an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. Not later than fifteen (15) Business Days prior to said date, the Successor Agency shall provide the Annual Report to the Dissemination Agent (if other than the Successor Agency). The Annual Report may be submitted as a single document or as separate documents comprising a package, and may include by reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the Successor Agency may be submitted separately from the balance of the Annual Report, and later than the date required above for the filing of the Annual Report if not available by that date. If the Successor Agency's fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(c).

(b) If the Successor Agency is unable to provide to the MSRB through the EMMA System an Annual Report by the date required in subsection (a), the Successor Agency shall provide to the MSRB, in electronic format as prescribed by the MSRB through the EMMA System, a notice in substantially the form attached as Exhibit A.

(c) The Dissemination Agent shall:

(i) determine each year prior to the Annual Report Date the then-applicable rules and electronic format prescribed by the MSRB for the filing of annual continuing disclosure reports; and

(ii) if the Dissemination Agent is other than the Successor Agency, file a report with the Successor Agency certifying that the Annual Report has been provided pursuant to this Disclosure Certificate, stating the date it was provided to the MSRB through the EMMA System pursuant to this Disclosure Certificate.

Section 4. Content of Annual Reports. The Successor Agency's Annual Report shall contain or incorporate by reference the following:

(a) Audited Financial Statements of the Successor Agency prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If such audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.

(b) Unless otherwise provided in the audited financial statements filed on or prior to the annual filing deadline for the Annual Reports provided for in Section 3 above, financial information and operating data with respect to the Successor Agency for the preceding fiscal year, substantially similar to that provided in the corresponding tables and charts in the Official Statement for the Bonds, as follows:

ATTACHMENT 7

- (i) identity of pending and successful appeals of assessed values in the Project Area, but only if total appeals exceed, in the aggregate, 5% of assessed value in the Project Area;
- (ii) summary of taxable value in the Project Area for the most recent fiscal year;
- (iii) a listing of the ten major property tax assessesees in the Project Area;
- (iv) summary of the Tax Revenues, the debt service for the Bonds and any Parity Debt and the debt service coverage ratio for the Bonds and any Parity Debt for the current fiscal year; and
- (v) assessed values in the Project Area for the most recent fiscal year.

Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the Successor Agency or related public entities, which have been submitted to the MSRB through the EMMA System or the Securities and Exchange Commission. If the document included by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The Successor Agency shall clearly identify each such other document so included by reference.

Section 5. Reporting of Significant Events.

(a) The Successor Agency shall give, or cause to be given, notice of the occurrence of any of the following Listed Events with respect to the Bonds:

- (1) Principal and interest payment delinquencies.
- (2) Non-payment related defaults, if material.
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties.
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties.
- (5) Substitution of credit or liquidity providers, or their failure to perform.
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security.
- (7) Modifications to rights of security holders, if material.
- (8) Bond calls, if material, and tender offers.
- (9) Defeasances.

ATTACHMENT 7

- (10) Release, substitution, or sale of property securing repayment of the securities, if material.
- (11) Rating changes.
- (12) Bankruptcy, insolvency, receivership or similar event of the Successor Agency or other obligated person.
- (13) The consummation of a merger, consolidation, or acquisition involving the Successor Agency or an obligated person, or the sale of all or substantially all of the assets of the Successor Agency or an obligated person (other than in the ordinary course of business), the entry into a definitive agreement to undertake such an action, or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.
- (14) Appointment of a successor or additional trustee or the change of name of a trustee, if material.

(b) The Successor Agency shall, or shall cause the Dissemination Agent (if not the Successor Agency) to, file a notice of such occurrence with the MSRB through the EMMA System, in a timely manner not in excess of 10 business days after the occurrence of the Listed Event. Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(8) and (9) above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to holders of affected Bonds under the Indenture.

(c) The Successor Agency acknowledges that the events described in subparagraphs (a)(2), (a)(7), (a)(8) (if the event is a bond call), (a)(10), (a)(13), and (a)(14) of this Section 5 contain the qualifier "if material." The Successor Agency shall cause a notice to be filed as set forth in paragraph (b) above with respect to any such event only to the extent that the Successor Agency determines the event's occurrence is material for purposes of U.S. federal securities law. The Dissemination Agent shall not be responsible for determining whether an event is material.

Section 6. Termination of Reporting Obligation. The Successor Agency's obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds or upon the delivery to the Dissemination Agent of an opinion of nationally recognized bond counsel retained by the Successor Agency to the effect that continuing disclosure is no longer required. If such termination occurs prior to the final maturity of the Bonds, the Successor Agency shall give notice of such termination in the same manner as for a Listed Event under Section 5(c).

Section 7. Dissemination Agent.

(a) The Successor Agency may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the Successor Agency pursuant to this Disclosure Certificate, unless the Successor Agency is the Dissemination Agent, as provided herein. The initial Dissemination Agent shall be _____. If at any time there is no designated Dissemination Agent appointed by the Successor Agency, or if the Dissemination Agent so appointed is unwilling or unable to perform the duties of Dissemination Agent hereunder, the Successor Agency shall be the Dissemination Agent and undertake or assume its obligations hereunder. The Dissemination Agent may resign by providing thirty days written notice to the Successor Agency and the Trustee.

Any company succeeding to all or substantially all of the Dissemination Agent's corporate trust business shall be the successor to the Dissemination Agent hereunder without the execution or filing of any paper or any further act. The Dissemination Agent may resign its duties hereunder at any time upon written notice to the Successor Agency.

(b) The Dissemination Agent shall be paid compensation by the Successor Agency for its services provided hereunder in accordance with its schedule of fees as agreed to between the Dissemination Agent and the Successor Agency from time to time and for all expenses, legal fees and advances made or incurred by the Dissemination Agent in the performance of its duties hereunder. The Dissemination Agent (unless the Successor Agency is the Dissemination Agent) shall have no duty or obligation to review any information provided to it by the Successor Agency hereunder and shall not be deemed to be acting in any fiduciary capacity for the Successor Agency, holders or beneficial owners or any other party. The Dissemination Agent may rely and shall be protected in acting or refraining from acting upon any direction from the Successor Agency or an opinion of nationally recognized bond counsel retained by the Successor Agency.

Section 8. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the Successor Agency may amend this Disclosure Certificate, and any provision of this Disclosure Certificate may be waived, provided that the following conditions are satisfied (provided no amendment or waiver shall be made that affects the duties or rights of the Dissemination Agent without its written consent):

(a) if the amendment or waiver relates to the provisions of Sections 3(a), 4 or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of an obligated person with respect to the Bonds, or type of business conducted;

(b) the undertakings herein, as proposed to be amended or waived, would, in the opinion of nationally recognized bond counsel retained by the Successor Agency, have complied with the requirements of the Rule at the time of the primary offering of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

ATTACHMENT 7

(c) the proposed amendment or waiver either (i) is approved by holders of the Bonds in the manner provided in the Indenture for amendments to the Indenture with the consent of holders, or (ii) does not, in the opinion of nationally recognized bond counsel retained by the Successor Agency, materially impair the interests of the holders or beneficial owners of the Bonds.

If the annual financial information or operating data to be provided in the Annual Report is amended pursuant to the provisions hereof, the first annual financial information filed pursuant hereto containing the amended operating data or financial information shall explain, in narrative form, the reasons for the amendment and the impact of the change in the type of operating data or financial information being provided.

If an amendment is made to the undertaking specifying the accounting principles to be followed in preparing financial statements, the annual financial information for the year in which the change is made shall present a comparison between the financial statements or information prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles. The comparison shall include a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of the financial information, in order to provide information to investors to enable them to evaluate the ability of the Successor Agency to meet its obligations. To the extent reasonably feasible, the comparison shall be quantitative. A notice of the change in the accounting principles shall be sent to the MSRB through the EMMA System in the same manner as for a Listed Event under Section 5(c).

Section 9. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the Successor Agency from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the Successor Agency chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the Successor Agency shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 10. Default. In the event of a failure of the Successor Agency to comply with any provision of this Disclosure Certificate, the Participating Underwriter or any holder or beneficial owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Successor Agency to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an Event of Default under the Indenture, and the sole remedy under this Disclosure Certificate in the event of any failure of the Successor Agency to comply with this Disclosure Certificate shall be an action to compel performance.

Section 11. Duties, Immunities and Liabilities of Dissemination Agent. All of the immunities, indemnities, and exceptions from liability in Article VI of the Indenture insofar as they relate to the Trustee shall apply to the Trustee and the Dissemination Agent in this Disclosure Certificate. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and the Successor Agency agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys fees) of

ATTACHMENT 7

defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The Dissemination Agent may rely and shall be protected in acting or refraining from acting upon any direction from the Successor Agency or an opinion of nationally recognized bond counsel retained by the Successor Agency. The obligations of the Successor Agency under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds. No person, other than the Successor Agency, shall have any right to commence any action against the Trustee or Dissemination Agent seeking any remedy other than to compel specific performance of this Disclosure Certificate.

Section 12. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the Successor Agency, the Dissemination Agent, the Participating Underwriter and holders and beneficial owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Dated: _____

SUCCESSOR AGENCY OF THE COMMUNITY
DEVELOPMENT AGENCY OF THE CITY OF
TRACY

By _____

Name _____

Title _____

EXHIBIT A

**NOTICE TO MUNICIPAL SECURITIES RULEMAKING
BOARD OF FAILURE TO FILE ANNUAL REPORT**

Name of Issuer: Successor Agency of the Community Development Agency of the City of Tracy

Name of Bond Issue: \$_____ Successor Agency to the Tracy Community Development Agency 2016 Tax Allocation Refunding Bonds

Date of Issuance: _____, 2016

NOTICE IS HEREBY GIVEN that the Successor Agency of the Community Development Agency of the City of Tracy (the "Issuer") has not provided an Annual Report with respect to the above-named Bonds as required by the Indenture of Trust, dated as of _____ 1, 2015, by and between the Successor Agency of the Community Development Agency of the City of Tracy and The Bank of New York Mellon Trust Company, N.A., as trustee. The Issuer anticipates that the Annual Report will be filed by _____.

Dated: _____

SUCCESSOR AGENCY TO THE TRACY
COMMUNITY DEVELOPMENT AGENCY

By _____

Name _____

Title _____

cc: Trustee

ATTACHMENT 7

APPENDIX E

**SUCCESSOR AGENCY FINANCIAL STATEMENTS
FOR FISCAL YEAR ENDED JUNE 30, _____**

ATTACHMENT 7

APPENDIX F

STATE DEPARTMENT OF FINANCE APPROVAL LETTER

APPENDIX G

CITY OF TRACY AND SAN JOAQUIN COUNTY GENERAL INFORMATION

The following information in this section of the Official Statement concerning the City of Tracy and surrounding areas is included only for the purpose of supplying general information regarding the community. The taxing power of the City of Tracy, San Joaquin County, the State of California, and any political subdivision thereof is not pledged to the payment of the Bonds. The Bonds are not a debt of the City of Tracy, San Joaquin County, the State of California, or any of its political subdivisions, and neither the City, the County, the State nor any of its political subdivisions is liable therefor.

General Information

The City. The City is located on the western edge of the Central Valley in San Joaquin County and situated within a triangle formed by three interstate freeways: I-5, I-205 and I-580. The City is 60 miles east of San Francisco and 70 miles south of Sacramento, covering approximately 14.3 square miles.

City services include public safety (police and fire protection), highways and streets, sanitation, culture-recreation, public improvements, planning and zoning, general administration services, and redevelopment.

The County. The County is one of California's original counties and was created at the time of statehood in 1850. The County covers an area of approximately 1,436 square miles, consisting of 1,399 square miles of land and 27 square miles of water. Captain Charles M. Weber was instrumental in developing the City of Stockton as the County Seat and as a Port of Entry. Today, ships still deliver cargo to the Port of Stockton by the channel Captain Weber had dug in the 1800s.

The County is adjacent to Stanislaus County to the south and southeast, Alameda and Contra Costa Counties to the west, Sacramento County to the north, Amador County to the northeast, Calaveras County to the east and a corner of Santa Clara County to the southwest.

Municipal Government

The City was incorporated as a general law city in 1910 and operates under the council-manager form of government. Policy making and legislative authority are vested in the City Council, which consists of a Mayor and a four member Council. The City Council is responsible, among other things, for passing ordinances, adopting the budget, appointing committees and hiring the City Manager and the City Attorney. The City Manager is responsible carrying out the policies and ordinances of the City Council, for overseeing the day-to-day operations of the government, and for appointing the heads of the government's departments. Council members are elected to four year staggered terms, with two Council members elected every two years. The mayor is elected every two years.

Population

Population figures for the City, the County and the State for the last five years are shown in the following table.

**CITY OF TRACY AND SAN JOAQUIN COUNTY
Population Estimates
Calendar Years 2011 through 2015 as of January 1**

Calendar Year	City of Tracy	County San Joaquin	State of California
2011	83,242	689,160	37,427,946
2012	83,562	692,997	37,668,804
2013	84,466	701,745	37,984,138
2014	84,937	708,678	38,357,121
2015	85,296	749,511	38,714,725

Source: State Department of Finance estimates (as of January 1, 2015)

[Remainder of page intentionally left blank]

Employment and Industry

The District is included in the Stockton Metropolitan Statistical Area (“MSA”), which includes all of San Joaquin County. The unemployment rate in the San Joaquin County was 8.3 percent in August 2015, down from a revised 8.8 percent in July 2015, and below the year-ago estimate of 10.0 percent. This compares with an unadjusted unemployment rate of 6.1 percent for California and 5.2 percent for the nation during the same period.

Set forth below is data from calendar years 2010 to 2014 reflecting the County’s civilian labor force, employment and unemployment. These figures are county-wide statistics and may not necessarily accurately reflect employment trends in the District. Annual Figures are not yet available for calendar year 2015.

**STOCKTON-LODI METROPOLITAN STATISTICAL AREA
(San Joaquin County)
Annual Average Civilian Labor Force, Employment and Unemployment,
Employment by Industry
Calendar Years 2010 through 2014
(March 2014 Benchmark)**

	2010	2011	2012	2013	2014
Civilian Labor Force ⁽¹⁾	311,200	311,000	311,300	311,300	311,100
Employment	259,800	260,600	266,400	272,800	278,000
Unemployment	51,400	50,300	44,900	38,600	33,100
Unemployment Rate	16.5%	16.2%	14.4%	12.4%	10.6%
<u>Wage and Salary Employment: ⁽²⁾</u>					
Agriculture	15,700	15,500	15,700	16,100	15,900
Mining and Logging	100	100	100	100	100
Construction	7,600	7,400	7,600	8,800	8,900
Manufacturing	17,600	18,000	17,800	17,900	18,600
Wholesale Trade	10,000	10,200	10,800	11,100	11,300
Retail Trade	23,700	24,200	24,900	25,600	26,000
Transportation, Warehousing, Utilities	13,800	14,500	14,900	15,200	15,700
Information	2,100	2,100	2,100	2,100	2,100
Finance and Insurance	5,100	4,900	4,900	5,000	5,000
Professional and Business Services	15,400	15,200	16,600	17,400	17,900
Educational and Health Services	32,300	32,500	33,100	34,900	35,900
Leisure and Hospitality	16,100	16,300	17,000	18,200	19,100
Other Services	6,500	6,300	6,500	6,600	6,900
Federal Government	4,300	4,000	3,900	3,500	3,200
State Government	3,900	3,800	3,600	4,300	5,800
Local Government	29,900	28,700	28,600	29,300	29,800
Total all Industries ⁽³⁾	206,900	206,200	210,700	218,700	224,600

(1) Labor force data is by place of residence; includes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.

(2) Industry employment is by place of work; excludes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.

Source: State of California Employment Development Department.

ATTACHMENT 7

Major Employers

The following table list the major employers within the County, as of June 2015.

**SAN JOAQUIN COUNTY
Major Employers
June 2015**

Employer Name	Location	Industry
All Trade Handyman Mgmt Llc	Tracy	Handyman Services
B & B Ranch	Linden	Ranches
Blue Shield of California	Lodi	Insurance
Deuel Vocational Institution	Tracy	City Govt-Correctional Institutions
Division of Juvenile Justice	Stockton	State Govt-Correctional Institutions
Foster Care Svc	Stockton	County Government-Social/Human Resources
J C Penney Distribution Ctr	Lathrop	Distribution Centers (Whls)
Leprino Foods Co	Tracy	Cheese Processors (Mfrs)
Lodi Memorial Hosp Home Health	Lodi	Home Health Service
Lodi Memorial Hospital	Lodi	Hospitals
Morada Produce Co	Stockton	Fruits & Vegetables-Growers & Shippers
North California Youth Ctr	Not Available	Police Departments
O-G Packing & Cold Storage Co	Stockton	Fruits & Vegetables-Growers & Shippers
Pacific Coast Producers	Lodi	Canning (Mfrs)
Prima Frutta Packing Inc	Linden	Fruit & Produce Packers
Safeway Distribution Warehouse	Tracy	Distribution Centers (Whls)
San Joaquin County Human Svc	Stockton	County Government-Social/Human Resources
San Joaquin General Hospital	French Camp	Hospitals
San Joaquin Sheriff's Office	French Camp	Sheriff
St Joseph's Medical Ctr	Stockton	Medical Centers
Stockton Police Dept	Stockton	Police Departments
University of the Pacific	Stockton	Schools-Universities & Colleges Academic
Walmart Supercenter	Stockton	Department Stores
Waste Management	Lodi	Garbage Collection
Whirlpool Corp	Stockton	Appliances-Household-Major-Man

Source: State of California Employment Development Department, extracted from America's Labor Market Information System (ALMIS) Employer Database, 2014 2nd Edition.

ATTACHMENT 7

The following table list the major employers within the City, as of September, 2015.

**CITY OF TRACY
Major Employers**

Name	Number of Employees	Industry
Diversified Collection Service	575	Collection services
Summit Logistics (Safeway Dist)	2100	Distribution Perishable
Leprino Foods	300	Cheese
City of Tracy	500	Municipal Services
Defense Depot San Joaquin	1644	Gov't Agency
Deuel Vocational Institute	1050	State Prison Facility
Tracy Unified School District	1500	Education
Sutter Tracy Community Hospital	465	Medical Care
Barbosa Cabinets	360	Cabinet Builders
Owens-Brockway, Inc.	350	Glass Container Manufacturer

Source: 2015 Tracy Chamber of Commerce

[Remainder of page intentionally left blank]

Commercial Activity

A summary of historic table sales within the City for calendar years 2009 through 2013 is shown in the following tables.

Summaries of historic taxable sales within the City and the County during the past five years in which data is available are shown in the following tables.

Total taxable sales through two quarters of calendar year 2014 in the City were reported to be \$670,999,000, a 3.62% increase over the total taxable sales of \$647,557,000 reported during two quarters of calendar year 2013. Annual figures are not yet available for 2014.

CITY OF TRACY
Taxable Retail Sales
Number of Permits and Valuation of Taxable Transactions
(Dollars in Thousands)

Year	Retail Stores		Total All Outlets	
	Number of Permits	Taxable Transactions	Number of Permits	Taxable Transactions
2009	909	\$752,864	1,338	\$878,925
2010	961	829,188	1,382	928,740
2011	950	943,829	1,365	1,056,404
2012	930	1,030,595	1,320	1,199,306
2013	972	1,139,346	1,382	1,339,394

Source: State Board of Equalization.

Total taxable sales through two quarters of calendar year 2014 in the County were reported to be \$4,817,009,000 a 4.50% increase over the total taxable sales of \$4,609,442,000 reported through two quarter of calendar year 2013. Annual figures are not yet available for 2014.

SAN JOAQUIN COUNTY
Taxable Retail Sales
Number of Permits and Valuation of Taxable Transactions
(Dollars in Thousands)

Year	Retail Stores		Total All Outlets	
	Number of Permits	Taxable Transactions	Number of Permits	Taxable Transactions
2009	8,203	\$4,974,437	12,297	\$7,260,073
2010	8,534	5,213,982	12,633	7,602,090
2011	8,337	5,740,948	12,450	8,426,952
2012	8,524	6,124,320	12,613	9,010,929
2013	8,754	6,519,537	12,752	9,466,015

Source: State Board of Equalization.

Effective Buying Income

“Effective Buying Income” is defined as personal income less personal tax and nontax payments, a number often referred to as “disposable” or “after-tax” income. Personal income is the aggregate of wages and salaries, other labor-related income (such as employer contributions to private pension funds), proprietor’s income, rental income (which includes imputed rental income of owner-occupants of non-farm dwellings), dividends paid by corporations, interest income from all sources, and transfer payments (such as pensions and welfare assistance). Deducted from this total are personal taxes (federal, state and local), nontax payments (fines, fees, penalties, etc.) and personal contributions to social insurance. According to U.S. government definitions, the resultant figure is commonly known as “disposable personal income.”

The following table summarizes the total effective buying income for the County of San Joaquin, the State and the United States for the period 2010 through 2014. Effective Buying Income is yet not available for calendar year 2015.

CITY OF TRACY AND SAN JOAQUIN COUNTY EFFECTIVE BUYING INCOME 2009 through 2014

Year	Area	Total Effective Buying Income (000's Omitted)	Median Household Effective Buying Income
2010	City of Tracy	\$ 1,713,418	\$62,219
	San Joaquin County	11,425,114	42,086
	California	801,393,028	47,177
	United States	6,365,020,076	41,368
2011	City of Tracy	\$ 1,716,623	\$62,085
	San Joaquin County	11,534,632	42,000
	California	814,578,458	47,062
	United States	6,438,704,664	41,253
2012	City of Tracy	\$ 1,646,643	\$56,079
	San Joaquin County	11,761,283	41,939
	California	864,088,828	47,307
	United States	6,737,867,730	41,358
2013	City of Tracy	\$ 1,731,160	\$58,300
	San Joaquin County	11,964,855	43,204
	California	858,676,636	48,340
	United States	6,982,757,379	43,715
2014	City of Tracy	1,785,568	60,154
	San Joaquin County	12,381,905	44,235
	California	901,189,699	50,072
	United States	7,357,153,421	45,448

Source: The Nielsen Company (US), Inc.

ATTACHMENT 7

Building Activity

The tables below summarize building activity in the City and the County from calendar years 2010 through 2014. Annual figures are not yet available for calendar year 2015.

**CITY OF TRACY
Building Permit Activity
For Calendar Years 2010 through 2014
(Dollars in Thousands)**

	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>
<u>Permit Valuation</u>					
New Single-family	\$4,549.0	\$2,951.8	\$5,317.5	\$20,057.9	44,538.3
New Multi-family	0.0	0.0	0.0	0.0	0.0
Res. Alterations/Additions	<u>1,914.9</u>	<u>2,042.1</u>	<u>1,734.5</u>	<u>1,402.9</u>	<u>44,884.6</u>
Total Residential	6,464.0	4,993.9	7,052.0	21,460.8	89,422.9
New Commercial	13,184.4	213.6	98,007.0	2,378.8	2,354.3
New Industrial	0.0	0.0	0.0	0.0	0.0
New Other	1,234.8	52.7	4,200.0	4,395.6	2,363.6
Com. Alterations/Additions	<u>16,082.3</u>	<u>30,056.6</u>	<u>6,029.0</u>	<u>18,458.5</u>	<u>18,846.3</u>
Total Nonresidential	\$30,501.5	\$30,322.9	108,236.0	25,232.9	23,564.2
<u>New Dwelling Units</u>					
Single Family	18	11	20	67	135
Multiple Family	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
TOTAL	18	11	20	67	135

Source: Construction Industry Research Board, Building Permit Summary

**COUNTY OF SAN JOAQUIN
Building Permit Activity
For Calendar Years 2010 through 2014
(Dollars in Thousands)**

	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>
<u>Permit Valuation</u>					
New Single-family	\$166,223.0	\$159,012.2	\$250,227.1	\$264,761.1	318,760.2
New Multi-family	15,426.9	14,853.1	0.0	7,601.9	4,726.9
Res. Alterations/Additions	<u>28,058.7</u>	<u>48,093.6</u>	<u>22,356.9</u>	<u>28,764.8</u>	<u>78,511.0</u>
Total Residential	209,708.7	221,958.9	272,584.0	301,127.8	401,998.1
New Commercial	31,521.9	45,422.2	176,179.0	158,299.3	57,241.2
New Industrial	1,333.0	9,669.3	13,126.8	1,141.9	29,257.3
New Other	40,130.0	4,709.7	4,200.0	21,462.7	27,555.0
Com. Alterations/Additions	<u>100,108.9</u>	<u>108,216.9</u>	<u>65,989.4</u>	<u>79,145.2</u>	<u>89,630.8</u>
Total Nonresidential	\$173,093.8	\$168,018.1	\$259,495.2	260,049.1	203,684.3
<u>New Dwelling Units</u>					
Single Family	801	728	1,052	1,062	1,214
Multiple Family	<u>157</u>	<u>152</u>	<u>0</u>	<u>74</u>	<u>19</u>
TOTAL	958	880	1,052	1,136	1,233

Source: Construction Industry Research Board, Building Permit Summary

Transportation

The City. Tracy is served by several bus services. Locally, the TRACER bus system runs four lines that serve as circulators between major transit hubs, shopping, school, residential and downtown areas. San Joaquin Regional Transit District (SMART) runs two local routes that connect the city with other San Joaquin County communities and six commuter services that run to Dublin/Pleasanton BART station and job centers in the South Bay and Livermore. Naglee Park and Ride Lot by the West Valley Mall serve as major commuter hubs to BART and jobs in the South Bay. Greyhound, Tracer, and SMART all connect with taxis, bike stations, and parking at the Tracy Transit Center, a transit station built in 2010.

Amtrak Buses connect serve the City's Amtrak Bus Station with six daily trips to the South Bay and two to San Francisco, all of which stop at BART and job centers in Livermore.

The County. Major highways in the County include: Interstate 5, Interstate 205, Interstate 580, State Route 99, State Route 4 (Crosstown Freeway/California Delta Highway) and State Route 120. The San Joaquin Regional Transit District provides bus service within the City of Stockton in addition to routes throughout the County and commuter routes to Livermore, Pleasanton, Sacramento and Santa Clara County. Greyhound and Amtrak also provide service. The Stockton Metropolitan Airport serves the San Joaquin Valley with passenger and air freight facilities.

[Remainder of page intentionally left blank]

ATTACHMENT 7

APPENDIX H

SPECIMEN MUNICIPAL BOND INSURANCE POLICY

APPENDIX D

FORM OF SUCCESSOR AGENCY CONTINUING DISCLOSURE CERTIFICATE

This CONTINUING DISCLOSURE CERTIFICATE (this "Disclosure Certificate") is executed and delivered by the SUCCESSOR AGENCY OF THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY (the "Successor Agency") in connection with the issuance of \$_____ Successor Agency to the Tracy Community Development Agency 2016 Tax Allocation Refunding Bonds (the "Bonds"). The Bonds are being issued pursuant to an Indenture of Trust dated as of _____, 2016 (the "Indenture"), by and between the Successor Agency and The Bank of New York Mellon Trust Company, N.A., as trustee. The Successor Agency covenants and agrees as follows:

Section 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the Successor Agency for the benefit of the holders and beneficial owners of the Bonds and in order to assist the Participating Underwriter in complying with S.E.C. Rule 15c2-12(b)(5).

Section 2. Definitions. In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Disclosure Certificate, unless otherwise defined, the following capitalized terms shall have the following meanings:

"*Annual Report*" shall mean any Annual Report provided by the Successor Agency pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

"*Dissemination Agent*" shall mean _____, or any successor Dissemination Agent designated in writing by the Successor Agency and which has filed with the Successor Agency a written acceptance of such designation.

"EMMA System" shall mean the Electronic Municipal Market Access system of the MSRB or such other electronic system designated by the MSRB or the Securities and Exchange Commission for compliance with S.E.C Rule 15c2-12(b).

"*Listed Events*" shall mean any of the events listed in Section 5(a) of this Disclosure Certificate.

"MSRB" means the Municipal Securities Rulemaking Board, which has been designated by the Securities and Exchange Commission as the sole repository of disclosure information for purposes of the Rule.

"*Participating Underwriter*" shall mean any of the original underwriters of the Bonds required to comply with the Rule in connection with offering of the Bonds.

"*Rule*" shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

Section 3. Provision of Annual Reports.

ATTACHMENT 8

(a) The Successor Agency shall, or shall cause the Dissemination Agent to, not later than nine (9) months after the end of the Successor Agency's fiscal year (which date currently would be April 1, based upon the June 30 end of the Successor Agency's fiscal year), commencing with the report for the 2015-16 fiscal year, provide to the MSRB through the EMMA System an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. Not later than fifteen (15) Business Days prior to said date, the Successor Agency shall provide the Annual Report to the Dissemination Agent (if other than the Successor Agency). The Annual Report may be submitted as a single document or as separate documents comprising a package, and may include by reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the Successor Agency may be submitted separately from the balance of the Annual Report, and later than the date required above for the filing of the Annual Report if not available by that date. If the Successor Agency's fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(c).

(b) If the Successor Agency is unable to provide to the MSRB through the EMMA System an Annual Report by the date required in subsection (a), the Successor Agency shall provide to the MSRB, in electronic format as prescribed by the MSRB through the EMMA System, a notice in substantially the form attached as Exhibit A.

(c) The Dissemination Agent shall:

(i) determine each year prior to the Annual Report Date the then-applicable rules and electronic format prescribed by the MSRB for the filing of annual continuing disclosure reports; and

(ii) if the Dissemination Agent is other than the Successor Agency, file a report with the Successor Agency certifying that the Annual Report has been provided pursuant to this Disclosure Certificate, stating the date it was provided to the MSRB through the EMMA System pursuant to this Disclosure Certificate.

Section 4. Content of Annual Reports. The Successor Agency's Annual Report shall contain or incorporate by reference the following:

(a) Audited Financial Statements of the Successor Agency prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If such audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.

(b) Unless otherwise provided in the audited financial statements filed on or prior to the annual filing deadline for the Annual Reports provided for in Section 3 above, financial information and operating data with respect to the Successor Agency for the preceding fiscal year, substantially similar to that provided in the corresponding tables and charts in the Official Statement for the Bonds, as follows:

ATTACHMENT 8

- (i) identity of pending and successful appeals of assessed values in the Project Area, but only if total appeals exceed, in the aggregate, 5% of assessed value in the Project Area;
- (ii) summary of taxable value in the Project Area for the most recent fiscal year;
- (iii) a listing of the ten major property tax assessesees in the Project Area;
- (iv) summary of the Tax Revenues, the debt service for the Bonds and any Parity Debt and the debt service coverage ratio for the Bonds and any Parity Debt for the current fiscal year; and
- (v) assessed values in the Project Area for the most recent fiscal year.

Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the Successor Agency or related public entities, which have been submitted to the MSRB through the EMMA System or the Securities and Exchange Commission. If the document included by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The Successor Agency shall clearly identify each such other document so included by reference.

Section 5. Reporting of Significant Events.

(a) The Successor Agency shall give, or cause to be given, notice of the occurrence of any of the following Listed Events with respect to the Bonds:

- (1) Principal and interest payment delinquencies.
- (2) Non-payment related defaults, if material.
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties.
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties.
- (5) Substitution of credit or liquidity providers, or their failure to perform.
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security.
- (7) Modifications to rights of security holders, if material.
- (8) Bond calls, if material, and tender offers.
- (9) Defeasances.

ATTACHMENT 8

- (10) Release, substitution, or sale of property securing repayment of the securities, if material.
- (11) Rating changes.
- (12) Bankruptcy, insolvency, receivership or similar event of the Successor Agency or other obligated person.
- (13) The consummation of a merger, consolidation, or acquisition involving the Successor Agency or an obligated person, or the sale of all or substantially all of the assets of the Successor Agency or an obligated person (other than in the ordinary course of business), the entry into a definitive agreement to undertake such an action, or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.
- (14) Appointment of a successor or additional trustee or the change of name of a trustee, if material.

(b) The Successor Agency shall, or shall cause the Dissemination Agent (if not the Successor Agency) to, file a notice of such occurrence with the MSRB through the EMMA System, in a timely manner not in excess of 10 business days after the occurrence of the Listed Event. Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(8) and (9) above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to holders of affected Bonds under the Indenture.

(c) The Successor Agency acknowledges that the events described in subparagraphs (a)(2), (a)(7), (a)(8) (if the event is a bond call), (a)(10), (a)(13), and (a)(14) of this Section 5 contain the qualifier "if material." The Successor Agency shall cause a notice to be filed as set forth in paragraph (b) above with respect to any such event only to the extent that the Successor Agency determines the event's occurrence is material for purposes of U.S. federal securities law. The Dissemination Agent shall not be responsible for determining whether an event is material.

Section 6. Termination of Reporting Obligation. The Successor Agency's obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds or upon the delivery to the Dissemination Agent of an opinion of nationally recognized bond counsel retained by the Successor Agency to the effect that continuing disclosure is no longer required. If such termination occurs prior to the final maturity of the Bonds, the Successor Agency shall give notice of such termination in the same manner as for a Listed Event under Section 5(c).

Section 7. Dissemination Agent.

(a) The Successor Agency may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the Successor Agency pursuant to this Disclosure Certificate, unless the Successor Agency is the Dissemination Agent, as provided herein. The initial Dissemination Agent shall be _____. If at any time there is no designated Dissemination Agent appointed by the Successor Agency, or if the Dissemination Agent so appointed is unwilling or unable to perform the duties of Dissemination Agent hereunder, the Successor Agency shall be the Dissemination Agent and undertake or assume its obligations hereunder. The Dissemination Agent may resign by providing thirty days written notice to the Successor Agency and the Trustee.

Any company succeeding to all or substantially all of the Dissemination Agent's corporate trust business shall be the successor to the Dissemination Agent hereunder without the execution or filing of any paper or any further act. The Dissemination Agent may resign its duties hereunder at any time upon written notice to the Successor Agency.

(b) The Dissemination Agent shall be paid compensation by the Successor Agency for its services provided hereunder in accordance with its schedule of fees as agreed to between the Dissemination Agent and the Successor Agency from time to time and for all expenses, legal fees and advances made or incurred by the Dissemination Agent in the performance of its duties hereunder. The Dissemination Agent (unless the Successor Agency is the Dissemination Agent) shall have no duty or obligation to review any information provided to it by the Successor Agency hereunder and shall not be deemed to be acting in any fiduciary capacity for the Successor Agency, holders or beneficial owners or any other party. The Dissemination Agent may rely and shall be protected in acting or refraining from acting upon any direction from the Successor Agency or an opinion of nationally recognized bond counsel retained by the Successor Agency.

Section 8. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the Successor Agency may amend this Disclosure Certificate, and any provision of this Disclosure Certificate may be waived, provided that the following conditions are satisfied (provided no amendment or waiver shall be made that affects the duties or rights of the Dissemination Agent without its written consent):

(a) if the amendment or waiver relates to the provisions of Sections 3(a), 4 or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of an obligated person with respect to the Bonds, or type of business conducted;

(b) the undertakings herein, as proposed to be amended or waived, would, in the opinion of nationally recognized bond counsel retained by the Successor Agency, have complied with the requirements of the Rule at the time of the primary offering of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

ATTACHMENT 8

(c) the proposed amendment or waiver either (i) is approved by holders of the Bonds in the manner provided in the Indenture for amendments to the Indenture with the consent of holders, or (ii) does not, in the opinion of nationally recognized bond counsel retained by the Successor Agency, materially impair the interests of the holders or beneficial owners of the Bonds.

If the annual financial information or operating data to be provided in the Annual Report is amended pursuant to the provisions hereof, the first annual financial information filed pursuant hereto containing the amended operating data or financial information shall explain, in narrative form, the reasons for the amendment and the impact of the change in the type of operating data or financial information being provided.

If an amendment is made to the undertaking specifying the accounting principles to be followed in preparing financial statements, the annual financial information for the year in which the change is made shall present a comparison between the financial statements or information prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles. The comparison shall include a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of the financial information, in order to provide information to investors to enable them to evaluate the ability of the Successor Agency to meet its obligations. To the extent reasonably feasible, the comparison shall be quantitative. A notice of the change in the accounting principles shall be sent to the MSRB through the EMMA System in the same manner as for a Listed Event under Section 5(c).

Section 9. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the Successor Agency from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the Successor Agency chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the Successor Agency shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 10. Default. In the event of a failure of the Successor Agency to comply with any provision of this Disclosure Certificate, the Participating Underwriter or any holder or beneficial owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Successor Agency to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an Event of Default under the Indenture, and the sole remedy under this Disclosure Certificate in the event of any failure of the Successor Agency to comply with this Disclosure Certificate shall be an action to compel performance.

Section 11. Duties, Immunities and Liabilities of Dissemination Agent. All of the immunities, indemnities, and exceptions from liability in Article VI of the Indenture insofar as they relate to the Trustee shall apply to the Trustee and the Dissemination Agent in this Disclosure Certificate. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and the Successor Agency agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys fees) of

ATTACHMENT 8

defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The Dissemination Agent may rely and shall be protected in acting or refraining from acting upon any direction from the Successor Agency or an opinion of nationally recognized bond counsel retained by the Successor Agency. The obligations of the Successor Agency under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds. No person, other than the Successor Agency, shall have any right to commence any action against the Trustee or Dissemination Agent seeking any remedy other than to compel specific performance of this Disclosure Certificate.

Section 12. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the Successor Agency, the Dissemination Agent, the Participating Underwriter and holders and beneficial owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Dated: _____

SUCCESSOR AGENCY OF THE COMMUNITY
DEVELOPMENT AGENCY OF THE CITY OF
TRACY

By _____

Name _____

Title _____

AGENDA ITEM 7REQUEST**RECEIVE AND FILE THE PRESENTATION ON THE FIRST QUARTER OPERATING REPORT**EXECUTIVE SUMMARY

The City has completed the first quarter of the fiscal year (FY) 2015-16. This report summarizes the activities of the City's General fund from July thru September 2015, but is not meant to be inclusive of all finance and accounting transactions. It is intended only to provide the Council and the public with an overview of the state of the City's general fiscal condition. The General Fund is the primary operating fund of the City and is used to account for most operating activities.

DISCUSSION

On June 16, 2015, the City adopted the FY 15-16 budget which included \$55 million in revenue and \$50 million in expenditures, resulting in a \$5 million increase to general fund reserves. This budget incorporated the following assumptions:

- Measure E will sunset in March of 2016
- Sales Tax will increase 7%
- Property Taxes will increase 12%
- Budget Savings \$1 million

GENERAL FUND REVENUES

GENERAL FUND	FY 2014/ 2015			FY 2015/ 2016		
	Budget	Actual 1 st Quarter	% Received	Budget	Actual 1 st Quarter	% Received
Property Tax	\$16,259,400	\$25,732	0%	\$18,239,650	\$122,468	1%
Sales Tax	16,078,080	1,132,277	7%	17,282,600	1,943,628	11%
Current Charges	10,074,050	1,996,691	20%	4,425,360	135,509	3%
Measure E	7,012,480	681,842	10%	6,314,900	1,338,281	21%
Licenses and Permits	4,046,280	378,415	9%	2,835,600	548,962	19%
Other Taxes	2,130,000	774,643	36%	2,455,000	777,594	32%
Other Revenue	1,530,200	663,646	43%	1,199,800	549,253	46%
Intergovernmental	1,170,250	381,983	33%	1,235,920	219,230	18%
Other Financing Sources				1,250,000		0%
TOTAL	\$55,300,740	\$6,035,229	10%	\$55,238,830	\$5,634,925	10%

Overall, the revenues reflected are on target based on payment schedules and past trends for

the first quarter of the fiscal year. The City has adjusted for the expiration of Measure 'E' and continues to look to increase diversity in the portfolio to weather economic storms. Revenue is anticipated to come in as budgeted.

- Property Tax – This quarter's revenues are at the same level as in the prior year. The majority of the City's property taxes are received in December and April. It is expected that this revenue category will be on target.
- Sales Tax – This quarter's revenue is higher than previous year's and is trending a little higher than budgeted. Sales Tax is received monthly, with a 3 month lag. Sales Tax is very sensitive to market fluctuations and seasonal spending. Due to the variability of Sales Tax, the City forecasts this revenue category will be on target, with further evaluation as the year progresses.
- Current Charges – Charges for service including recreation fees, building and facility rentals, and use charges. This category is much lower due to the separation of community development fees and expenses to the community development special revenue funds in FY 2015/16. This revenue category is highly seasonal and is expected to this revenue category will be on target.
- Measure E – This budgeted revenue is less than the previous year due to the sunset of this temporary tax in March 2016. Like Sales Tax, revenues are received monthly, with a 3 month lag. This percent received is artificially high due to the shortened receipt period and is expected to come in as budgeted
- Licenses and Permits – This revenue category consists of Franchise Fees, Business License Fees, and Animal License Fees. This fiscal year, building and permit fees are not reflected in the General Fund, but have been moved to the Community Development Special Revenue Funds.
- Other Taxes – This revenue category consists of Business License Tax, Real Property Transfer Tax and Transient Lodging Tax. These revenues are budgeted higher than last year with the anticipated economic recovery. The first quarter's receipts and trending closely with last fiscal year, and lower as a percentage of budget. The City will continue to monitor collections as the year progresses.
- Other Revenue - This is the miscellaneous category for revenues. It includes fines & forfeitures, use of monies & property, the sale of property, contributions, refunds, and other income not classified elsewhere. The budget for this category was reduced from the previous year to be representative previous years' realized revenue.
- Intergovernmental Revenue – The revenue category includes grants, subventions, and reimbursements from other government entities. This revenue category can fluctuate greatly dependent on available grants and subventions.
- Interfund Transfers – This represents the transfer of overhead cost from the CIP projects to cover general fund administrative and program costs that support Capital Improvement Projects.
- Other Financing Sources – Community Benefit Payments over four years to repay the \$5 million advance for Legacy Fields.

GENERAL FUND EXPENSES

Expenditures are tracking slightly above budget, which is partially due to the \$1 million in salary savings still to be fully realized, one-time expenditures at the beginning of the year, and

encumbrances (promises to pay) for the full year. Spending is consistent with this period last year.

GENERAL FUND		FY 2014/15			FY 2015/16		
Expenses By Division	Budget	Actual 1 st Quarter	% Expended	Budget	Actual 1 st Quarter	% Expended	
Police	\$23,866,190	\$5,881,353	25%	\$24,131,970	\$6,052,093	25%	
Fire	9,897,450	2,216,560	22%	9,461,780	2,496,399	26%	
Public Works	4,165,480	1,185,872	28%	4,263,410	1,031,067	24%	
Utilities	268,730	(102,623)	(38)%	154,510	247,725	160%	
Development Services	8,131,270	2,320,168	29%	678,200	56,856	8%	
Economic Development	542,530	176,298	32%	688,890	156,964	23%	
General Government	2,896,220	979,069	34%	2,786,330	775,173	28%	
Recreation & Cultural Arts	3,664,250	1,212,384	33%	3,749,630	983,943	26%	
Administrative Services	3,392,440	1,011,398	30%	3,568,780	1,171,232	33%	
Non-Departmental	(401,910)	(123,343)	31%	(84,470)	(375,216)	433%	
Salary Savings				(1,000,000)	0	0	
TOTAL	\$56,422,650	\$14,757,046	26%	\$48,399,030	\$12,596,234	26%	

With 25% of the year completed, expenses are averaging as anticipated. Variances or anomalies are discussed below:

- Development Services included Community Development expenses in prior years, but has been separated into a special revenue fund.
- General Fund Utilities consists of the maintenance of street lights, traffic signals, and electrical systems in City Buildings and Parks. Because 70% of these costs are Street related, the Streets fund reimburses this budget unit for 70% of the incurred costs. The City is also anticipating savings from the LED street light project that is in progress. The reimbursement to the general fund has not been realized at the end of the first quarter, but will be reflected in future quarterly reports.
- Administrative Services expenses are more than 25% due to one-time expenses early in the fiscal year and encumbrances (promises to pay) for the full fiscal year. Spending is comparable to previous years and is expected to finish within budget, as in previous years.
- Non-Departmental Group – This expense group consists of equipment replacement (positive) and indirect cost reimbursements (negative). As equipment is purchased, this account will track closer to budget.
- Budget Savings quantifies the expense savings of employee turnover and temporary vacancies. Because the City cannot accurately forecast where the vacancies will occur, this is shown as a separate line item.

EXPENDITURES BY TYPE

GENERAL FUND		FY 2014/ 2015		FY 2015/ 2016		
Expenditure Type	Budget	Actual 1 st Quarter	% Expended	Budget	Actual	% Expended
Salary & Benefits	\$35,599,131	\$7,988,800	22%	\$31,486,896	\$8,233,583	26%
Contracted Services	12,276,378	4,848,274	39.0%	10,229,828	2,848,491	28%
Commodities	1,451,190	476,261	33%	1,410,000	281,641	20%
Other Payments	1,117,601	533,751	48%	989,376	202,297	20%
Capital Outlays	458,801	76,145	17%	498,009	82,352	17%
Transfers & Reserves	5,559,549	833,815	15%	3,784,851	947,870	25%
TOTAL	\$56,422,650	\$14,757,046	26%	\$48,399,030	\$12,596,234	26%

- Salary and Benefits comprise 65% of the City's expenses. The \$1 million budget savings is netted into this account. With 25% of the year elapsed, Salary and Benefits are slightly higher than budget, with turnover, it is anticipated this category will remain within budget, not including bargaining unit increase, which will need to be pulled from the reserve.
- Contracted Services are expenditures for service rendered in support of City operations and activities by external parties, such as telephone, internet, postage, repairs and consultants.
- Commodities are expenditures for goods and materials rendered in support of City operations and activities, such as office supplies, small equipment, safety equipment and lab supplies.
- Other Payments is a miscellaneous category that consists of taxes and assessments, refunds, and subventions.
- Capital Outlays include street, ground and building improvements.
- Transfers and Reserves include transfers from other funds (negative) and transfers to reserves (positive)

This summary is based on detailed information produced by the City's Finance Division. If you would like additional information or have any questions about this report, please call (209) 831-6842.

STRATEGIC PLAN

Under Goal 2 of the Governance Strategy, the report "enhances fiscal transparency".

FISCAL IMPACT

No fiscal impact.

RECOMMENDATION

It is recommended that the City Council receive and file this report.

Prepared by: V. Rachelle McQuiston, Administrative Services Director

Reviewed by: Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

AGENDA ITEM 8

REQUEST

DISCUSS FIVE-YEAR OUTLOOK AND STRATEGIC STAFFING PLAN

EXECUTIVE SUMMARY

As a result of the economic decline that began in 2008-2009, the City of Tracy implemented a variety of cost-saving measures in order to successfully weather the historic economic recession. While these cost-saving measures allowed the City to meet its financial obligations and emerge from the recession in a relatively strong financial position, City services and internal procedures experienced negative impacts which were hoped to someday be eased once the financial outlook stabilized.

Department heads and senior managers recently held a two-day retreat to develop a five-year strategy for moving the City forward to restore and bolster crucial staff and services. During the retreat, each Department presented a plan to address immediate needs and gaps in service and also explored how to enhance services in ways that would minimally impact our General Fund. This report outlines the City's financial background and outlook as well as highlights the staffing plan which resulted from this collaborative retreat.

DISCUSSION

1. Financial Background and Outlook

During the "Great Recession" which began approximately 2008-2009, the City of Tracy experienced drastic reductions in revenues at the same time that pension and benefit costs began to dramatically rise. At this time, the City anticipated shortfalls of \$6 million annually to the General Fund, which was projected to continue for at least the near future. In response, the City, in approximately 2009, began to implement a two-pronged approach in hopes of stabilizing the City's financial condition. This two-pronged approach consisted of both increasing revenue, by passing a 1/2 cent sales tax measure (Measure E), and by decreasing costs, by staff level reductions. These service level reductions decreased the City's workforce by 20%, which was achieved by both layoffs and attrition. Combined, these strategies improved the General Fund position by over \$12 million annually and now, in 2015, the General Fund enjoys a \$30 million reserve.

2. Strategic Staffing

As shown above, the City has managed to achieve relative financial stability in the face of a rapidly expanding population and fast-moving economic growth. While these measures have been fiscally successful, in the last few years, the severe staffing cutbacks have taken a toll both on morale and service levels. Many of these reductions also resulted in the delayed planning, training and preventative maintenance so staff could concentrate on the most immediate needs of the citizens.

Now that the most severe of the economic challenges appear to be behind us, it is time to move forward with strategic staffing enhancements. The present challenge is to strategically staff the organization in a way to best meet the City's immediate needs and prepare for the future, while keeping within the City's reasonable budget restraints.

In an attempt to meet these challenges, department heads and senior managers recently held a two-part retreat to discuss how to move forward to begin restoring services over the next few years. The discussion focused on three major areas. First, staff discussed major gaps in the organization; places where there were either not enough, or in some cases, no staff at all, to perform key work in the organization. These gaps could have been the result of eliminating positions in the downturn, from increased demand in areas where no staff could be hired, or, in some cases, instances where there simply was one taking a crucial role and other staff filled in or wore that "hat" on occasion. In some cases, entire lines of supervision had been eliminated, much to the detriment of the departments. There are also instances where changes in the law, particularly in the Human Resources field, created new needs for services. These were identified as crucial issues to be addressed on the short term.

Secondly, staff explored how the City could move forward to restore services, initiate new needed programs and sustain the organization by adding critical staff components. Through this discussion, staff also looked at programs or positions that supported current staffing levels to serve the community more effectively. Lastly, department staff members shared with each other their vision of the future, in a perfect world. During this exercise, departments described how they could best serve residents, given few monetary restraints. During this presentation, staff members were allowed to be creative and outlined a full service operation that could fully meet the challenges of a modern model city.

During the first day of the retreat, each department was asked to make a presentation regarding their service needs following the three tracks outlined above. This presentation was the "wish list" of what their departments would look like in the perfect scenario. Staff was then asked to perform homework in preparation for the second day of the retreat by distilling their most crucial needs into two lists, 1) a list of five most critically needed positions in the short term, with the general fund costs for these positions, the rationale behind the positions and the service deliverables which could be achieved by the addition of these positions, and 2) a list of positions that could restore services, yet have minimal impact on the general fund. These lists were printed on large sheets of paper and were attached to the wall during the next retreat day.

3. Critical Needs

Each department's critical staffing needs lists, as pinned to the wall of the retreat center, are outlined below. Each department gave a presentation of its lists during the first portion of the second day of the retreat. Then, each department described their needs. After all the presentations were completed, staff roamed around and looked at all the lists, discussed them with each other and asked questions. By talking to each other, staff gained more knowledge and understanding of each other's roles and how we work together to achieve progress for the City.

It should be noted that there is no “critical needs” list for the Utilities Department. Because Utilities Department staff positions use a variety of enterprise and other funds and do not impact the general fund, critical Utilities Department needs were not made part of the voting process, but are listed in the next section, where non-general fund positions are listed.

Fire Services

Position	Rationale	Cost (General Fund)	Deliverables
Fire Battalion Chief(3)	The fire department has been missing a critical layer of management for 10 years (akin to having no Lieutenants in a law enforcement agency). Direct supervision of 7-8 field units is currently conducted by Division Chiefs who also shoulder the Administrative workload. Effective emergency incident command is better provided with the addition of Battalion Chiefs not with Division Chiefs as an ancillary duty.	\$580,000 estimated fully burdened cost, spread among the member agencies of the South County Fire Authority in accordance with the cost sharing formula. The current formula is 64% City of Tracy, 36% Tracy Rural. \$371,000 - City GF \$209,000 – Tracy Rural. Net increase to GF: \$371,000	Improved supervision of emergency personnel, enhanced communication between line staff and administration. Battalion Chiefs handle administrative work such as training, communications, facility and apparatus maintenance. Assists in meeting Council Public Safety Strategy Goals 2 & 3. Promotes public health and safety, enhances citywide disaster preparedness.
Firefighter/ Medics (3) Increase staffing from 2 per shift to 3 per shift at Fire Station 94 – 16502 W. Schulte Road	Desired minimum staffing levels are 3 per unit. This station has historically been the responsibility of Tracy Rural. City annexed Prologis Business Park, mutual interest in adequate staffing to protect infrastructure and new tax base. Staffing would be consistent with all other current resources within the City (More effective response to large industrial area (Patterson Pass Business Park, Prologis))	\$367,000 fully burdened cost. If cost were split via the cost sharing formula the expense would be: \$235,000 City of Tracy; \$132,120 Tracy Rural The department has current FTE count of three floater firefighters. A partial offset could be to use existing staff to fill the positions which result in overtime increase of estimated \$341,000. Less fully burdened cost of \$367,000 = offset of \$26,000. Cost split would then be: \$218,000 – City GF \$123,000 – Tracy Rural	Increased firefighter safety and efficiency of personnel responding to Patterson Pass Business Park, Prologis International Park of Commerce. Improvement of Council Public Safety Strategy to promote responsive public safety system that includes intervention and suppression services to meet the needs of Tracy residents.
3. Deputy Fire Chief (1)	Fire Administration currently has a flattened administrative structure. The Fire Chief does not	\$235,000 estimated fully burdened cost. Request could be offset through	Increased efficiency in fire administration. Improved response time and turn-a-round

	<p>have a clearly identified 2nd in command. Would represent and act in Fire Chief's absence. Provide complex administrative support to Fire Chief. Would assist in planning, organizing and directing services of the fire department. Position would provide direct supervision of Division Chiefs. Would ensure quality fire service delivery, foster working relationship with the community.</p>	<p>the reclass of one Division Chief position (if BCs are approved, otherwise all DC's needed for shift supervision).</p> <p>If added without reclassification: \$150,000 – City GF \$85,000 – Tracy Rural</p> <p>Or, if reclassify one Division Chief: \$235,000 Deputy less estimated \$205,000 = \$30,000</p> <p>\$19,200 – City GF \$10,800 – Tracy Rural</p>	<p>on administrative work related to planning, analysis and staff reports. Enhanced efficiency through better distribution of administrative workload. Improved accountability of administrative staff. Improved ability to meet Council Public Safety Strategy, Goal 1 – partner with and engage residents to address public safety concerns.</p>
--	--	--	--

Police Services

<p>2.New Police Officer (2)</p>	<p>New development planned in the West and South West of the City. Staff anticipates calls for service to the newly developed areas for traffic accidents, crimes against persons and thefts.</p> <p>Existing staff will have to respond to calls for service in the new developments. Response times will be increased with the distance from the center of the city to the new areas.</p>	<p>\$273,444, for two officers or \$136,733 each, which includes salary and benefits.</p> <p>The offset will be the contributions of the new development for police services.</p>	<p>The new development will have staff to serve the community.</p>
<p>3.New Public Safety Dispatcher (2)</p>	<p>California Peace Officer Standards and Training (POST) support the staffing of the communications center with three dispatchers. City growth and increase of cellular 911 callers, staffing with two dispatchers becomes a challenge during a critical</p>	<p>Salary and Benefits of one dispatcher is \$115,000.</p> <p>The salary and benefits for two dispatchers is \$230,000.</p>	<p>The dispatcher is a critical component to the response of calls of service.</p>

	incident. The dispatchers are responsible for handling multiple callers, radio traffic and other non-emergency calls. Two dispatchers can become overwhelmed quickly during peak hours.		
4.Reclassify Executive Assistant to Management Analyst	Administrative duties of the support operations have been moved to the Watch Commanders, including fleet management and training. This has not been the most effective or efficient method and due to the schedule of the Lieutenants there has been a lack of coordination. The tasks can be performed administratively.	Salary difference is \$16,745.	Having the administrative duties performed by a civilian would be more efficient and effective.
5.New Community Service Officer(CSO)	(External) CSO's take reports of traffic collisions and other reports to free up officers in the field. This will reduce our response time to calls, especially the higher priority calls.	Salary and benefits is \$90,144	

Development Services

Management Analyst – Code Enforcement	Oversee Case Management, review complaints, assign cases, conduct community and homeless outreach.	\$131,308 Up to 100% GF	Improved customer service response times and, increased efficiencies
Eng. Tech	Handle general phone calls and front counter inquiries allowing Senior Engineers to focus on more complex work.	\$101,741 50% (\$50,871) to GF – balance from Development Fees	Provide much needed design support for the engineering team.
Contracts Admin –	Additional support for expected increases in	\$113,229	Contract administration and

Engin.	work load resulting from development cost recovery, and impact fee programs.	100% GF	compliance.
Planning Techs (2)	Handle phone calls and front counter inquiries allowing more experienced planners to focus on more complex work.	\$190,461 50% (\$95,231) to GF – balance from Development Fees	

Administrative Services

GIS Analyst	GIS vital to many aspects of local government. Current staffing cannot keep up the growing workload which has resulted in data becoming outdated/inaccurate, threatening viability of current City technology investment.	Cost - \$135,000, with benefits. However, there is a potential savings of \$30k/yr that is currently used towards GIS consultants for a net GF cost of \$105k.	This position will relieve departments of much of their GIS workload as we continue to centralize GIS within IT. This in turn will allow existing staff more time to focus on their core job duties.
Safety/Compliance/ Risk Manager	The City does not proactively coordinate its risk management programs.	\$130,000, which includes benefits. Net increase: \$130, 000 to GF	The Risk Manager will function to protect the City's resources and limit liability exposures with stable, cost-effective risk management services and provide valuable customer service to employees and citizens.
HR Tech-Payroll	Recent auditor findings revealed a deficiency in the separation of duties in the City's payroll function.	\$88,000, with benefits Net increase: \$88,000 to GF	The City will employ best practices with respect to separation of duties.
HR Tech	With the anticipated addition of potentially 50+ new positions in the next 12-18+ months, the City will need additional staffing to conduct recruitments as well as provide general HR support to the growing City population.	\$88,000, which includes benefits Net increase: \$70,400 to GF	Departments will receive a higher level of quality customer service, including effective and efficient recruitment processes as well as timely HR consultation. The addition of this HR technician position will ensure timely and

			accurate safety and personnel related records management.
Finance Supvsr Coordinator	The current Senior Accountant directly supervises nine front-line staff. This position will provide better customer service by giving front-line staff more resources, will enhance internal controls by having a supervisor controlling transactions and will also relieve the Senior Accountant of many daily interruptions to focus on larger departmental/ organization needs/analysis,	Cost: \$90K, with benefits. Approximately 30% of the cost would be charged to the enterprise funds. Net increase: \$63,000 to GF.	Better customer service Increased productivity of both front-counter and upper (more expensive) positions Better internal/cash handling controls; lower risk of theft/embezzlement

Public Works

Clerical – Admin Support (2)	(External) These part-time positions will help reduce pending service requests by addressing and routing phone calls, walk-ins and internet requests. (Internal) Will provide clerical support to the field staff. They will also provide support to our battery recycling program.	Cost: \$27,616 GF = \$4k Water = \$8k Sewer = \$8k Solid Waste = \$8k	The positions will provide more time for field staff and Superintendents to address maintenance and repair issues rather than fielding customer calls and will provide more backup to the current Admin staff, as Analysts are often covering phone calls and walk in service requests.
Field Supvsr– Trees, Parks, and LMD	360 current work requests outstanding. The position will provide the oversight and support needed to efficiently and effectively provide improved response time for processing work requests. The current span of control for the Superintendents covering these areas are 17:1 and 18:1.	\$145,174 GF = \$15k Green w = \$80k *LMD = \$20k *A portion of this may be offset by redistribution of MAIL.	Provide the consistent employee, and contract management in the field. The result will be better employee performance through stronger support and timelier resourcing of operations. This position will allow the City to be more proactive in repairing and preventing

			hazards throughout the City. Reduce the number of liability claims and lower claim amounts.
Fleet Supvrs	This will reduce City vehicle downtime. This supervisor will coordinate compliance and monitoring reports such as Air Resource Board, EPA, CHP, etc. and aid in meeting NAFA standards. Will also help other depts by handling all procurement and maintenance.	\$156,032, with benefits Paid for through ISC and/or new enterprise fund model	This position will centralize oversight of fleet services for all City departments which will save City money, freeing up resources within other departments. Ultimately this will improve the City's services to the entire community.
Maintenance Worker II – Legacy Fields	(External) Legacy Field's first phase will require daily oversight of the City's portion of the infrastructure and landscaping, as well as management of the entire irrigation system. (Internal) GF Parks & Sports Fields staff is stretched too thin.	Cost: \$94,400 GF – 100% *Possibly offset via agreements with leagues and rental revenues	The General Fund will have invested over \$17,000,000 into Legacy Fields. In order to protect this investment and keep the facility in a safe condition, this position is required. Based upon the current conditions of fields built and maintained by TLL, it is entirely possible that additional positions will be needed in future years if local youth groups fail to provide the site proper ongoing care.
Maintenance Worker II (2) – Streets, Sidewalks, Traffic	(External) The increased demand on the removal of illegal encampments, illegal dumping, and special projects from external and internal customers, routine services have been severely impacted. (Internal) With increased service requests and the addition of new development, the Streets Division is not currently able to sustain an	Cost: \$188,800 Gas tax - \$94,400 GF - \$94,400 CIP projects	This additional crew will be dedicated to the "extra" requests that come up through City service requests or Council Priorities. But doing so, other crews will be able to continue the daily maintenance throughout the City with their regular service requests and meet current or future demands from internal customers such as DS

	efficient service program.		
--	----------------------------	--	--

City Manager’s Office

<p>Community Access Coordinator – Augmentation from part-time to full-time status</p>	<p>With limited part-time hours available, it has become an increased challenge to meet the technical, operational and supervisory demands required of this position. Reclassification of the Community Access Coordinator to a full-time position will provide enhanced flexibility and technical support for Channel 26 operations and City-wide audio/visual and television programming needs.</p>	<p>\$50,000 per fiscal year, including benefits.</p>	<ul style="list-style-type: none"> • Greater support and flexibility towards the City’s audio/visual needs • Enhance the City’s overall communication and outreach efforts • Key when the City undergoes improvements/upgrades of the A/V system in Council Chambers.
<p>Front of House Coordinator – Grand Theatre</p>	<p>Currently staff is having to deny many rentals at the Grand Theatre Center for the Arts due to the limited number of staff. There is not a designated Front of the House Coordinator. The Front of House Coordinator oversees and coordinates the front-of-house activities during every performance and rental at the Grand Theatre and can assist the Box Office Coordinator with the operations of the Box Office.</p>	<p>Authorization of the full-time Front of the House Coordinator will incur an estimated general fund expense of \$81,398 per fiscal year which includes benefits, but additional rentals will generate additional revenue.</p>	<ul style="list-style-type: none"> • Enhanced flexibility and technical support • Additional revenue with increased staffing available for additional rentals • Meet Council Goal #1 Quality of Life Strategy

<p>Recreation Coordinator I – Aquatics</p>	<p>The Recreation Coordinator I is responsible for administering the day-to-day operations of the Recreation Division Aquatics and Athletics programming. This includes the recruiting, training and supervising of part-time and temporary staff and volunteers. Additionally, this position will have direct supervision of the developing, organizing and implementing the aquatics program for the newly renovated Joe Wilson Pool and oversee the daily operations of the future aquatics center at Ellis.</p>	<p>Recreation Coordinator I will incur an estimated expense of \$81,398 per fiscal year. The estimated amount of \$6,700 per fiscal year will be offset by pool rental revenues. A portion of the cost is also offset by program fees. The balance of \$74,698 will be offset by \$7,600 in the current part-time staff budget and \$67,098 from the expenditures designated for contract services.</p>	<ul style="list-style-type: none"> • Aquatics program has declined in customer satisfaction over the past 4 years. • Expenditures designated for contract services will then in turn be budgeted for full-time and part-time staff. • Customer satisfaction is anticipated to increase.
<p>Recreation Coordinator I – Senior Services</p>	<p>With limited part-time hours available (it has become an increased challenge to meet the operational and supervisory demands required of the current position. Reclassification of the Recreation Leader III to a full-time Recreation Coordinator I position will provide an increase in service delivery for the senior population and will work closely with the Recreation Services Supervisor and Parks & Community Services Commission to continue to outreach to the senior population.</p>	<p>An estimated general fund expense of \$53,863 which includes benefits per fiscal year.</p>	<ul style="list-style-type: none"> • Position will work closely with senior related agencies • Demand for programming for baby boomers is increasing. • The demand for more health & wellness classes, recreation programming, special events and social service programming has increased – and is considered critical for Tracy’s quality of life.

1. Non-General Fund Positions

The following lists represent important positions that might be added strategically using minimal general fund monies.

Utilities

Additional Positions	Rationale	Cost	Outcomes
Two Operators Water Treatment Plant	<u>EXTERNAL</u> With the addition of the Cordes Ranch development within the City's existing Water Zone 3 and the development of Tracy Hills with a new water system totally independent of the City's existing water system, new water operators are needed.	\$25,400 which includes benefits (Water Enterprise Fund) This reduced budgetary impact to the Water Enterprise Fund will be achieved by eliminating two existing Operators In Training positions (OIT).	Provide reliable water systems in the new development areas.
One Operator Wastewater Plant	<u>EXTERNAL</u> With the expansion of the Wastewater Treatment Plant from 10.8 mgd to 12 mgd, additional operational assistance is needed.	\$12,700 which includes benefits (Wastewater Enterprise Fund). The reduced impact to the Wastewater Enterprise Fund will be achieved by replacing one Operator in Training (OIT) position with the proposed Operator position. This cost shall be offset by the increased sewer treatment fees from new developments.	Serve new developments by providing reliable operation of the Wastewater Treatment Plant.
NEW	NEW PROGRAM RECYCLED WATER		
One Operator One Maintenance Worker (for fill station)	<u>EXTERNAL</u> With the implementation of the Recycled Water Program a new distribution network will be installed with pump stations and different pressure zones which will result in the creation of additional operational needs.	\$96,000 & \$67,200 (Including benefits Wastewater Enterprise Fund) The cost will be paid from the WW Enterprise Fund and supplemented by the savings resulting from the reduced cost of water resources for existing and new developments.	The City's reliance on water resources will be reduced. The City may benefit from additional revenues if recycled water is sold to Power Plants, Irrigation Districts and other agencies.

Police Department

Position	Rationale	Cost	Outcomes
Public Safety Dispatcher	POST Standards and Growth of City.	\$115,000 which includes salary and benefits.	The cost of one dispatcher could be funded through the SLESF for FY 15-16 in the amount of \$100,000. This would be an offset of \$15,000.

Administrative Services Department

Position	Rationale	Cost	Outcomes
Finance Manager	Budget Officer position specs are too narrow in scope and outdated. Administrative Services needs a position that has a broader scope of duties, including internal audit.	Cost: \$10,000 to GF	Expanded focus, streamline accounts payable/ accounts receivable practices, review compliance issues, and receive fewer audit findings.

City Manager's Office

Position	Rationale	Cost	Outcomes
Technical Theatre Supervisor	Reallocation of funding from existing, vacant positions to add a full-time Technical Theatre Supervisor position to the Cultural Arts Division to support performance and rental operations at the Grand Theatre Center for the Arts.	The cost of this position, including salary and benefits is \$97,715. It will be absorbed through a salary savings by deleting one Theatre Operations and Technical Assistant and two part-time Program Assistants. The additional \$4,505 will come from the Theatre Presentations operating budget.	This request, should it be approved, will allow staff to better deploy resources within the Cultural Arts Division and provide a high level of technical support that will assist in the administration of the Performing Arts programs in the Cultural Arts division.
Public Affairs Intern – part-time	Assist PIO with internal and external outreach, marketing and engagement efforts. Currently the PIO cannot dedicate 100% of time to these efforts.	\$15,000 per fiscal year. Funding can be allocated from existing "Other Professionals" line item in MCYSN budget.	Increased flexibility, support and turnaround time as it relates to internal and external communication and marketing outreach.

PT Aquatics Staff	Part-time staff is being requested to assist in the administration of City Aquatics programming and daily operations of the newly renovated Joe Wilson Pool. Duties will include instructing daily activities of the aquatics program; monitoring the pool, water, decks and surrounding area; enforcing City rules and regulations; ensuring safety of pool patrons; performing swimming rescues and first aid and CPR. It is recommended that the following positions be filled by Spring 2016. - 3 Pool Managers, 6 Senior Lifeguards & 25 Lifeguards	Part-time staffing will not have an impact on the general fund. The expense of \$62,000 per fiscal year will be offset by the expenditures of \$130,000 designated for contract services. The balance of \$68,000 will cover the expense of the Recreation Coordinator I.	Essential to operate the new Joe Wilson pool in a safe and efficient manner. Customer satisfaction is anticipated to increase.
-------------------	--	---	--

Development Services

Position	Rationale	Cost	Outcomes
1. Grant Coordinator/Accounting Assistant	Ensure proper and timely distribution of funding to meet federal guidelines. Increased demand and oversight for federally funded projects, CDBG and HOME funded programs.	\$9,222 CMO/DS \$30,000 offset from MCYSN, up to \$40,000 from CDBG.	Consolidation of Tracy's multiple grant mgmt. activities (such as MCYSN, Façade Grant, Rehab. Loans, and Grants).
2 & 3. Code Enforcement Officers (2)	The addition of 2 officers will enable the City to address areas of service that are currently not addressed.	\$196,176 50%-75% Cost recovery from Utilities/Solid Waste	Allow Officers to address ALL violations related to substandard housing, dangerous buildings, fire prevention, and health and safety.
4. Management Analyst – Engineering	This position will manage the many facets of the Development Impact Fee Program reducing the need for some consultant services.	\$131,308 100% Cost recovery from Program Mgmt	The addition of this position would reduce the City's reliance on outside consultants.

Agenda Item 8
 December 1, 2015
 Page 14 of 17

5. Sr. Civil Engineer	The City needs an on staff engineer/ water planning expert that could lead efforts to draft Water Master Plans, Water Supply Assessments and Urban Water Management Plans.	\$175,848 Funded from CIP and Program Management	A position for Water Resource Engineering and Planning, able to lead Water MP, Water Supply Assessments, and lead water infrastructure design efforts.
6. Construction Inspector	Engineering currently has a heavy workload with an increasing burden anticipated in the 5 year CIP Projections.	\$115,569 Funded from CIP Program	A new construction inspector would provide much needed support for our engineering team.
7. <i>Reclass</i> Admin II to Bldg. Permit Technician	Increase the number of staff to process building permits.	\$7,213 100% to GF	Increase in customer satisfaction, staff availability, and operational fluidity (streamlining).
8. Bldg. Plans Examiner	Plans examiners are only available at the front counter for a half day; this new position will be assigned to all walk-in customers and phone inquiries, in addition to being assigned some plan reviews.	\$124,594 100% Cost recovery from Dev. Fees	Increase in plan review productivity, efficiencies, customer satisfaction, and uniformity of code application.
9. Plan Check Engineer	All engineering plan reviews are currently sent out to a consultant at greater hourly cost to the City.	\$175,848 100% Cost recovery from Dev. Fees	Increased uniformity in plan review, decrease in field inspection discrepancies.
10. Bldg./Fire Inspector	Currently, the City supports six full-time contract inspection staff.	\$115,499 100% Cost Recovery from Dev. Fees	Increased uniformity of inspections and customer satisfaction.
11. Assistant Planner	The high volume of over-the-counter, sign, minor development review permitting, and building permit plan review is taking time away from senior staff.	\$105,812	Conversion of contract staffing to FTE.

Public Works

Position	Rationale	Cost	Outcomes
Maintenance Worker II (2) – Sewer and Storm Drain	(External)The City is currently out of compliance with the Sanitary Sewer Management Plan (SSMP). We are not meeting State BMP's for SSOs or Storm Water Protection. (Internal) Crews are overloaded with service requests and are only able to provide reactive services to issues instead of being proactive.	Cost: \$188,800 for 2 positions WW: \$113,280 (60%) SD: \$75,520 (40%)	The city will become compliant with our SSMP and BMP's. These positions will limit the City's exposure to fines and legal actions regarding failures/non-compliance in these areas. Also, our current crews will be able to take a more proactive approach to our sewer and storm drains
Maintenance Worker II (2) - Water Division	(External) Water meters throughout the City are old and not providing accurate readings. Fire hydrant flushing does not meet State BMP's. Water valves are not routinely exercised and leak or fail as a result. Accurate water use reporting will aid in water use reductions and in meeting mandated water conservation goals.	Cost: \$188,800 for 2 positions Water Fund * Additional revenues from new meters	This may prevent valves, main lines and meters from breaking if we were able to repair or replace them prior to failure. This will improve service to the customers and conserve water through more accurate information regarding consumption and leak detection. We will be in compliance with various State regulations and BMP's. Flushing also helps with water quality – taste, color and odor problems.
Reclassify Meter Reader (2) to Maintenance Worker I	(External) The reclassified positions will be able to repair meter leaks, water leaks, and sewer problems. This will allow the Department to become more proactive in preventing problems. (Internal) These positions will be able to repair leaks instead of just creating service requests. This will provide more efficiency	Cost: \$15,556 for both positions Water: \$4,667 (30%) Water Meter CIP: \$6,223 (40%) WW: \$2,333 (15%) Storm Drain: \$2,333 (15%)	With the additional flexibility of the position, this will alleviate some duties of our current crews and also allow these positions to be utilized by other divisions should an emergency or urgent need arise.

	within how each crew responds to various types of requests.		
Field Supervisor – Streets, Sidewalks, Traffic	(External) Current staffing does not allow for thorough inspection of all claims and timely completion of service requests. (Internal)The current span of control for the Superintendents covering these areas is 18:1. Often, a crew member will be pulled from their daily task to inspect an area, or the Superintendent will need to go out in the field to perform these inspections.	Cost: ~\$145,174 TDA/Gas Tax – 80% (~\$116,000) GF – 20% (~\$29,000)	The result will be better employee performance through stronger support and timelier resourcing of operations. This position will allow the City to be more proactive in repairing and preventing hazards throughout the City. This in turn will reduce repair costs as well as reduce the number of liability claims and lower claim amounts.
Management Analyst I – Transit	(External) With the lack of staffing to research grants, there is money available to the City for projects that is not being utilized. (Internal) Current staffing levels do not provide the opportunity for researching grants available to the City for project funding resources.	Cost: \$125,154 Transit Fund: \$118,896 (95%) Airport Fund: \$6,258 (5%)	With additional funding available from grants, transportation needs for the City will be better met by adding bus routes, increasing the number of buses, adding and improving bikeways, upgrading or installing equipment, etc. This additional revenue is even more crucial with upcoming development.

Beginning this year and continuing through the next year, staff will be coming back to implement specific parts of this plan. Weight will be given to the rationale of the position and costs associated with the changes as well as the strategic outcomes that could be achieved by the proposed staff changes.

STRATEGIC PLAN

With the proposed strategic staffing plan, it is expected that all of the Council Strategies and Objectives could be enhanced.

FISCAL IMPACT

There is no direct fiscal impact associated with receiving this report.

RECOMMENDATION

Staff recommends that the City Council receive the report and provide direction on the proposed staffing plan.

Prepared by: Stephanie Garrabrant-Sierra, Assistant City Manager

Reviewed and Approved by: Troy Brown, City Manager