

Tuesday, December 20, 2016, 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.

CALL TO ORDER
PLEDGE OF ALLEGIANCE
INVOCATION
ROLL CALL
PRESENTATIONS

1. CONSENT CALENDAR

- A. Adoption of December 6, 2016, Regular Meeting Minutes
- B. Approve the First Amendment to the Offsite Improvement Agreement for Cordes Ranch – Phase 1D Non-Program Roadway Improvements for Building 6, and Authorization for the Mayor to Execute the First Amendment
- C. Approve the First Amendment to the Offsite Improvement Agreement for Cordes Ranch – Phase 1C Roadway Improvements for Crossroads Buildings 1 and 2, Approve the First Amendment to the Offsite Improvement Agreement for Cordes Ranch – Phase 1C Non-Program Roadway Improvements for Crossroads Building #1, and Authorization for the Mayor to Execute Both First Amendments
- D. Amend the Department Head Compensation Plan to Include an Incentive Program Providing \$1000 Per Year, for a Maximum of Three Years, to Executive Employees Living within the City of Tracy and to Provide Relocation Expenses of up to \$5000
- E. Adopt a Resolution Opposing the State Water Resources Control Board 2016 Draft Revised Substitute Environmental Document (SED) on the Proposed Update to the Water Quality Control Plan for the San Francisco Bay/Sacramento – San Joaquin Delta Estuary and Calling for Sustainable Solutions for the Stanislaus River and Region's Economy
- F. Approve an Exclusive Negotiating Rights Agreement with Cal North Soccer for Sports Fields at the Legacy Fields Complex Located on North Tracy Boulevard and Authorize the Mayor to Sign the Agreement
- G. Authorize Purchase of a Replacement 100' Aerial Drawn Tractor Ladder Truck from Pierce Manufacturing, Inc. Outfitted with Required Equipment to Meet National Standards Under a Cooperative Purchasing Agreement Through the Houston Galveston Area Council Pursuant to Section 2.20.220 of the Tracy Municipal Code and Appropriate \$1,189,639 from Vehicle Replacement Fund 606 and in the Amount of \$126,714 from the Equipment Replacement Fund 605 for the Purchase of the Truck and Required Equipment

2. ITEMS FROM THE AUDIENCE

3. INTRODUCTION OF AN ORDINANCE ADOPTING, BY REFERENCE, THE 2016 CALIFORNIA BUILDING AND RELATED CODES, SPECIFYING WHICH APPENDICES APPLY TO THE CITY OF TRACY, RE-ADOPTING CERTAIN EXISTING SECTIONS OF TITLE 9 OF THE TRACY MUNICIPAL CODE, ADOPTING LOCAL STANDARDS RELATED TO STRAW BALE CONSTRUCTION, EXTERIOR PALLET STORAGE, RADIO AMPLIFICATION SYSTEMS, AUTOMATIC SPRINKLER SYSTEMS, FIRE FIGHTER AIR REPLENISHMENT SYSTEMS AND OTHER EMERGENCY RESPONDER REQUIREMENTS AND SETTING A PUBLIC HEARING DATE AND TIME FOR ADOPTION OF THE ORDINANCE
4. ADOPT A RESOLUTION APPROVING THE ANNUAL REPORT ON DEVELOPMENT IMPACT FEE REVENUES, EXPENDITURES AND FINDINGS REGARDING UNEXPENDED FUNDS
5. ADOPTION OF A RESOLUTION OF INTENTION TO ESTABLISH COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD), IMPROVEMENT AREA NO. 1 AND THE FUTURE ANNEXATION AREA; ADOPTION OF A RESOLUTION OF INTENTION TO INCUR BONDED INDEBTEDNESS AND OTHER DEBT; SETTING THE PUBLIC HEARING DATE FOR FEBRUARY 7, 2017 TO CONSIDER QUESTIONS OF ESTABLISHING THE CFD, LEVYING THE SPECIAL TAX AND INCURRING BONDED INDEBTEDNESS AND OTHER DEBT; AND DIRECTION TO PREPARE A CFD REPORT
6. APPROVE A SERVICE AGREEMENT BETWEEN THE CITY OF TRACY AND TRACY MATERIAL RECOVERY AND SOLID WASTE TRANSFER, INC., AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT, AND AUTHORIZE THE CITY MANAGER TO EXECUTE MINOR AMENDMENTS FOR THE SAKE OF ADMINISTRATIVE EFFICIENCY; OR, IN THE ALTERNATIVE, APPROVE AMENDMENT NUMBER 4 TO THE CURRENT SERVICE AGREEMENT BETWEEN THE CITY OF TRACY AND TRACY MATERIAL RECOVERY AND SOLID WASTE TRANSFER, INC., EXTENDING THE CURRENT AGREEMENT THROUGH MARCH 31, 2017
7. CONSIDER AND ADOPT A RESOLUTION ADOPTING THE MAYOR'S 5-POINT PLAN AND INTEGRATING THE PLAN INTO THE COUNCIL'S STRATEGIC PRIORITIES
8. INTRODUCE ORDINANCE AMENDING SECTION 4.16.180(S) OF THE TRACY MUNICIPAL CODE TO MAKE THE UNAUTHORIZED CONSUMPTION OF ALCOHOL IN A CITY PARK A MISDEMEANOR
9. UPDATE ON THE STATUS OF THE SOUTH COUNTY FIRE AUTHORITY'S REQUEST TO BE DISPATCHED TO ALL MEDICAL EMERGENCIES
10. ITEMS FROM THE AUDIENCE
11. COUNCIL ITEMS
 - A. APPOINT AN APPLICANT TO THE PLANNING COMMISSION FROM THE COMMISSION'S ELIGIBILITY LIST

B. CONSIDER A RESOLUTION AMENDING CITY COUNCIL POLICY ON
FILLING CITY COUNCIL VACANCIES

12. ADJOURNMENT

December 6, 2016 7:00 p.m.

Council Chambers, 333 Civic Center Plaza, Tracy

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

Mayor Maciel called the City Council meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

Invocation was led by Pastor Tim Heinrich, Crossroad Baptist Church.

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

Troy Brown, City Manager presented the December 2016 Employee of the Month Award to Graham Hawkinson, Police Department.

1. CONSENT CALENDAR

ACTION Following the removal of item 1L by Trina Anderson and 1N by Robert Tanner, it was moved by Mayor Pro Tem Rickman and seconded by Council Member Young to adopt the Consent Calendar. Roll call found all in favor; passed and so ordered. 5:0

- A. Authorize Amendment of the Position Control Roster by Approving the Reallocation of One Equipment Mechanic I Position to Equipment Mechanic II Within the Central Fleet Services Division – Resolution 2016-246 authorized amendment of the Position Control Roster.
- B. Approve a Memorandum of Understanding between the City of Tracy and the San Joaquin Council of Governments for State and Federal Transit Planning and Programming, and Authorize the Mayor to Execute the Agreement – Resolution 2016-247 approved a Memorandum of Understanding.
- C. Authorization to Purchase Nine Trucks and Various Pieces of Field Equipment from Multiple Suppliers in the Amount of \$454,755 – Resolution 2016-248 authorized a purchase of nine trucks and various pieces of field equipment.
- D. Declaring Certain Vehicles and Equipment as Surplus and Approving their Sale – Resolution 2016-249 declared vehicles and equipment as surplus.
- E. Approve Amendment No. 4 to the Professional Services Agreement Between the City of Tracy and HF&H Consultants, LLC and Approve a Funding Allocation in the Amount of \$34,201 from the Solid Waste Fund – Resolution 2016-250 approved amendment No. 4 to a Professional Services Agreement.

- F. Acceptance of the City Hall Print Room Remodeling Project CIP 71082, Completed by D.M. Alegre, Inc., of Tracy, Ca, Authorization for the City Clerk to File the Notice of Completion and Authorization for the City Engineer to Release the Bonds and Retention Payment - Resolution 2016-251 accepted the City Hall Print Room remodeling project.
- G. Approve the First Amendment to the Offsite Improvement Agreement for Cordes Ranch - Phase 1A Program Roadway and Recycled Water Improvements, Approve the First Amendment to the Offsite Improvement Agreement for Cordes Ranch - Phase 1A Non-Program Roadway Improvements for Federal Express Ground Facility, and Authorization for the Mayor to Execute Both First Amendments – Resolution 2016-252 approved First Amendment to OIA for Phase 1A Program Roadway Improvements. Resolution 2016-253 approved First Amendment to OIA for Phase 1A Non-Program Roadway Improvements.
- H. Approval of the First Amendment to the Offsite Improvement Agreement for Cordes Ranch - Phase 1B Program Roadway and Recycled Water Improvements for Medline Industrial and Office Building, Approval of the First Amendment to the Offsite Improvement Agreement for Cordes Ranch – Phase 1B Non-Program Roadway Improvements for Medline Industrial and Office Building, and Authorization for the Mayor to Execute Both First Amendments – Resolution 2016-254 approved First Amendment to OIA for Phase 1B Program Roadway Improvements. Resolution 2016-255 approved First Amendment to OIA for Phase 1B Non-Program Roadway Improvements.
- I. Approve the First Amendment to the Offsite Improvement Agreement for the 2.0 Million Gallon Cordes Ranch Potable Water Tank, and Authorization for the Mayor to Execute the First Amendment – Resolution 2016-256 approved the First Amendment to an Offsite Improvement Agreement.
- J. Award a Construction Contract to the Lowest Responsive and Responsible Bidder for the Overlay Project, CIP 73140A Federal Project Number STPL-5192(041) and Traffic Loop Installation, CIP 72099 and Authorization for the Mayor to Execute the Contract – Resolution 2016-257 awarded a construction contract.
- K. Minor Amendment to the Planned Unit Development Zone Final Development Plan for the Northgate Village Shopping Center (Formerly Tracy Outlet Center) to Allow Outdoor Dining/Seating Areas, Located at 1005 E. Pescadero Avenue – Applicant is Messier Benitez and Property Owner is 51 Newco LLC – Application Number D16-0019 – Resolution 2016-258 approved a minor amendment to a Planned Unit Development Zone Final Development Plan.
- M. Find that it is in the Best Interest of the City to Forego the Formal Request for Approval Process and Approve a Master Professional Services Agreement with Jarvis, Fay, Doporto, and Gibson, LLP for Legal Services Related to Land Development Applications and Environmental Analysis (CEQA) Services for a Not to Exceed Amount of \$350,000 Per Year for a Three Year Term; Authorize the Mayor to Execute the Agreement; and Authorize the Development Services Director to Execute Task Orders Under the Agreement – Resolution 2016-259 approved a Master Professional Services Agreement.

- L. Rejection of all Seven Bids Received for the Larch Road Water Main Replacement Between Corral Hollow Road and Tracy Blvd, CIP 75117, 75122, 75127, and Direct Staff to Include this Project for Consideration in the Fiscal Year 2017-18 Budget

Trina Anderson pulled this item for clarification on the shortfall from the drought.

Robert Armijo, City Engineer, Development Services, provided the staff report.

Dave Helm expressed concern that there are no funds in the water fund, by deferring this for a year it will increase the cost and this needs to be done.

ACTION Motion was made by Mayor Pro Tem Rickman, and seconded by Council Member Vargas to adopt Resolution 2016-260 rejecting all seven bids received for Larch Road Water Main Replacement. Voice vote found all in favor; passed and so ordered.

- N. Adopt a Resolution Approving an Amendment to the Employment Agreement Between Troy Brown and the City of Tracy Relating to Compensation and Benefits and Authorizing an Appropriation of \$13,597 from the General Fund for Fiscal Year 2016-17

Robert Tanner pulled this item for transparency purposes for folks at home and requested the staff report.

Midori Lichtwardt, Human Resources Director, presented the staff report.

City Council comments followed.

ACTION Motion was made by Mayor Pro Tem Rickman, and seconded by Council Member Vargas to adopt Resolution 2016-261 approving an amendment to the Employment Agreement between Troy Brown and the City of Tracy. Voice vote found all in favor; passed and so ordered.

- 2. ITEMS FROM THE AUDIENCE – William Moreno, expressed concern regarding ongoing problems within the neighborhoods of Tracy. Mr. Moreno shared his observations and concerns in his neighborhood related to various issues. Mr. Moreno expressed disappointment that Council has allowed the City deteriorate over the years. Code enforcement issues are huge and there are only two people to enforce. Mr Moreno urged the Council to focus on maintaining the City of Tracy instead of focusing on new buildings.

Terry Donaldson expressed concern that her elderly mother had complained about a missing street sign and called the City to address the concern and nothing has been done about it.

Freddi Berna expressed concern about her neighbor threatening to poison her dogs.

3. PUBLIC HEARING TO CONSIDER THE PROPOSED ANNEXATION OF THE VENTANA PROJECT INTO THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT AS ZONE NO. 43; DECLARE RESULTS OF THE PROPERTY OWNER PROTEST BALLOT AND APPROVE CERTAIN RELATED ACTIONS; CONFIRM THE ANNEXATION OF THE PROJECT INTO THE DISTRICT AS ZONE NO. 43; AND ORDER THE LEVY AND COLLECTION OF ASSESSMENTS FOR FISCAL YEAR 2017/2018

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

Mayor Maciel opened the public hearing and asked for testimony and any outstanding ballots to be handed to the City Clerk. There was no testimony to be heard and Mayor Maciel closed the public hearing.

- ACTION** Motion was made by Mayor Pro Tem Rickman, and seconded by Council Member Vargas to direct Landscape Maintenance Engineer to tabulate the assessment ballots and City Clerk to report back to Council. Voice vote found all in favor; passed and so ordered.

Mayor Maciel announced that while the ballots were being tallied, the Council would continue to the next item.

4. ADOPT A RESOLUTION DECLARING THE RESULTS OF THE NOVEMBER 8, 2016, CITY OF TRACY GENERAL MUNICIPAL ELECTION

Nora Pimentel, City Clerk, presented the staff report.

- ACTION** Motion was made by Mayor Pro Tem Rickman, and seconded by Council Member Vargas to adopt Resolution 2016-264 reciting the fact of the General Municipal Election held in the City of Tracy on November 8, 2016, declaring the results of the election and such other matters as provided by law. Voice vote found all in favor; passed and so ordered.

Mayor Maciel called a recess at 7:43 p.m.

Mayor reconvened the meeting at 7:52 p.m.

DEVIATION

3. Continued – Mayor Maciel announced that item 3 would continue and asked the City Clerk to announce the results of the tabulation of ballots.

Nora Pimentel, City Clerk read into the record the tabulation results.

- ACTION** Motion was made by Mayor Pro Tem Rickman, and seconded by Council Member Vargas to adopt Resolution 2016-262 declaring the results of the property owner protest ballot proceeding conducted for the levy of assessments related to the annexation territory (tract 3290, Ventana) to the Tracy Consolidated Landscape Maintenance District Zone 43, commencing in Fiscal Year 2017/2018 and approving certain related actions. 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 2016-263 confirming the annexation of territory (Tracy 3290 Ventana) into the Tracy Consolidated Landscape Maintenance District as Zone No. 43. Voice vote found all in favor; passed and so ordered.

5. **OUTGOING MAYOR AND COUNCIL PRESENTATIONS**

Mayor Pro Tem Rickman presented Council Member Mitracos with a plaque and recognized her service on the Council.

Mayor Pro Tem Rickman presented outgoing Mayor Maciel with a gavel and recognized his service on the Council.

6. **ADMINISTER OATH OF OFFICE AND SEAT NEWLY ELECTED MAYOR AND COUNCIL MEMBER**

Nora Pimentel, City Clerk administered Oath of Office and presented Certificate of Election to City Treasurer Elect Raymond McCray.

Mr. Young administered Oath of Office and presented Certificate of Election to Council Member Elect Young

Assembly Member Susan Talamantes-Eggman administered Oath of Office and presented Certificate of Election to Council Member Elect Rhodesia Ransom.

Superior Court Judge Barbara Kronlund administered Oath of Office and presented Certificate of Election to Mayor Elect Rickman.

Mayor Rickman requested that the following five points be agendized for consideration at a later date:

1. Create an Economic Development plan to bring head of household jobs to Tracy, increase retail, and create an atmosphere where small businesses can continue to thrive;
2. Enhance our City Image, including enhancing view corridors, landscaping and branding;
3. Invest in our community and continue to build community amenities;
4. Enhance the great things Tracy has and does that other communities don't have or have stopped doing
5. Work with Public Safety to enhance our community safety, including advocating for local control of dispatching.

Council Member Vargas supported Mayor Rickman's request.

Mayor Rickman called a recess at 8:27 p.m.

Mayor Rickman reconvened the meeting at 8:46 p.m.

Roll call found Council Members Ransom, Vargas, Young and Mayor Rickman present.

7. DETERMINE WHETHER TO FILL CITY COUNCIL VACANCY BY SPECIAL ELECTION OR BY APPOINTMENT, AND, IF BY APPOINTMENT, DETERMINE THE DETAILS OF THE PROCESS TO BE USED

Nora Pimentel, City Clerk presented the staff report related to special election. Troy Brown, City Manager, presented the staff report related to the appointment process.

Dave Anderson urged the Council not go through a time consuming and expensive special election process.

Linda Jimenez urged the Council to move forward with an appointment process.

Trina Anderson expressed being in favor of an appointment process.

Jacy Krogh urged the Council to follow the appointment process that was established in 2014 and get down to the business which would be the best for the community.

City Council comments and questions followed.

After Council discussion and deliberation it was agreed to revise the current Appointment Policy with the following amendments: add a supplemental questionnaire to the application with the following questions from the 2014 interview process: How would you promote transparency and accountability as a member of the City Council? What do you consider to be the top three most significant issues in our City right now? And what do you think should be changed in City government?

It was agreed that Mayor Rickman and Council Member Ransom would serve as the sub-committee to create new questions and include the questions from the public and present them to Council at the special meeting of January 3, 2017 prior to commencing the interviews. It was agreed that the application is open to everybody who is interested in applying.

8. ITEMS FROM THE AUDIENCE – Trina Anderson commended the new Council for doing a good job and working collectively.

Linda Jimenez acknowledged the Council for working together and doing a good job. Ms. Jimenez expressed concern with who would be able to apply to fill the vacancy based on previous appointment process.

Dionna Cally thanked the new Council for a job well done.

9. COUNCIL ITEMS

Council Member Vargas requested staff revisit the downtown specific plan with a focus on aesthetics and how to identify downtown as a destination point. Council Member Ransom supported the request. Troy Brown, City Manager responded that staff will return in March with those elements carved out of the specific plan for Council consideration.

Council Member Ransom announced the upcoming 2016 Boys to Men Annual Conference for young men between the ages of 10-18 which will include keynote note speaker Keena Turner of the 49ers. Council Member Ransom encouraged all young men to register.

Council Member Young wished all the students who will be taking the SATs and ACTs tests this coming weekend good luck as they prepare for college.

Mayor Rickman announced an upcoming event at Kimball High, on December 10, 2016 at 6:00 p.m. which will be showing the Netflix documentary of Audrie & Daisy related to media bullying and sexual assault crimes. Mayor Rickman also encouraged everyone to support the non-profits in the upcoming month of the crab feeds.

10. ADJOURNMENT – Time: 10:42 p.m.

ACTION Motion was made by Mayor 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 November 29, 2016. The above are action minutes. A recording is available at the Office of the City Clerk.

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.B

REQUEST

APPROVE THE FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH - PHASE 1D NON-PROGRAM ROADWAY IMPROVEMENTS FOR BUILDING 6, AND AUTHORIZATION FOR THE MAYOR TO EXECUTE THE FIRST AMENDMENT

EXECUTIVE SUMMARY

The Developer (Prologis L.P., a Delaware limited partnership) signed an agreement with the City to construct certain non-program improvements in connection with the development of Building 6 in the International Park of Commerce (the Phase 1D Non-Program OIA). The Phase 1D Non-Program OIA was approved by City Council on March 1, 2016 by Resolution 2016-033.

Certain landscape and irrigation improvements were excluded from the agreement as the Developer needed additional time to resolve issues, generally related to water conservation regulations. Those issues have been resolved and the improvement plans have been completed. The additional work proposed by the First Amendment to the Phase 1D Non-Program OIA is shown on seven (7) sheets of landscape and irrigation plans titled "Improvement Plan for Prologis International Park of Commerce, Phase 1D Irrigation and Landscape Plans – Promontory Parkway and Hopkins Road," which were prepared by David Babcock & Associates of Lafayette, California and approved by the City Engineer.

Approval of the First Amendment to the Phase 1D Non-Program OIA will allow the Developer to proceed with construction of those certain landscape and irrigation improvements.

DISCUSSION

On November 10, 2015, the Development Services Director approved a Development Review Application D15-0018 for construction of Building 6 which includes an industrial distribution building totaling to 403,560 square feet of building space, parking, landscaping, and storm drain treatment facilities (Building 6 Project). Building 6 will be located near Promontory Parkway and Hopkins Road.

The Developer of the Building 6 Project is required to complete the construction of certain frontage improvements on Promontory Parkway (previously New Schulte Road) and Hopkins Road (previously Road "E"), prior to certificate of occupancy. These frontage roadway improvements include concrete curb, gutter, asphalt concrete pavement, median curb, , parkway landscaping, driveway, street light, water and sewer mains and laterals, storm drain line and inlets, recycled water line (purple pipe) and irrigation service, fire hydrant, pavement marking and striping, signing and striping, and other improvements.

To guarantee completion of the non-program work by the Developer in an orderly manner under the City's inspections and directions, the Developer executed the OIA for Phase 1D (Phase 1D Non-Program OIA) and submitted the required securities to guarantee completion of the previously described improvements. The agreement was approved by City Council during the March 1, 2016 meeting with Resolution 2016-033, respectively.

The Developer requested that certain public parkway and median landscaping improvements be excluded from the OIAs to allow the Developer sufficient time to resolve landscape design issues related to new regulations on water conservation and finalize the improvement plans for the parkway and median irrigation and landscaping improvements. City staff has reviewed Developer's irrigation and landscape plans, specifications, and cost estimates and found them to be complete. Design of the landscaping improvements is consistent with the Amended Cordes Ranch Specific Plan related to landscape design concepts that was approved by the City Council on May 17, 2016, pursuant to Resolution 2016-097. The Developer will sign the First Amendment to the Phase 1D Non-Program OIA, and will submit the required improvement security.

Upon completion of all improvements, the City will accept the improvements for maintenance and will accept all offers of dedication of public right-of-way at that time.

ENVIRONMENTAL REVIEW

The Phase 1D Non-Program OIA were approved pursuant to the conditions of approval for Development Review Application D15-0018 for the Building 6 Project, environmental impacts for which were analyzed in the Cordes Ranch Specific Plan EIR (FEIR) (SCH No. 2011122015) prepared in accordance with the California Environmental Quality Act (CEQA) (Pub. Res. Code §§ 21000 et seq.). The City determined that the Building 6 Project did not require further environmental review pursuant to CEQA Guidelines section 15183. Similarly, and pursuant to CEQA Guidelines sections 15168, 15162, and 15183, the City has determined, on the basis of substantial evidence in light of the whole record, that the First Amendment to the Phase 1D Program OIA and the First Amendment to the Phase 1D Non-Program OIA are also consistent with the policies for which the FEIR was certified, and will not result in substantial changes to the Building 6 Project that would require subsequent environmental review.

FISCAL IMPACT

There will be no fiscal impact to the General Fund. The Developer will pay for the cost of engineering, construction, inspection, and processing the First Amendment.

STRATEGIC PLAN

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

RECOMMENDATION

That City Council, by resolution, approve the First Amendment to the Offsite Improvement Agreement for Cordes Ranch – Phase 1D Non-Program Roadway Improvements for Building 6, and authorize the Mayor to execute the First Amendment.

Prepared by: Al Gali, Associate Civil Engineer
Criseldo Mina, Senior Civil Engineer

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

Approved by: Troy Brown, City Manager

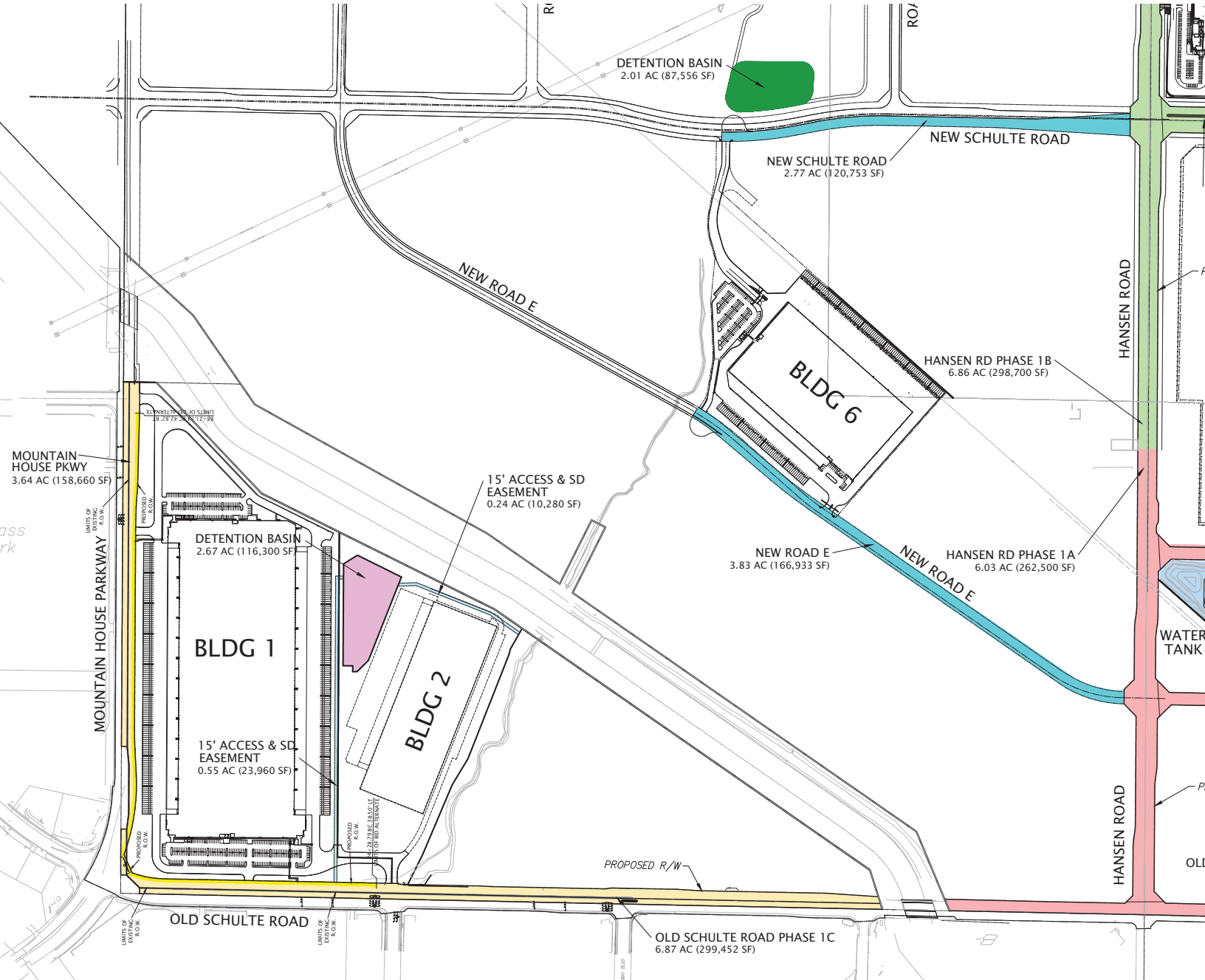
ATTACHMENTS

Attachment A – Location Map

Attachment B – First Amendment to the Offsite Improvement Agreement for Cordes Ranch -
Phase 1D Non-Program Roadway Improvements for Building 6

Attachment C – Landscape Perspectives

CORDES RANCH PHASE 1D - ROADWAY IMPROVEMENTS



LEGEND
BLUE - PHASE 1D

Attachment B

**CITY OF TRACY
FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT
FOR CORDES RANCH – PHASE 1D NON-PROGRAM ROADWAY IMPROVEMENTS FOR
BUILDING 6**

This **FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH – PHASE 1D NON-PROGRAM ROADWAY IMPROVEMENTS FOR BUILDING 6** ("**First Amendment**") is made and entered into by and between the **CITY OF TRACY**, a municipal corporation ("**City**") and **PROLOGIS, L. P.**, a Delaware limited partnership (referred to as "**Developer**").

RECITALS

- A. On March 1, 2016, pursuant to Resolution 2016-033, the City entered into an Offsite Improvement Agreement for the construction of non-program roadway improvements and other associated improvements on Promontory Parkway (new Schulte Road), and Hopkins Road (Road E) to serve Building 6 ("**Phase 1D Non-Program OIA**").
- B. The parties now wish to amend the Phase 1D Non-Program OIA to add certain irrigation and landscaping improvements to the Work described in the Phase 1D Non-Program OIA (Additional Work).

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **INCORPORATION BY REFERENCE.** This First Amendment hereby incorporates by reference all terms and conditions set forth in the Phase 1D Non-Program OIA, unless specifically modified by this First Amendment. All terms and conditions set forth in the Phase 1D Non-Program OIA not specifically modified by this First Amendment shall remain in full force and effect.
2. **AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT.** The Work as described in Recital E and the Plans and Specifications and Section 1 of the Phase 1D Non-Program OIA is amended to include the work as shown on the Seven (7) sheets of irrigation and landscaping plans (Sheets I1 through I4 and L1 through L3) titled "improvement Plan for Prologis International Park of Commerce – Phase 1D" prepared by David Babcock & Associates of Lafayette, California, as approved by the City Engineer. In addition to the improvement security required by Section 4 of the Phase 1D Non-Program OIA, Developer shall furnish additional contract security for the Additional Work as required by and in accordance with Section 2 of the First Amendment to the Offsite Improvement Agreement for Cordes Ranch – Phase 1D Program Roadway, Potable Water Line, and Recycled Water Line Improvements for Building 6.

**CITY OF TRACY – FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT
AGREEMENT FOR CORDES RANCH – PHASE 1D NON-PROGRAM ROADWAY
IMPROVEMENTS FOR BUILDING 6**

Page 2 of 2

3. **SIGNATURES.** The individuals executing this First Amendment represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this First Amendment on behalf of the respective legal entities of the Developer and the City. This First Amendment shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF the parties do hereby agree to the full performance of the terms set forth herein.

CITY OF TRACY, a municipal corporation

By: Robert Rickman
Title: MAYOR
Date: _____

Attest:

By: Nora Pimentel
Title: CITY CLERK
Date: _____

APPROVED AS TO FORM:

By: Bill Sartor
Title: CITY ATTORNEY
Date: _____

PROLOGIS:

PROLOGIS L.P., a Delaware limited partnership

By: Prologis, Inc., a Maryland corporation, its General Partner



By: Thomas Martin
Title: VICE PRESIDENT/ DEVELOPMENT MANAGER
Date: 11-16-15

02-112515cm

Perspective North

Attachment C



DAVID BABCOCK + ASSOCIATES
3881 MI. DIABLO BLVD., SUITE 235
LAFAYETTE, CALIFORNIA 94549
1.925.283.5070

Perspective South



DB+A

DAVID BABCOCK + ASSOCIATES
3581 MT. DIABLO BLVD., SUITE 235
LAFAYETTE, CALIFORNIA 94549
1-925-283-5070

RESOLUTION 2016-_____

APPROVING THE FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH - PHASE 1D NON-PROGRAM ROADWAY IMPROVEMENTS FOR BUILDING 6, AND AUTHORIZING THE MAYOR TO EXECUTE THE FIRST AMENDMENT

WHEREAS, The Development Services Director approved a Development Review Application (D15-0018) on November 10, 2015 for the construction of an industrial distribution facility known as the International Park of Commerce – Building 6 generally located near Promontory Parkway and Hopkins Road, and

WHEREAS, The Development Agreement (Prologis DA) between the City and Prologis, L. P. (Developer) allows the Developer to design and construct infrastructure improvements that are necessary to serve developments within the boundaries of Cordes Ranch area, and

WHEREAS, City Council approved the Offsite Improvement Agreement for Cordes Ranch - Phase 1D Non-Program Roadway Improvements for Building 6 (Phase 1D Non-Program OIA) on March 1, 2016 pursuant to Resolution 2016-033, and

WHEREAS, At the Developer's request, certain street landscaping improvements were excluded as part of the work described in the Phase 1D Non-Program OIA to provide the Developer sufficient time to resolve landscape design issues related to new regulations on water conservation measures, and work with City staff in finalizing the irrigation and landscaping improvement plans, and

WHEREAS, Pursuant to section 21 of the approved Phase 1D Non-Program OIA, the City and the Developer can mutually agree to amend the Phase 1D Non-Program OIA, and Developer and City have agreed to modify the Phase 1D Non-Program OIA to include the additional landscape and irrigation improvements, and

WHEREAS, To guarantee completion of the Developer's obligations regarding completion of the street landscaping and irrigation improvements, the Developer has executed the First Amendment to the Phase 1D Non-Program OIA, and

WHEREAS, The Phase 1D Non-Program OIA was approved pursuant to the conditions of approval for Development Review Application D15-0018 for the Building 6 Project, environmental impacts for which were analyzed in the Cordes Ranch Specific Plan EIR (FEIR) (SCH No. 2011122015) prepared in accordance with the California Environmental Quality Act (CEQA) (Pub. Res. Code §§ 21000 et seq.), and

WHEREAS, The City Council previously determined that the Building 6 Project did not require further environmental review pursuant to CEQA Guidelines section 15183; and the City Council has now determined, pursuant to CEQA Guidelines sections 15168, 15162, and 15183 and on the basis of substantial evidence in light of the whole record, that the First Amendment to the Phase 1D Non-Program OIA is consistent with the policies for which the FEIR was certified, and will not result in substantial changes to the Building 6 Project that would require subsequent environmental review, and

WHEREAS, There will be no impact to the General Fund. The Developer has paid the applicable engineering review fees which include the cost of processing the First Amendment to the Phase 1D Non-Program OIA;

NOW, THEREFORE BE IT RESOLVED, as follows:

1. Recitals. The City Council finds that the foregoing recitals are true and correct and are thereby incorporated herein,

2. Environmental Review. Pursuant to CEQA Guidelines sections 15168, 15162, and 15183, the City Council finds, on the basis of substantial evidence in light of the whole record, that the First Amendment to the Phase 1D Non-Program OIA is consistent with the policies for which the FEIR was certified, and will not result in substantial changes to the Building 6 Project that would require subsequent environmental review.

3. Approval. The City Council approves the First Amendment to the Offsite Improvement Agreement for Cordes Ranch - Phase 1D Non-Program Roadway Improvements for Building 6, and authorizes the Mayor to execute the First Amendment.

* * * * *

The foregoing Resolution 2016-_____ was passed and adopted by the Tracy City Council on the 20th day of December 2016, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.C

REQUEST

APPROVE THE FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH - PHASE 1C ROADWAY IMPROVEMENTS FOR CROSSROADS BUILDINGS 1 AND 2, APPROVE THE FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH - PHASE 1C NON-PROGRAM ROADWAY IMPROVEMENTS FOR CROSSROADS BUILDING #1, AND AUTHORIZATION FOR THE MAYOR TO EXECUTE BOTH FIRST AMENDMENTS

EXECUTIVE SUMMARY

The Developer (Prologis L.P., a Delaware limited partnership) is responsible for constructing certain frontage improvements on Old Schulte Road, Mountain House Parkway, and traffic signal modifications at Old Schulte Road/Mountain House Parkway which are to be constructed prior to building occupancy of the Crossroads Building 1. The Developer signed two agreements with the City to construct these program and non-program roadway improvements (Phase 1C Program OIA and Phase 1C Non-Program OIA). These agreements were approved by City Council on March 3, 2015 by Resolution 2015-030 and on July 7, 2015 by Resolution 2015-104, respectively.

Certain landscape and irrigation improvements were excluded from these agreements as the Developer needed additional time to resolve several issues pertaining to landscaping improvements. Those issues have been resolved and the improvement plans have been completed. The additional work proposed by the First Amendment to the Phase 1C Program OIA and the First Amendment to the Phase 1C Non-Program OIA is shown on nineteen (19) sheets of irrigation and landscaping plans titled "Improvement Plan for Prologis International Park of Commerce, Phase 1C Irrigation and Landscape Plans – Old Schulte and Mountain House Parkway," which were prepared by David Babcock & Associates of Lafayette, California and were approved by the City Engineer. This document is available for review at the City Clerk's office.

Approval of the First Amendment to the Phase 1C Program OIA and the First Amendment to the Phase 1C Non-Program OIA will allow the Developer to proceed with construction of those certain landscape and irrigation improvements.

DISCUSSION

On October 14, 2014, the Development Services Director approved the Development Review Application D14-0017 for construction of a distribution facility now referred to as the Crossroads Building 1 (Crossroads) which includes a 1,000,680 square feet industrial building (Crossroads Project). Onsite improvements include parking, landscaping, and storm water treatment facilities. The Crossroads Project will be located at the northeast corner of Old Schulte Road and Mountain House Parkway.

The Developer of the Crossroads Project is required to complete the construction of certain frontage improvements on Mountain House Parkway prior to certificate of occupancy. These frontage roadway improvements include concrete curb, gutter, asphalt concrete pavement, median curb, portion of the median landscaping, parkway landscaping, driveway, street light, water and sewer mains and laterals, storm drain line and inlets, recycled water line (purple pipe) and irrigation service, fire hydrant, pavement marking and striping, signing and striping, and other improvements.

The Developer of the Crossroads Project is also required to construct certain offsite roadway improvements such as the widening of Old Schulte Road and Mountain House Parkway, modification of the existing traffic signal on Old Schulte Road and Mountain House Parkway, and installation of intelligent transportation system improvements at the aforementioned locations.

To guarantee completion of the program and non-program work by the Developer in an orderly manner under the City's inspections and directions, the Developer executed two OIAs (Phase 1C Program OIA and Phase 1C Non-Program OIA) and submitted the required securities to guarantee completion of the previously described improvements. These agreements were approved by City Council during the March 3, 2015 meeting with Resolution 2015-030 and the July 7, 2015 meeting with Resolution 2015-104, respectively. Certain improvements funded by the Developer may be eligible for credits and/or reimbursements under the City's Development Impact Fee program.

The Developer requested that certain public parkway and median landscaping improvements be excluded from the OIAs to allow the Developer sufficient time to resolve landscape design issues related to new regulations on water conservation and finalize the improvement plans for the parkway and median irrigation and landscaping improvements. City staff has reviewed the irrigation and landscape plans, specifications, and cost estimates and found them to be complete. Design of the landscaping improvements is consistent with the Amended Cordes Ranch Specific Plan related to landscape design concepts that was approved by the City Council on May 17, 2016, pursuant to Resolution 2016-097. The Developer will sign the First Amendment to the Phase 1C Program OIA and the First Amendment to the Phase 1C Non-Program OIA, and will submit the required improvement security.

Upon completion of all improvements, the City will accept the improvements for maintenance and will accept all offers of dedication of public right-of-way at that time.

ENVIRONMENTAL REVIEW

The Phase 1C Program OIA and the Phase 1C Non-Program OIA were approved pursuant to the conditions of approval for Development Review Application D14-0017 for the Crossroads Project, environmental impacts for which were analyzed in the Cordes Ranch Specific Plan EIR (FEIR) (SCH No. 2011122015) prepared in accordance with the California Environmental Quality Act (CEQA) (Pub. Res. Code §§ 21000 et seq.). The City determined that the Crossroads Project did not require further environmental review pursuant to CEQA Guidelines Section 15183. Similarly, and pursuant to CEQA Guidelines sections 15168, 15162, and 15183, the City has determined, on the basis of

substantial evidence in light of the whole record, that the First Amendment to the Phase 1B Program OIA and the First Amendment to the Phase 1B Non-Program OIA are also consistent with the policies for which the FEIR was certified, and will not result in substantial changes to the Crossroads Project that would require subsequent environmental review.

FISCAL IMPACT

There will be no fiscal impact to the General Fund. The Developer will pay for the cost of engineering, construction, inspection, and processing both First Amendments.

STRATEGIC PLAN

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

RECOMMENDATION

That City Council, by resolutions, approve the First Amendment to the Offsite Improvement Agreement for Cordes Ranch - Phase 1C Roadway Improvements for Crossroads Buildings 1 and 2 and the First Amendment to the Offsite Improvement Agreement for Cordes Ranch - Phase 1C Non-Program Roadway Improvements for Crossroads Building #1, and authorize the Mayor to execute said First Amendments.

Prepared by: Al Gali, Associate Civil Engineer
Criseldo Mina, Senior Civil Engineer

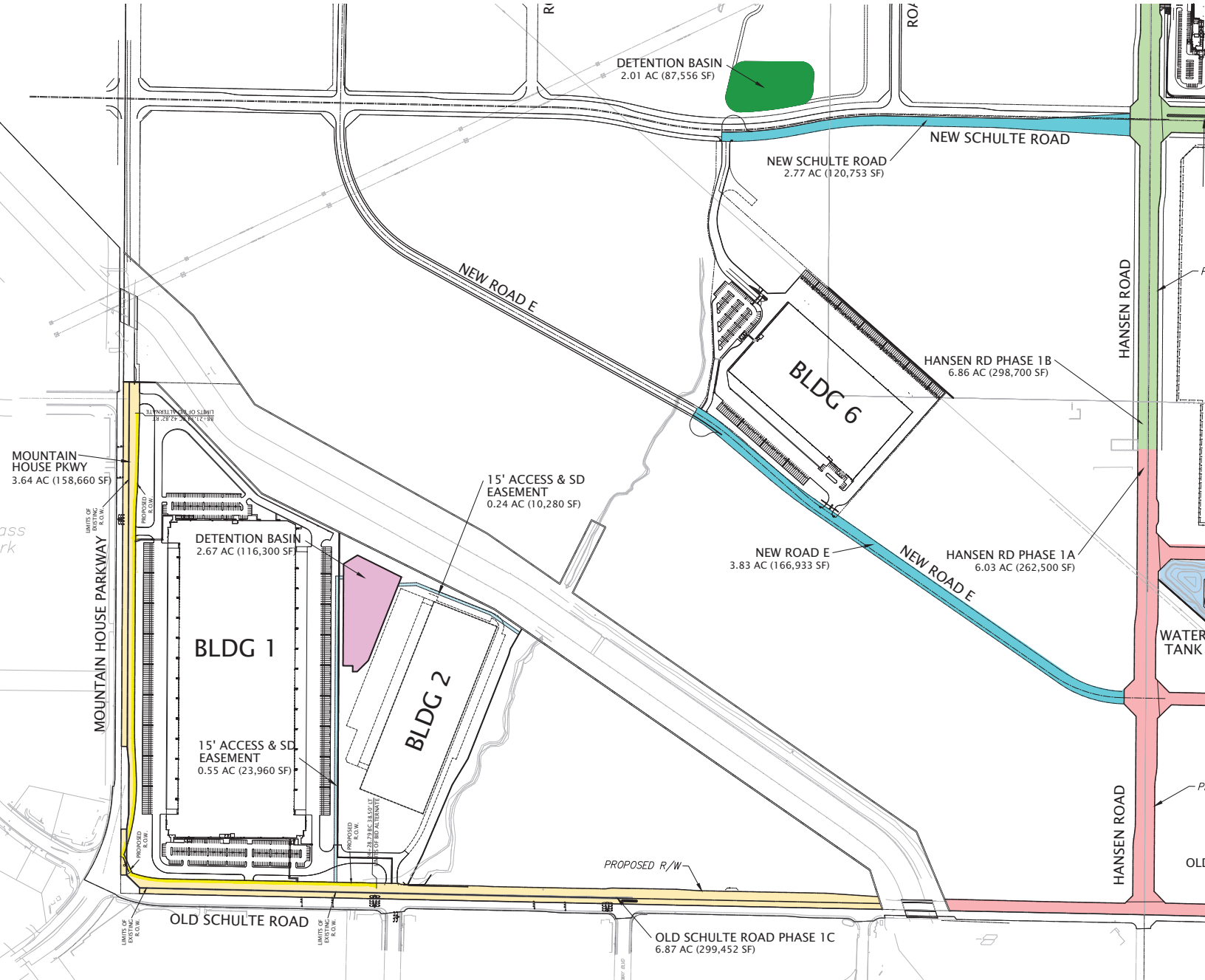
Reviewed by: Robert Armijo, City Engineer
Andrew Malik, Development Services Director
Martha Garcia, Interim Administrative Services Director
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

- Attachment A – Location Map
- Attachment B – First Amendment to Offsite Improvement Agreement for Cordes Ranch - Phase 1C Roadway Improvements for Crossroads Buildings 1 and 2
- Attachment C – First Amendment to Offsite Improvement Agreement for Cordes Ranch - Phase 1C Non-Program Roadway Improvements for Crossroads Building #1
- Attachment D – Landscape Perspectives

CORDES RANCH PHASE 1C - ROADWAY IMPROVEMENTS



LEGEND

PASTEL YELLOW - PHASE 1C

Attachment B

CITY OF TRACY FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH – PHASE 1C ROADWAY IMPROVEMENTS FOR CROSSROADS BUILDINGS 1 AND 2

This **FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH – PHASE 1C ROADWAY IMPROVEMENTS FOR CROSSROADS BUILDINGS 1 AND 2** ("**First Amendment**") is made and entered into by and between the **CITY OF TRACY**, a municipal corporation ("**City**") and **PROLOGIS, L. P.**, a Delaware limited partnership (referred to as "**Developer**").

RECITALS

A. On March 3, 2015, pursuant to Resolution 2015-030, the City entered into an Offsite Improvement Agreement for the construction of Phase 1C program roadway improvements on Mountain House Parkway, the modification of traffic signal at the intersection of Old Schulte Road/ Mountain House Parkway, and the installation of intelligent transportation systems on Old Schulte Road, Mountain House Parkway, and at the intersection of Old Schulte Road/ Mountain Hose Parkway for the Crossroads Building 1 ("**Phase 1C Program OIA**").

B. The parties now wish to amend the Phase 1C Program OIA to add certain irrigation and landscaping improvements to the Work described in the Phase 1C Program OIA.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **INCORPORATION BY REFERENCE.** This First Amendment hereby incorporates by reference all terms and conditions set forth in the Phase 1C Program OIA unless specifically modified by this First Amendment. All terms and conditions set forth in the Phase 1C Program OIA not specifically modified by this First Amendment shall remain in full force and effect.
2. **AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT.** The Work as defined in Recital D and described in the Plans and Specifications and Section 1 of the Phase 1C Program OIA is amended to include the work as shown on the Nineteen (19) sheets of irrigation and landscaping plans (Sheets I-1 through I-10 and L1 through L19) titled "Improvement Plan – Prologis International Park of Commerce – Phase 1C" prepared by David Babcock & Associates of Lafayette, California, as approved by the City Engineer. In addition to the improvement security required by Section 4 of the Phase 1C Program OIA, Developer shall furnish additional contract security for the Additional Work as follows:
 - 2.1 Faithful Performance security in the amount of **\$341,259.60** to secure faithful performance of this First Amendment (until the date when the City Council accepts the Additional Work as complete) pursuant to Government Code section 66499.1, 66499.4, and 66499.9.
 - 2.2 Labor and Material security in the amount of **\$341,259.60** to secure payment by Developer to laborers and materialmen (until the date when any and all claims in connection with the Additional Work are required to be made by

CITY OF TRACY – FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH – PHASE 1C ROADWAY IMPROVEMENTS FOR CROSSROADS BUILDINGS 1 AND 2

Page 2 of 3

laborers and materialmen in accordance with applicable laws) pursuant to Government Code Sections 66499.2, 66499.3, 66499.4, and 66499.7(b).

2.3 Warranty security in the amount of **\$34,125.96** to secure faithful performance of this First Amendment (from the date when the City Council accepts the Additional Work as complete until one (1) year thereafter) pursuant to Government Code Section 66499.1, 66499.4, and 66499.9.

3. **SIGNATURES.** The individuals executing this First Amendment represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this First Amendment on behalf of the respective legal entities of the District and the City. This First Amendment shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF the parties do hereby agree to the full performance of the terms set forth herein.

CITY OF TRACY, a municipal corporation

By: Robert Rickman
Title: MAYOR
Date: _____

Attest:

By: Nora Pimentel
Title: CITY CLERK
Date: _____

APPROVED AS TO FORM:

By: Bill Sartor
Title: CITY ATTORNEY
Date: _____


**CITY OF TRACY – FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT
AGREEMENT FOR CORDES RANCH – PHASE 1C ROADWAY IMPROVEMENTS FOR
CROSSROADS BUILDINGS 1 AND 2**

Page 3 of 3

PROLOGIS:

PROLOGIS L.P., a Delaware limited partnership

By: Prologis, Inc., a Maryland corporation, its General Partner



By: Thomas Martin
Title: VICE PRESIDENT/ DEVELOPMENT MANAGER
Date: 11-16-16

06-071415cm

Attachment C

**CITY OF TRACY
FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT
FOR CORDES RANCH – PHASE 1C NON-PROGRAM ROADWAY IMPROVEMENTS FOR
CROSSROADS BUILDINGS 1 AND 2**

This **FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH – PHASE 1C NON-PROGRAM ROADWAY IMPROVEMENTS FOR CROSSROADS BUILDINGS 1 AND 2** ("**First Amendment**") is made and entered into by and between the **CITY OF TRACY**, a municipal corporation ("**City**") and **PROLOGIS, L. P.**, a Delaware limited partnership (referred to as "**Developer**").

RECITALS

A. At its July 7, 2015 meeting, the City Council approved an Offsite Improvement Agreement, for the construction of non-program roadway improvements and other associated improvements on Old Schulte Road and Mountain House Parkway for the Crossroads Buildings 1 and 2 ("**Phase 1C Non-Program OIA**"), pursuant to Resolution 2015-132.

D. The parties now wish to amend the Phase 1C Non-Program OIA to add certain irrigation and landscaping improvements to the Work described in the Phase 1C Non-Program OIA (Additional Work).

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **INCORPORATION BY REFERENCE**. This First Amendment hereby incorporates by reference all terms and conditions set forth in the Phase 1C Non-Program OIA unless specifically modified by this Amendment. All terms and conditions set forth in the Phase 1C Non-Program OIA not specifically modified by this First Amendment shall remain in full force and effect.
2. **AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT**. The Work as defined in Recital D and described in the Plans and Specifications and Section 1 of the Phase 1C Non-Program OIA is amended to include the work as shown on the Nineteen (19) sheets of irrigation and landscaping plans (Sheets I-1 through I-10 and L1 through L19) titled "Improvement Plan – Prologis International Park of Commerce – Phase 1C" prepared by David Babcock & Associates of Lafayette, California, as approved by the City Engineer. In addition to the improvement security required by Section 4 of the Phase 1C Non-Program OIA, Developer shall furnish additional contract security for the Additional Work as required by and in accordance with Section 2 of the First Amendment to the Offsite Improvement Agreement for Cordes Ranch – Phase 1C Program Roadway Improvements for Crossroads Buildings 1 and 2.

CITY OF TRACY – FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH – PHASE 1C NON-PROGRAM ROADWAY IMPROVEMENTS FOR CROSSROADS BUILDINGS 1 AND 2

Page 2 of 2

3. **SIGNATURES.** The individuals executing this First Amendment represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this First Amendment on behalf of the respective legal entities of the Developer and the City. This First Amendment shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF the parties do hereby agree to the full performance of the terms set forth herein.

CITY OF TRACY, a municipal corporation

By: Robert Rickman
Title: MAYOR
Date: _____

Attest:

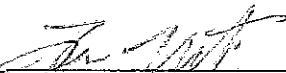
By: Nora Pimentel
Title: CITY CLERK
Date: _____

APPROVED AS TO FORM:

By: Bill Sartor
Title: CITY ATTORNEY
Date: _____

PROLOGIS:
PROLOGIS L.P., a Delaware limited partnership

By: Prologis, Inc., a Maryland corporation, its General Partner


By: Thomas Martin
Title: VICE PRESIDENT/ DEVELOPMENT MANAGER
Date: 4-16-16

05-071415cm

Perspective North

Attachment D



DB+A

DAVID BABCOCK + ASSOCIATES
3881 MI. DIABLO BLVD., SUITE 235
LAFAYETTE, CALIFORNIA 94549
1.925.283.5070

PROLOGIS INTERNATIONAL PARK
OF COMMERCE

January 2016

SHEET
1
of 2

Perspective South



DAVID BABCOCK + ASSOCIATES
3581 MT. DIABLO BLVD., SUITE 235
LAFAYETTE, CALIFORNIA 94549
1-925-283-5070

RESOLUTION 2016-_____

APPROVING THE FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH - PHASE 1C ROADWAY IMPROVEMENTS FOR CROSSROADS BUILDINGS 1 AND 2, AND AUTHORIZING THE MAYOR TO EXECUTE THE FIRST AMENDMENT

WHEREAS, The Development Services Director approved a Development Review Application (D14-0017) on October 14, 2014 for the construction of an industrial distribution facility known as the Crossroads Building 1 (Crossroads Project) generally located on the northeast corner of Old Schulte Road and Mountain House Parkway, and

WHEREAS, The Development Agreement (Prologis DA) between the City and Prologis, L. P. (Developer) allow the Developer to design and construct infrastructure improvements that are necessary to serve developments within the boundaries of Cordes Ranch area, and

WHEREAS, City Council approved the Offsite Improvement Agreement for Cordes Ranch - Phase 1C Roadway Improvements for Crossroads Buildings 1 and 2 (Phase 1C Program OIA) on March 3, 2015 pursuant to Resolution 2015-030, and

WHEREAS, At the Developer's request, certain street landscaping improvements were excluded as part of the work described in the Phase 1C Program OIA to provide the Developer sufficient time to resolve landscape design issues related to new regulations on water conservation measures, and work with City staff in finalizing the irrigation and landscaping improvement plans, and

WHEREAS, Pursuant to section 21 of the approved Phase 1C Program OIA, the City and the Developer can mutually agree to amend the Phase 1C Program OIA, and Developer and City have agreed to modify the Phase 1C Program OIA to include the additional landscape and irrigation improvements, and

WHEREAS, To guarantee completion of the Developer's obligations regarding completion of the street landscaping and irrigation improvements, the Developer has executed the First Amendment to the Phase 1C Program OIA and has submitted the required improvement security, and

WHEREAS, The Phase 1C Program OIA was approved pursuant to the conditions of approval for Development Review Application D14-0017 for the Crossroads Project, environmental impacts for which were analyzed in the Cordes Ranch Specific Plan EIR (FEIR) (SCH No. 2011122015) prepared in accordance with the California Environmental Quality Act (CEQA) (Pub. Res. Code §§ 21000 et seq.), and

WHEREAS, The City Council previously determined that the Crossroads Project did not require further environmental review pursuant to CEQA Guidelines section 15183; and the City Council has now determined, pursuant to CEQA Guidelines sections 15168, 15162, and 15183 and on the basis of substantial evidence in light of the whole record, that the First Amendment to the Phase 1C Program OIA is consistent with the policies for which the FEIR was certified, and will not result in substantial changes to the Crossroads Project that would require subsequent environmental review, and

WHEREAS, There will be no impact to the General Fund. The Developer has paid the applicable engineering review fees which include the cost of processing the First Amendment to the Phase 1C Program OIA;

NOW, THEREFORE BE IT RESOLVED, as follows:

1. Recitals. The City Council finds that the foregoing recitals are true and correct and are thereby incorporated herein.

2. Environmental Review. Pursuant of CEQA Guidelines sections 15168, 15162, and 15183, the City Council finds, on the basis of substantial evidence in light of the whole record, that the First Amendment to the Phase 1C Program OIA is consistent with the policies for which the FEIR was certified, and will not result in substantial changes to the Crossroads Project that would require subsequent environmental review.

3. Approval. The City Council approves the First Amendment to the Offsite Improvement Agreement for Cordes Ranch - Phase 1C Roadway Improvements for Crossroads Buildings 1 and 2, and authorizes the Mayor to execute the First Amendment.

* * * * *

The foregoing Resolution 2016-_____ was passed and adopted by the Tracy City Council on the 20th day of December 2016, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

RESOLUTION 2016-_____

APPROVING THE FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH - PHASE 1C NON-PROGRAM ROADWAY IMPROVEMENTS FOR CROSSROADS BUILDING #1, AND AUTHORIZING THE MAYOR TO EXECUTE THE FIRST AMENDMENT

WHEREAS, The Development Services Director approved a Development Review Application (D14-0017) on October 14, 2014 for the construction of an industrial distribution facility known as the Crossroads Building 1 (Crossroads Project) generally located on the northeast corner of Old Schulte Road and Mountain House Parkway, and

WHEREAS, The Development Agreement (Prologis DA) between the City and Prologis, L. P. (Developer) allow the Developer to design and construct infrastructure improvements that are necessary to serve developments within the boundaries of Cordes Ranch area, and

WHEREAS, City Council approved the Offsite Improvement Agreement for Cordes Ranch – Phase 1C Non-Program Roadway Improvements (Phase 1C Non-Program OIA) on July 7, 2015 pursuant to Resolution 2015-104, and

WHEREAS, At the Developer's request, certain street landscaping improvements were excluded as part of the work described in the Phase 1C Non-Program OIA to provide the Developer sufficient time to resolve landscape design issues related to new regulations on water conservation measures, and work with City staff in finalizing the irrigation and landscaping improvement plans, and

WHEREAS, Pursuant to section 21 of the approved Phase 1C Non-Program OIA, the City and the Developer can mutually agree to amend the Phase 1C Non-Program OIA, and Developer and City have agreed to modify the Phase 1C Non-Program OIA to include the additional landscape and irrigation improvements, and

WHEREAS, To guarantee completion of the Developer's obligations regarding completion of the street landscaping and irrigation improvements, the Developer has executed the First Amendment to the Phase 1C Non-Program OIA, and

WHEREAS, The Phase 1C Non-Program OIA was approved pursuant to the conditions of approval for Development Review Application D14-0017 for the Crossroads Project, environmental impacts for which were analyzed in the Cordes Ranch Specific Plan EIR (FEIR) (SCH No. 2011122015) prepared in accordance with the California Environmental Quality Act (CEQA) (Pub. Res. Code §§ 21000 et seq.), and

WHEREAS, The City Council previously determined that the Crossroads Project did not require further environmental review pursuant to CEQA Guidelines section 15183; and the City Council has now determined, pursuant to CEQA Guidelines sections 15168, 15162, and 15183 and on the basis of substantial evidence in light of the whole record, that the First Amendment to the Phase 1C Non-Program OIA is consistent with the policies for which the FEIR was certified, and will not result in substantial changes to the Crossroads Project that would require subsequent environmental review, and

WHEREAS, There will be no impact to the General Fund. The Developer has paid the applicable engineering review fees which include the cost of processing the First Amendment to the Phase 1C Non-Program OIA;

NOW, THEREFORE BE IT RESOLVED, as follows:

1. Recitals. The City Council finds that the foregoing recitals are true and correct and are thereby incorporated herein.

2. Environmental Review. Pursuant to CEQA Guidelines sections 15168, 15162, and 15183, the City Council finds, on the basis of substantial evidence in light of the whole record, that the First Amendment to the Phase 1C Non-Program OIA is consistent with the policies for which the FEIR was certified, and will not result in substantial changes to the Crossroads Project that would require substantial environmental review.

3. Approval. The City Council approves the First Amendment to the Offsite Improvement Agreement for Cordes Ranch - Phase 1C Non-Program Roadway Improvements for Crossroads Building #1, and authorizes the Mayor to execute the First Amendment.

* * * * *

The foregoing Resolution 2016-_____ was passed and adopted by the Tracy City Council on the 20th day of December 2016, 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

AMEND THE DEPARTMENT HEAD COMPENSATION PLAN TO INCLUDE AN INCENTIVE PROGRAM PROVIDING \$1000 PER YEAR, FOR A MAXIMUM OF THREE YEARS, TO EXECUTIVE EMPLOYEES LIVING WITHIN THE CITY OF TRACY AND TO PROVIDE RELOCATION EXPENSES OF UP TO \$5000.

EXECUTIVE SUMMARY

City Council requested that staff research potential city-provided incentives that would encourage executive staff (Department Heads) to reside in Tracy. On October 4, 2016, staff presented a report outlining possible incentives for executive employees. Council asked that staff come back with a resolution to amend the Department Head Compensation Plan to provide a \$1000 per year stipend to Directors who owned and lived in a home in Tracy, for a period of up to three years, and to provide the City Manager with discretion to offer relocation expenses of up to \$5000 to Directors moving to Tracy.

DISCUSSION

Staff contacted a number of nearby cities including Antioch, Brentwood, Concord, Livermore, Lodi, Manteca, Modesto, Pleasanton, and Stockton, which is also the group of cities that are surveyed for wage studies for Tracy's non-sworn employees. Of these, five had offered moving expenses in the recent past. Four of these actually had a policy which allowed for moving expenses at a set amount. One offered moving expenses, but only as a reimbursement if requested by the executive, which had been granted on two occasions, with the amount varying by how far away the employee had moved from. The highest amount granted was \$5000 to an executive who was hired from the East Coast. One other agency answered that moving expenses "might" have been granted in the past, but they did not remember any specific occasion and it was not a policy of the City to do so. The City of Concord is the most generous and offered a package to executive employees coming from outside the area which included home finding assistance, 30 days of temporary housing and relocation expenses, as long as the total cost for these items did not exceed 20% of gross salary. The City of Stockton pays for moving expenses for Department Heads, however the new employee must follow the City's purchasing policy and must get bids for moving companies if they wanted to have the City pay their moving expenses. No other types of incentives had been offered by any of these agencies, nor did any of the agencies know of any other cities offering any other incentives such as home loans or down payment assistance.

Based on this information, Council discussed potential ways to incentivize executive employees to live in Tracy on October 4, 2016, as currently, the Department Head Compensation Plan does not address this issue.

After discussion, staff was asked to return with an amendment to the Department Head Compensation Plan that would allow the City Manager to offer \$1000 per year, for a maximum of three years, to a Department Head owning and living in a home within the

City and to further offer up to \$5000 in moving expenses to a Department Head moving to Tracy.

STRATEGIC PLAN

This agenda item addresses Goal 1 of the Governance Strategy to further develop an organization that attracts, motivates, develops and retains a high quality, engaged, informed and high performing workforce.

FISCAL IMPACT

If the City were to provide a \$1000 yearly stipend to Department Heads who own homes in Tracy, the impact would be, currently, \$1000 per year as one Department Head now owns a home in Tracy. This would come from the General Fund. This impact could increase depending on how many Department Heads chose to live in Tracy. Other fiscal impacts would accrue from moving expenses, depending, again, on how many Department Heads moved to Tracy. Any reimbursed moving funds would also come from the General Fund.

RECOMMENDATION

It is recommended that Council amend the Department Head Compensation Plan to provide a \$1000 per year stipend to Directors who own and live in a home in Tracy, for a period of up to three years, and to provide the City Manager with discretion to offer relocation expense reimbursements of up to \$5000 to Directors moving to Tracy.

Prepared by: Stephanie Garrabrant-Sierra, Assistant City Manager

Reviewed by: Martha Garcia, Interim Administrative Services Director
Troy Brown, City Manager

Approved by: Troy Brown, City Manager

Attachment: Department Head Compensation and Benefit Plan

COMPENSATION AND BENEFITS PLAN

BETWEEN

THE CITY OF TRACY

AND

THE DEPARTMENT HEADS

July 1, 2015 Through June 30, 2018

Amended Per Council Resolution # 16-XXX on December 20, 2016



Think Inside the Triangle™

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

**Department Heads Compensation and Benefits Plan
July 1, 2015 through June 30, 2018
Table of Contents**

<u>Section</u>	<u>Topic</u>	<u>Page</u>
1	Purpose and Intent	1
2	Department Heads Unit Membership	1
3	Compensation	1
	A. Salary Plan.....	1
	1. Equity Increases	1
	2. Cost of Living Adjustments	2
	B. Components of Salary	2
	1. Base Salary	2
	2. Cost of Living.....	2
	C. Deferred Compensation.....	2
4	Leaves.....	2
	A. Vacation	2
	B. Management Leave.....	2
	C. Floating Holidays	3
	D. Maximum Accumulation of Leave	3
	E. Buy-Back of Accumulated Leave	3
	F. Sick Leave Accrual.....	3
	G. Conversion of Sick Leave Balance	3
	1. Conversion of Sick Leave Balance Upon Retirement.....	3
	2. Conversion of Sick Leave Balance Upon Death/Termination	4
	H. Bereavement Leave	4
	I. Family Leave	4
5	Benefits.....	4
	A. Determined by City Manager.....	4
	B. CalPERS Retirement Formula	4
	1. Miscellaneous (Non-Public safety) Department Heads.....	4
	2. Fire Chief: Public Safety Department Head	5
	C. CalPERS Retirement Benefit.....	5

**Department Heads Compensation and Benefits Plan
July 1, 2015 through June 30, 2018
Table of Contents**

<u>Section</u>	<u>Topic</u>	<u>Page</u>
	D. Short-Term Disability Insurance (STD).....	7
	E. Long Term Disability Program	8
	F. Annual Physical.....	8
	G. Education Reimbursement	8
	H. Travel	8
	I. City Vehicle/Allowance.....	8
	J. Insurance.....	8
	1. Medical Plans Provided.....	8
	2. Dental.....	9
	3. Vision.....	9
	4. Life Insurance	9
	5. Cafeteria Plan.....	9
	a. City Contributions.....	9
	b. Cash Out Options.....	9
	c. Future Contributions.....	9
	d. Approved Account Uses	10
	e. Flexible Benefits Plan (IRS Section 125).....	10
	K. Management Benefit Plan	11
	L. Uniform Allowance	11
	M. Residency & Relocation Incentive	11
6	Severance	11
	A. Determined by City Manager.....	11
	B. Severance Pay	11
	C. Waiver and Release.....	11
	Exhibit A – Department Head Salary Schedule.....	12

**CITY OF TRACY
DEPARTMENT HEADS
COMPENSATION AND BENEFITS PLAN
July 1, 2015 through June 30, 2018**

Section 1: Purpose and Intent

The City Council has established a Department Heads Compensation and Benefits Plan. Department Heads are exempt from the Fair Labor Standards Act (FLSA), are at will employees, and serve at the pleasure of the City Manager. They are covered by the authority of the Personnel Rules and Regulations; however, they are not subject to the grievance or appeals procedure. (The City Manager is empowered to grant compensation adjustments as specified in the Department Heads Compensation and Benefits Plan.)

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

Section 2: Department Heads Unit Membership

Positions covered by this plan exclusively are as follows:

- Assistant City Manager
- Administrative Services Director
- Development and Engineering Services Director
- Fire Chief
- Parks and Community Services Director
- Public Works Director
- Utilities Director

Section 3: Compensation

A. Salary Plan

There shall be a minimum and maximum salary 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 duration of this term.

2. Cost of Living Adjustments

Effective the beginning of the first full pay period following adoption of this Compensation and Benefit Plan by 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 employee's base salary on the salary schedule at the time of the payment for employees.

Effective the beginning of the first full pay period following adoption of this Compensation and Benefit Plan by City Council, employees shall receive a wage increase equal to 8.0%.

Effective the first full pay period in January 2017, employees who are employed by the City at the time of ratification of this and adoption of this agreement, shall receive a one-time lump sum payment representing 6% of the employee's base salary on the schedule at the time of the payment.

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

B. Components of Salary

The City Manager is authorized to set the salary of Department Heads at any point within the salary range.

1. Base Salary

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

C. Deferred Compensation

A contribution to the Department Head's Deferred Compensation Plan will be made in the amount of 4.5% of the Department Head's annual salary. City paid deferred compensation to a Department Head shall be paid to a 401 Plan.

Section 4: Leave

A. Vacation

Leave will be granted as provided for in the following chart. Leave may be used during the first six (6) months of service in accordance with the City's Vacation Leave Policy.

0-5 years	120 hours per year
6-10 years	160 hours per year
11-15 years	200 hours per year
16-20 years	220 hours per year
21 + years	240 hours per year

B. Management Leave

In recognition of the need to devote more than 40 hours per week to their duties, management leave in the amount of 120 hours per calendar year shall be granted to Department Heads.

C. Floating Holidays

Sixteen (16) hours of floating holiday leave per calendar year shall be granted to Department Heads.

D. Maximum Accumulation of Leave

The maximum accrual for Department Heads of vacation, management leave, and floating holidays shall be 750 hours.

E. Buy-Back of Accumulated Leave

Department Heads are allowed an optional buy-back of accumulated leave. They may, twice in a calendar year, buy back up to 50 percent of accumulated leave, but not more than the equivalent of one year's earning rate for vacation, management leave and floating holidays.

F. Sick Leave Accrual

All Department Heads shall be eligible to accrue sick leave at the rate of eight (8) hours for each month of service. Unlimited accrual of sick leave is allowed.

Eligible Department Heads shall be eligible to accrue sixteen (16) hours of sick leave for each month of service beginning the 21st year of employment and thereafter. This provision is only applicable to individuals first employed by the City of Tracy prior to January 1, 1987.

G. Conversion of Sick Leave Balance

1. Conversion of Sick Leave Balance Upon Retirement

Upon retirement, employees may convert all accrued sick leave at the time of retirement 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 Department Head's hourly rate of pay. The retired employee and his/her dependents shall be entitled to continue 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. At that time, 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(s) by the 10th of each month for the following month's coverage.

2. 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 Department Head 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.

H. Bereavement Leave

In the event of death in the immediate family of a Department Head, absence from duty may be allowed not to exceed five working days within two weeks of the date of death of the family member. Such absences shall not be charged to sick leave.

I. Family Leave

Department Heads may be granted leave with pay when absence from work is required because of illness or injury of a member of the immediate family. Immediate family is defined as child, parent or spouse. Each day utilized for this leave shall be subtracted from the sick leave accrual of the Department Head. Employees may utilize up to one-half (1/2) of their annual accrual of sick leave for the care of their immediate family.

Section 5: Benefits

A. Determined by City Manager

Department Heads shall receive benefits based on the maximum granted to represented and unrepresented employees, or other reasonable basis, as determined by the City Manager.

B. CalPERS Retirement Formula (Amended by Resolution 2010-152)

1. Miscellaneous (Non-Public Safety) Department Heads

Miscellaneous Department Heads 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% @ 55 benefit formula provided through the California Public Employees' Retirement System (CalPERS).

Miscellaneous Department Heads 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 January 1, 2013 and who qualify as "new employees" under the Public Employees' Pension Reform Act ("PEPRA") shall receive average of three (3) consecutive highest years and 2% at 62 benefit formula provided through the California Public Employees' Retirement System (CalPERS).

2. Fire Chief: Public Safety Department Head

Fire Chiefs hired on or before December 31, 2012 and/or meeting the CalPERS definition of a "Classic employee" shall receive single highest year and the three percent at 55 (3%@55) retirement formula provided through the California Public Employees' Retirement System (CalPERS).

Fire Chiefs 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 57 (2.7%@57) retirement formula with a three year final compensation period.

C. 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 is applicable to employee. In exchange, the City shall pay the corresponding salary increase that represents the 3% contribution, which will be cost neutral to the City. 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.

Employees hired on or before December 16, 2010 and under the first-tier CalPERS retirement formula (2.5% at 55), shall pay the 8% employee 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, ~~and~~ under the second-tier CalPERS retirement formula (2% at 55), shall pay the 7% employee contribution towards employee statutory share of CalPERS retirement during the term of this Agreement

D. 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 the disability, of the employee's choice not to receive paid leave.

E. Long Term Disability Program (LTD)

City paid Long Term Disability insurance shall be provided to all Department Heads.

F. Annual Physical

An annual physical examination shall be provided by the City, if desired and requested by a Department Head.

G. Education Reimbursement

Educational expenses shall be reimbursed, up to \$2,500 per calendar year, but are limited to the cost of a State College or University's fees, books, and tuition. A grade of "C" or better is required for reimbursement. Approval by the City Manager is required prior to enrollment.

H. Travel

Administrative Procedure, Section T – Travel Expenses, shall be used to reimburse mileage expenses incurred when using a personal vehicle for City business. Department Heads shall not receive mileage reimbursement, in accordance with Administrative Procedure Section T – Travel Expense, unless the one-way mileage from the City of Tracy work site to the final destination exceeds 75 miles. In such circumstances, the Department Head may apply for reimbursement for mileage above the initial 75 miles.

I. City Vehicle/Allowance

Department Heads shall be provided with either a City vehicle or a car allowance of \$500 per month.

J. Insurance

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.

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 make available vision care benefits for full-time employees and their eligible dependents through the existing providers.

4. Life Insurance

The City shall purchase life insurance in the amount of \$150,000 for each Department Head.

5. Cafeteria Plan

a. City Contributions

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 December 1, 2007, the maximum cash payment shall be set at \$996.00 per month for employees who do not elect a medical, dental, and/or vision plan. For employees hired on or after December 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, 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.

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 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 next following the month in which advice from the employee is received by the Personnel Officer or Human Resources designate. No retroactive payments shall be allowed.

e. 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.

K. Management Benefit Plan

The Management Benefit of \$960 per calendar year will be utilized at the discretion of each individual Department Head 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.

L. Uniform Allowance

The City shall provide the Fire Chief a uniform allowance in the amount of ~~\$1,000~~ **\$1,100** per year.

M. Residency & Relocation Incentive

Department Heads who own and reside in a home in the City of Tracy will receive an annual stipend of \$1000 per year for a maximum of three (3) years. The stipend will be paid in the first pay period of each calendar year. For Department Heads wishing to

relocate to the City of Tracy, relocation expenses of up to \$5,000 may be reimbursed to the Department Head at the City Manager's discretion.

Section 6: Severance

A. Determined by City Manager

The City Manager, at his or her discretion, is authorized to enter into severance agreements with Department Heads if they involuntarily resign or are terminated by the City, for up to six (6) months of severance pay.

B. Severance Pay

"Severance pay" shall include salary and health benefits. Severance pay shall be paid in a lump sum payment to the Department Head by the City within 15 working days after the effective date of the severance agreement, or as agreed to by the City and the Department Head. Severance pay shall not be included in final compensation for the purposes of CalPERS retirement nor shall any payments of the employee's share of the CalPERS rates be deemed to extend the date of separation past termination or resignation of the employee.

C. Waiver and Release

All severance agreements must contain a release of liability for all claims connected with the employment relationship and must be in a form approved by the City Attorney.

Exhibit A
Department Head
Salary Schedule

DEPARTMENT HEADS						
SALARY SCHEDULES						
Class Code	Position Title...		8% COLA Semi-Mon Salary	Monthly Salary	Annual Salary	Hourly Rate
20102	Assistant City Manager	Min	6,686.10	13,372.20	160,466.35	77.15
		Max	8,127.15	16,254.30	195,051.63	93.77
20112	Public Works Director	Min	6,111.40	12,222.80	146,673.56	70.52
		Max	7,422.46	14,844.92	178,139.06	85.64
20114	Fire Chief	Min	6,550.26	13,100.51	157,206.15	75.58
		Max	7,960.49	15,920.98	191,051.76	91.85
20115	Development & Engineering Services Director	Min	6,550.26	13,100.51	157,206.15	75.58
		Max	7,960.49	15,920.97	191,051.69	91.85
20116	Parks & Community Services Director	Min	6,111.40	12,222.80	146,673.56	70.52
		Max	7,422.46	14,844.92	178,139.06	85.64
20117	Economic Development Director	Min	5,802.41	11,604.82	139,257.84	66.95
		Max	7,053.06	14,106.12	169,273.45	81.38
20118	Human Resources Director	Min	5,802.41	11,604.82	139,257.84	66.95
		Max	7,053.06	14,106.12	169,273.45	81.38
20119	Administrative Services Director	Min	6,111.40	12,222.79	146,673.50	70.52
		Max	7,422.46	14,844.92	178,139.09	85.64
20120	Utilities Director	Min	6,550.25	13,100.51	157,206.10	75.58
		Max	7,960.49	15,920.97	191,051.65	91.85

RESOLUTION 2016 -

AMENDING THE DEPARTMENT HEAD COMPENSATION AND BENEFIT PLAN TO INCLUDE AN INCENTIVE PROGRAM PROVIDING \$1000 PER YEAR, FOR A MAXIMUM OF THREE YEARS, TO EXECUTIVE EMPLOYEES LIVING WITHIN THE CITY OF TRACY AND TO PROVIDE RELOCATION EXPENSES OF UP TO \$5000.

WHEREAS, The Department Heads Compensation and Benefits Plan was adopted on July 19, 2016, and

WHEREAS, City Council would like to incentivize Department Heads to reside in the City of Tracy, and

WHEREAS, The Department Heads 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 City Council amends the Department Head Compensation and Benefit Plan to include an incentive program providing \$1000 per year, for a maximum of three years to Executive employees living within the City of Tracy and the City Manager discretion to provide relocation expense reimbursements of up to \$5000.

The foregoing Resolution 2016 - _____ was adopted by the Tracy City Council on the 20th day of December, 2016 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.E

REQUEST

ADOPT A RESOLUTION OPPOSING THE STATE WATER RESOURCES CONTROL BOARD 2016 DRAFT REVISED SUBSTITUTE ENVIRONMENTAL DOCUMENT (SED) ON THE PROPOSED UPDATE TO THE WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO BAY/SACRAMENTO – SAN JOAQUIN DELTA ESTUARY, AND CALLING FOR SUSTAINABLE SOLUTIONS FOR THE STANISLAUS RIVER AND REGION'S ECONOMY

EXECUTIVE SUMMARY

The State Water Resources Control Board is proposing an amendment to the Water Quality Control Plan (Plan Amendment) for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary by preparing a draft 2016 revised Substitute Environmental Document (SED) by-passing a detailed Environmental Impact Report.

The proposed SED, when approved, will result in the loss of surface water available to the City from the South San Joaquin Irrigation District (SSJID). In addition, the use of the ground well water to make up for the lost water will increase salinity in the City's wastewater effluent and the San Joaquin River. It will be financially infeasible for the City's rate payers to fund construction of a desalination plant to reduce salts from the wastewater effluent.

It is recommended that the City Council finds the proposed amendment to the Water Quality Control Plan and draft 2016 revised SED are not in the best interest of the City and that the City joins the SSJID and other cities and agencies in opposing the new proposal and SED.

DISCUSSION

The State Water Resources Control Board is circulating a draft revised SED on the proposed amendment to the Water Quality Control Plan for the San Francisco Bay/Sacramento – San Joaquin Delta Estuary. The proposed Plan Amendment includes new and revised San Joaquin River flow objectives for the protection of fish and wildlife benefit uses.

The State Water Board is proposing the Plan Amendment through the SED using a regulatory program exempt under section 2108.5 of the Public Resources Control Code from preparing an Environmental Impact Report.

The document proposes to release 40% of what would naturally flow in to the watershed tributaries to the San Joaquin River like the Stanislaus River during the February – June period. This means that surface water uses on these tributaries would be restricted from using and storing water flows until 40% of the unimpaired flow is redirected for water quality and instream fishing purposes.

SSJID estimates that this would result in an average reduction of available water supply between 10 – 25%; with drought period reduction of up to 64%. The impact would cripple water supplies for agricultural customers and result in permanent mandatory conservations for the Cities of Manteca, Lathrop, Tracy and Escalon who have partnered with SSJID to receive such water.

The SED calls for additional pumping of ground water to make up for the difference without analyzing the sub basins and sustainability of this use of groundwater reserves. The implementation of the SED is expected to result in an annual loss of thousands of jobs and billions of dollars to the regional economy in accordance with SSJID's projections.

In addition, the proposed plan establishes salinity limits of 1EC for any discharge in to the San Joaquin River. With the use of more ground water rich in salt, it will become difficult for cities like Tracy to meet the standards. It will be financially impossible for the City's rate payers to pay for a desalination process to meet the proposed standards for the City's wastewater effluent.

The SSJID Board of Directors adopted Resolution 16-13-W opposing the State Water Resource Control Board 2016 revised SED. SSJID is urging its partner Cities to adopt similar resolutions in opposing the proposed SED.

It is in the City's best interest to support SSJID and oppose the proposed SED by the State Water Resources Control Board.

STRATEGIC PLAN

This is a routine operational agenda item and is not related to any Council adopted Strategic Plan Policies.

FISCAL IMPACT

There is no impact to the General Fund by approving this agenda item as recommended.

RECOMMENDATION

That City Council adopt a resolution opposing the State Water Resources Control Board 2016 Draft Revised Substitute Environmental Document (SED) on the Proposed Update to the Water Quality Control Plan for the San Francisco Bay/Sacramento – San Joaquin Delta Estuary, and calling for sustainable solutions for the Stanislaus River and the Region's economy.

Prepared by: Kul Sharma, Utilities Director

Reviewed by: Stephanie Garrabrant-Sierra, Assistant City Manager
Martha Garcia, Acting Finance Director

Approved by: Troy Brown, City Manager

RESOLUTION 2016-_____

OPPOSING THE STATE WATER RESOURCES CONTROL BOARD 2016 DRAFT REVISED SUBSTITUTE ENVIRONMENTAL DOCUMENT (SED) ON THE PROPOSED UPDATE TO THE WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO BAY/SACRAMENTO – SAN JOAQUIN DELTA ESTUARY, AND CALLING FOR SUSTAINABLE SOLUTIONS FOR THE STANISLAUS RIVER AND REGION'S ECONOMY

WHEREAS, South San Joaquin Irrigation District (SSJID) along with its' partner agency Oakdale Irrigation District (together "Districts"), own certain water rights on the Stanislaus River including pre-1914 appropriative rights to divert water and various post-1914 appropriative rights to store water from the Stanislaus River in various reservoirs, and

WHEREAS, The Districts also own and operate reservoirs on the Stanislaus River, built for the purposes of regional water supply and hydroelectric power production, which together with its senior water rights, have provided significant economic stability and vitality for the agricultural and urban communities within our local region, and

WHEREAS, The SSJID has successfully delivered surface water to the region of South San Joaquin County for over 107 years, providing the area with a high quality, reliable surface water supply that has contributed to the economic vitality and strength of the local economy, and

WHEREAS, In 1995, the Cities of Escalon, Lathrop, Manteca, and Tracy came together with the District to develop the South County Water Supply Project, culminating in the construction and operation of the Nick C. DeGroot Water Treatment Plant and the delivery of treated surface water to the region's residents, and

WHEREAS, The State Water Resources Control Board's (SWRCB's) Bay-Delta Plan, Phase 1 Draft Substitute Environmental Document (SED) issued in December 2012 proposed to require the Stanislaus, Tuolumne, and Merced rivers release 35 percent of unimpaired flows from February to June each year for environmental benefit, and

WHEREAS, A revised Draft SED was issued on September 15, 2016, and is currently being circulated for public comment, and

WHEREAS, The SWRCB, after a hearing in March 2013 and submittal of comments regarding the adequacy and sustainability of the SED, has now revised and increased the recommendations of the Draft SED to 40% unimpaired flows, with the ultimate intention of Finalizing the SED and updating the Bay-Delta Water Quality Control Plan with its Board for adoption at a date to be determined, and

WHEREAS, Flows described in the SED will create "significant and unavoidable" lasting impacts that will harm the socioeconomic welfare of those within Stanislaus, San Joaquin and Merced counties, and

WHEREAS, Water supply impacts of flows described in the SED include the loss of hundreds of thousands of acre-feet of surface water that is used to keep agriculture - the region's economic engine - stable. This loss of water would result in the fallowing of some of the most prime farmland in California, and

WHEREAS, Groundwater impacts of flows described in the SED include increased groundwater pumping at a time when California is working to implement the landmark Sustainable Groundwater Management Act. The SED estimates additional and significant groundwater reliance in the local East San Joaquin groundwater subbasin, a basin that is already identified as critically overdrafted in San Joaquin County. The reduced surface water deliveries proposed in the SED will severely hamper the ability to conjunctively use surface water deliveries on farms to provide adequate groundwater recharge, and

WHEREAS, Power impacts of flows described in the SED include public power agencies being resigned to generating more hydropower at a time of low demand, meaning less water is available to generate hydropower in summer when power demand is at its peak. This has economic impacts to public power agencies, and such impacts bear a direct relation to local customer utility rates, and

WHEREAS, There is reasonable and significant doubt that the flows described in the SED will benefit native fish populations or promote ecosystem restoration. The SED focuses narrowly on flows as a solution to environmental concerns while ignoring non-flow alternatives such as predator suppression and fish habitat restoration. Such non-flow management measures are often less costly and more effective, and

WHEREAS, the cities of Escalon, Lathrop, Manteca, and Tracy within San Joaquin County have made significant investments in diversifying their drinking water sources, to include the use of water from the Stanislaus River. With the implementation of the SED, the use of river water for drinking water is threatened, leaving local communities even more vulnerable to the impacts of drought and potentially stranding significant investments in these vital assets:

NOW, THEREFORE, BE IT RESOLVED, That the Tracy City Council, opposes the State Water Resources Control Board 2016 Draft Revised Substitute Environmental Document (SED) on the Proposed Update to the Water Quality Control Plan for the San Francisco Bay/Sacramento – San Joaquin Delta Estuary, and calling for sustainable solutions for the Stanislaus River and the Region's economy.

* * * * *

The foregoing Resolution 2016-_____ was passed and adopted by the Tracy City Council on the 20th day of December, 2016, 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

APPROVE AN EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT WITH CAL NORTH SOCCER FOR SPORTS FIELDS AT THE LEGACY FIELDS COMPLEX LOCATED ON NORTH TRACY BOULEVARD AND AUTHORIZE THE MAYOR TO SIGN THE AGREEMENT

EXECUTIVE SUMMARY

The City of Tracy is the owner of a 160-acre property located on North Tracy Boulevard also known as Legacy Fields Sports Complex. Cal North Soccer, has expressed interest in entering into an Exclusive Negotiating Rights Agreement (ENRA) to develop, operate and/or program sports fields at Legacy Fields. Staff recommends that City Council approve an ENRA with Cal North Soccer for the subject property and provide the parameters for good faith negotiations for a period of six months.

DISCUSSION

The City has constructed baseball and soccer fields in the area known as Phase I of the Legacy Fields Sports Complex. Phase I encompasses approximately 72 acres of a larger 160-acre sports complex. The initial site master plan for the entire 160-acre complex included additional soccer, baseball, softball and practice football fields (Phase 2). These fields were designed to meet the demands of the community. With the recent completion of construction of more fields in Phase 1, certain groups and individuals have expressed interest in developing Phase 2 fields and/or securing a long-term field use agreement for future phases.

Cal North Soccer

Since March of 2015, Cal North Soccer has publicly expressed interest in a long-term agreement for soccer fields and/or soccer field use at Legacy Fields. Cal North Soccer is interested in a long-term commitment in Tracy, as the location is optimal for local, regional and national tournaments. Cal North Soccer's interest is focused on a site that can host tens of thousands of participants and spectators from different regions. If an agreement is reached, this would strengthen the City's economic base.

City staff met with the Cal North Soccer to discuss their interest in the project and identify the needs of both parties.

As a result of discussions with City staff, Cal North Soccer has requested that the City enter into an Exclusive Negotiating Rights Agreement to discuss a possible agreement on options ranging from field development and operation, to a long-term commitment for tournament play.

The attached ENRA (Attachment B) has been prepared to provide an opportunity for City staff to exclusively negotiate terms of a potential agreement over the next six months with Cal North Soccer for construction and operation of Phase 2 of the facility. If negotiations are successful, then an agreement will be prepared for City Council

consideration. The Agreement does provide for a four-month extension period should more time be needed to negotiate terms or for the City and Cal North Soccer to perform due diligence.

STRATEGIC PLAN

This agenda item supports the Quality of Life Strategic Plan and specifically implements the following goals and objectives:

Goal 2: Address city amenities and facility usage with an emphasis on accessibility and streamlined services.

Objective 2: Explore public-private facility initiatives geared towards a multi-use facility.

This agenda item also supports the Economic Development Strategic Plan and specifically implements the following goal and objective:

Goal 2: Attract retail and entertainment uses that offer residents quality dining, shopping and entertainment experiences.

Objective 2: Increase the entertainment and recreational opportunities and events that draw people into Tracy.

FISCAL IMPACT

There is no fiscal impact associated with this action.

RECOMMENDATION

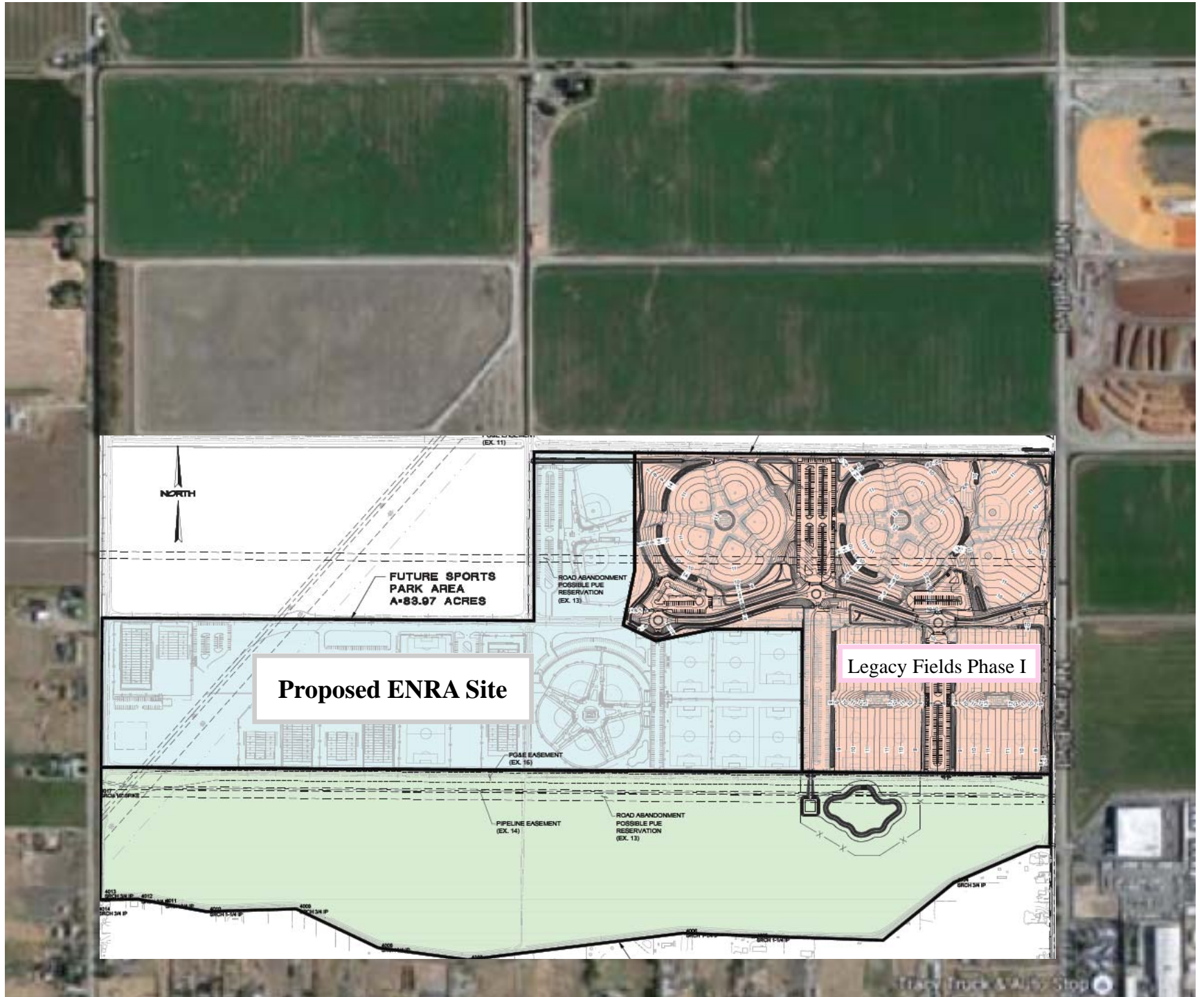
Staff recommends that City Council approve, by resolution, an Exclusive Negotiating Rights Agreement by and between the City of Tracy and Cal North Soccer and authorize the Mayor to sign the Agreement.

Prepared by: André Pichly, Parks & Recreation Director
Reviewed by: Don Scholl, Public Works Director
 Brian MacDonald, Management Analyst II
 Stephanie Garrabrant-Sierra, Assistant City Manager
Approved by: Troy Brown, City Manager

ATTACHMENTS:

Attachment A: Site Map of Subject Property
Attachment B: Exclusive Negotiating Rights Agreement with Cal North Soccer

ATTACHMENT A—Site Map



EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT
(Legacy Fields Sports Complex)

This Exclusive Negotiating Rights Agreement (the "Agreement") is entered into as of December 20, 2016 by and between the City of Tracy (the "City"), a California Municipal Corporation, and Cal North Soccer, ("Cal North"), a non-profit public benefit California corporation, with reference to the following facts:

Recitals

A. The City of Tracy (the "City") is the owner of real property located at 4901 N. Tracy Blvd. in the City of Tracy, as indicated in Exhibit A (the "Site"); and

B. Cal North Soccer ("Cal North") has proposed development of sports fields and/or securing a long-term field use agreement (the "Project") on the Site; and

C. The purpose of this Agreement is to establish procedures and standards for the negotiation by the City and Cal North of a Site Development and/or Use Agreement for the Site. As more fully set forth in Section 4.1, this Agreement in itself does not obligate the City to convey or otherwise provide the Site or any portion thereof to Cal North, nor does it grant Cal North the right to develop the Project.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties mutually agree as follows:

ARTICLE 1
EXCLUSIVE NEGOTIATING RIGHT

Section 1.1 Good Faith Negotiations. The City and Cal North shall negotiate diligently and in good faith, during the Negotiating Period described in Section 1.2, the terms of an Agreement for the development and operation of the Site. During the Negotiating Period, the parties shall use good faith efforts to accomplish the respective tasks outlined in Article 3 to facilitate the negotiation of a mutually satisfactory Agreement.

Among the possible issues to be addressed in the negotiations are: method of land disposition and land price for the Site, physical and land title conditions of the Site, the development schedule for the Project, financing of the Project development, use of the Project, marketing and management of the Project, design and aesthetic

considerations of the Project, the provision of public improvements related to the Project, and/or long-term Site use agreements.

Section 1.2 Negotiating Period. The negotiating period under this Agreement (the "Negotiating Period") shall commence as of the date of this Agreement and terminate one hundred eighty calendar days from the date of this Agreement. The Negotiating Period may be extended by the City behalf for one additional one hundred twenty day period by written notice to Cal North from the City's Parks & Recreation Director, if in the City's Parks & Recreation Director's judgement, Cal North has made sufficient progress in meeting the requirements of Article 3.

If a Site Development and/or Use Agreement has not been executed by the City and Cal North by the expiration of the Negotiating Period, and any extension thereof, then this Agreement shall terminate and neither Party shall have any further rights or obligations under this Agreement except as set forth in Section 4.5. If a Site Development and/or Use Agreement is executed by the City and Cal North, then upon such execution this Agreement shall terminate, and all rights and obligations of the Parties shall be as set forth in the executed Site Development and/or Use Agreement.

Section 1.3 Exclusive Negotiations. During the Negotiating Period the City shall not negotiate with any entity, other than Cal North, regarding development and/or long-term use of the Site or any portion thereof other than the City's currently ongoing annual Field Allocation process for 2017, or solicit or entertain bids or proposals to do so. This provision shall not preclude the City from providing copies of documents or information related to the Site in response to a request under the California Public Records Act or other applicable statutory provisions.

ARTICLE 2 CAL NORTH

Section 2.1 Identification of Cal North Representatives. Cal North, its address, and its authorized representatives to negotiate the Site Development and/or Use Agreement with the City are as follows:

Cal North Soccer
1040 Serpentine Lane, STE 206
Pleasanton, CA 94566

Representatives: Matthew Madeira

Section 2.2 Development/Use Entity. Cal North shall make full disclosure to the City of all information pertinent to the ownership, control and financial ability of the development/use entity that is proposed to serve as Cal North under the Site Development/Use Agreement.

ARTICLE 3 NEGOTIATION/PRE-CONSTRUCTION TASKS

Section 3.1 Overview. During the Negotiating Period, the parties shall use reasonable good faith efforts to accomplish the pre-construction tasks set forth in this Article 3 and to accomplish the negotiation of a mutually acceptable Site Development and/or Use Agreement. To facilitate negotiation of the Site Development and/or Use Agreement, the parties shall use reasonable good faith efforts to accomplish the tasks set forth in this Article 3 in a timeframe that will support achievement of these goals.

Section 3.2 Reports. Cal North shall provide the City with copies of all reports, studies, analyses, and similar documents, prepared or commissioned by Cal North with respect to this Agreement, the Site and the Project, promptly upon their completion, provided, however, that in no event shall Cal North be obligated to provide the City with documentation or materials that are subject to attorney-client privilege, attorney-work product or are otherwise confidential. The City shall provide Cal North with copies of all reports, studies, analyses, and similar documents prepared or commissioned by the City or within the City's possession or control with respect to this Agreement, the Site and the Project, promptly upon their completion; provided, however, that in no event shall the City be obligated to provide Cal North with documentation or materials that are subject to attorney-client privilege or otherwise confidential. Cal North acknowledges that the City will need sufficient, detailed information about the proposed Project to make informed decisions about the content and approval of the Site Development and/or Use Agreement. Nothing in this Section 3.2 obligates the City to undertake any studies or analyses.

Section 3.3 Planning Approvals. Cal North acknowledges that the Project may require approvals and entitlements from the City (the "Planning Approvals"). During the Negotiating Period, Cal North may submit site plans and designs for the Project and architectural designs for all facilities within the Project to the City and the appropriate City departments for their informal review. Cal North understands that a formal application for the Planning Approvals, if applicable, would not occur until after the execution of a Site Development and/or Use Agreement, and that such application for and issuance of the Planning Approvals will be a pre-disposition condition under any Site Development and/or Use Agreement, in addition to other pre-disposition conditions.

Section 3.4 Utilities. Cal North shall consult with the utility companies serving the area of Site to determine if existing utility facilities require expansion, relocation or underground installation in connection with development of the Project. The City shall assist and cooperate with Cal North in such consultations.

Section 3.5 Financial Ability. Prior to the execution of a Site Development and/or Use Agreement, Cal North shall provide the City with proper documentation to indicate Cal North's financial ability to complete the Project.

Section 3.6 Progress Reports. Upon reasonable notice, as from time to time requested by the City, Cal North shall make oral or written progress reports advising the City on studies being made and matters being evaluated by Cal North with respect to this Agreement and the Project.

ARTICLE 4 GENERAL PROVISIONS

Section 4.1 Limitation on Effect of Agreement. This Agreement (and any extension of the Negotiating Period) shall not obligate either the City or Cal North to enter into a Site Development and/or Use Agreement or to enter into any particular Site Development and/or Use Agreement. By execution of this Agreement, neither Cal North nor the City is committing itself to or agreeing to undertake disposition or exercise of control over any Site or any portion of the Site. By execution of this Agreement, neither Cal North nor the City is committing itself to or agreeing to finance any portion of the Site or Project. Execution of this Agreement by the City and Cal North is merely an agreement to conduct a period of negotiations in accordance with the terms hereof, reserving for subsequent City Council action the final discretion and approval regarding the execution of a Site Development and/or Use Agreement and all proceedings and decisions in connection therewith, and approval by Cal North of any such Site Development and/or Use Agreement. Any Site Development and/or Use Agreement resulting from negotiations pursuant to this Agreement shall become effective only if and after such Site Development and/or Use Agreement has been considered and approved by the City Council of the City, following conduct of all legally required procedures, including without limitation, all required environmental review processes and all other applicable governmental approvals, and executed by duly authorized representatives of the City and Cal North. Until and unless a Site Development and/or Use Agreement is signed by Cal North, approved by the City Council, no agreement drafts, actions, deliverables or communications arising from the performance of this Agreement shall impose any legally binding obligation on either party to enter into or support entering into a Site Development and/or Use Agreement or be used as evidence of any oral or implied agreement by either party to enter into any other legally binding document. As such, the City retains absolute discretion before action on a Site Development and/or Use Agreement by the City Council (if required by law) to (i) subject to the agreement of the parties, make such modifications to the Site Development and/or Use Agreement and Project as may be necessary to mitigate significant environmental impacts or as may otherwise be necessary or appropriate, (ii) select other feasible alternatives to avoid significant environmental impacts, (iii) balance the benefits against any significant environmental impacts prior to taking final action if such significant impacts cannot otherwise be avoided or (iv) determine not to proceed with the Project.

Section 4.2 Notices. Formal notices, demands and communications between the City and Cal North shall be sufficiently given if, and shall not be deemed given unless, dispatched by certified mail, postage prepaid, return receipt requested, or sent

by express delivery or overnight courier service, with signature required, to the office of the parties shown as follows, or such other address as the parties may designate in writing from time to time:

City: Parks & Recreation Department of the
City of Tracy
520 Tracy Blvd.
Tracy, CA 95376
Attn: Parks & Recreation Director

With a copy to:

City Attorney
333 Civic Center Plaza
Tracy, CA 95376

Cal North: Cal North Soccer
1040 Serpentine Lane, STE 206
Pleasanton, CA 94566
Attn: Matthew Madeira

Such written notices, demands and communications shall be effective on the date shown on the delivery receipt as the date delivered or the date on which delivery was refused.

Section 4.3 Waiver of Lis Pendens. It is expressly understood and agreed by the parties that no lis pendens shall be filed against the Site, or any portion of the Site, with respect to this Agreement or any dispute or act arising from it.

Section 4.4 Costs and Expenses. Each party shall be responsible for its owns costs and expenses in connection with any activities and negotiations undertaken in connection with this Agreement, and the performance of each party's obligations under this Agreement.

Section 4.5 No Commissions. The City shall not be liable for any real estate commissions or brokerage fees that may arise from this Agreement or any Site Development and/or Use Agreement that may result from this Agreement. The City represents that it has engaged no broker, agent or finder in connection with this transaction, and Cal North shall defend and hold the City harmless from any claims by any broker, agent or finder retained by Cal North.

Section 4.6 Default and Remedies.

(a) Default. Failure by either party to negotiate in good faith as provided in this Agreement shall constitute an event of default hereunder. The non-defaulting party shall give written notice of a default

to the defaulting party, specifying the nature of the default and the required action to cure the default. If a default remains uncured thirty (30) days after receipt by the defaulting party of such notice, the non-defaulting party may exercise the remedies set forth in subsection (b).

(b) Remedies. In the event of an uncured default by the City, Cal North's sole remedy shall be to terminate this Agreement. Following such termination, neither party shall have any further right, remedy or obligation under this Agreement; provided, however, that Cal North's obligation to turn over work pursuant to Section 3.2, and Cal North's indemnification obligation with respect to any claim for real estate commissions or brokerage fees pursuant to Section 4.5 shall survive such termination.

In the event of an uncured default by Cal North, the City's sole remedy shall be to terminate this Agreement. Following such termination, neither party shall have any right, remedy or obligation under this Agreement; provided, however, that Cal North's obligation to turn over work pursuant to Section 3.2, and Cal North's indemnification obligation with respect to any claim for real estate commissions or brokerage fees pursuant to Section 4.5 survive such termination.

Except as expressly provided above, neither party shall have any liability to the other for damages or otherwise for any default, nor shall either party have any other claims with respect to performance under this Agreement. Each party specifically waives and releases any such rights or claims they may otherwise have at law or in equity.

Section 4.7 Assignment. Cal North may not transfer or assign any or all of its rights or obligations hereunder except with the prior written consent of the City, which consent shall be granted or withheld in the City's sole discretion, and any such attempted transfer or assignment without the prior written consent of City shall be void. The City hereby consents to Cal North's assignment of this Agreement to a California company that is controlled by Cal North. The City also consents to Cal North's assignment of this Agreement to a non-profit public benefit California company in which Cal North wholly controls the company; provided that any transfer of control to another company must be approved in advance by the City. Any assignment of this Agreement shall not be valid unless the assignee expressly assumes Cal North's rights and obligations under this Agreement pursuant to an assignment agreement approved in advance by the City.

Section 4.8 No Third Party Beneficiaries. This Agreement is made and entered into solely for the benefit of the City and Cal North and no other person shall have any right of action under or by reason of this Agreement.

Section 4.9 Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Venue shall be in San Joaquin County, California.

Section 4.10 Entire Agreement. This Agreement constitutes the entire agreement of the parties regarding the subject matters of this Agreement.

Section 4.11 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement.

Section 4.12 Authority to Execute: The undersigned represent and warrant they are each duly authorized to execute this Agreement on behalf of the respective party and to take the actions necessary to perform hereunder without the need to seek further authorization from the entity each represents.

WHEREFORE, the parties have executed this Agreement on or as of the date first above written.

CITY: CAL NORTH SOCCER

By: _____
Robert Rickman
Mayor

By:  _____

Date: _____

Title: EXECUTIVE DIRECTOR

Date: 12/04/2016

Attest:

By: _____
Nora Pimentel
City Clerk

By:  _____

Title: Executive Asst.

Date: _____

Date: 12/4/16

APPROVED AS TO FORM:

By: _____
Bill Sartor
City Attorney

Date: _____

RESOLUTION 2016-_____

APPROVING AN EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT WITH CAL NORTH SOCCER FOR SPORTS FIELDS AT THE LEGACY FIELDS COMPLEX LOCATED ON NORTH TRACY BOULEVARD AND AUTHORIZING THE MAYOR TO SIGN THE AGREEMENT

WHEREAS, The City of Tracy is the owner of a 160-acre property located on North Tracy Boulevard also known as Legacy Fields Sports Complex, and

WHEREAS, Cal North Soccer, has expressed interest in entering into an Exclusive Negotiating Rights Agreement (ENRA) to develop, operate and/or program sports fields at Legacy Fields, and

WHEREAS, The ENRA has been prepared to provide an opportunity for City staff to exclusively negotiate terms of a potential agreement over the next six months with Cal North Soccer for construction and operation of Phase 2 of the facility, and

WHEREAS, The Agreement does provide for a four-month extension period should more time be needed to negotiate terms or for the City and Cal North Soccer to perform due diligence;

NOW, THEREFORE, BE IT RESOLVED, That City Council approves an Exclusive Negotiating Rights Agreement by and between the City of Tracy and Cal North Soccer and authorizes the Mayor to sign the Agreement.

* * * * *

The foregoing Resolution 2016-_____ was adopted by Tracy City Council on the 20th day of December 2016, by the following vote:

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

MAYOR

CITY CLERK

AGENDA ITEM 1.G

REQUEST

AUTHORIZE PURCHASE OF A REPLACEMENT 100' AERIAL DRAWN TRACTOR LADDER TRUCK FROM PIERCE MANUFACTURING, INC. OUTFITTED WITH REQUIRED EQUIPMENT TO MEET NATIONAL STANDARDS UNDER A COOPERATIVE PURCHASING AGREEMENT THROUGH THE HOUSTON GALVESTON AREA COUNCIL PURSUANT TO SECTION 2.20.220 OF THE TRACY MUNICIPAL CODE AND APPROPRIATE \$1,189,639 FROM VEHICLE REPLACEMENT FUND 606 AND IN THE AMOUNT OF \$126,714 FROM THE EQUIPMENT REPLACEMENT FUND 605 FOR THE PURCHASE OF THE TRUCK AND REQUIRED EQUIPMENT

EXECUTIVE SUMMARY

The current department fire ladder truck has reached the end of its life cycle and was due for replacement in Fiscal Year 2013/2014. Staff is recommending that the current ladder truck be replaced with a 100' aerial tractor drawn ladder truck and required equipment.

DISCUSSION

To maximize firefighting capabilities and reduce risk of injury to firefighters and the public, it is important that fire apparatus be equipped with the latest safety features and operating capabilities. In recent years, significant progress has been made in the advancement of apparatus capabilities and improved safety features. The Fire Department's ladder truck is 18 years old, has 111,890 miles and is placed out of service for maintenance on a regular basis. The National Fire Protection Association recommends the replacement of an aerial fire apparatus after 10 to 15 years.

The General Service Administration recommends a fleet minimum vehicle replacement standard for heavy trucks (diesel) at 12 years or 250,000 miles.

The Fire Apparatus Manufacturer's Association (FAMA) developed the "Fire Apparatus Duty Cycle White Paper," which is an in-depth analysis of many aspects of apparatus replacement, including the key factors to be considered in a typical apparatus replacement schedule. The factors include: type of department, department workload, population served, demographics served, and topography. FAMA Apparatus/Vehicle Replacement Guidelines are as follows:

- Excellent Condition (E) – Less than five years old
- Very Good (VG) – More than five but less than ten years old
- Good (G) – More than ten but less than fifteen years old
- Fair Condition (F) – More than fifteen but less than twenty.

Under the FAMA guidelines, the existing ladder truck is categorized in Fair Condition. It should be noted, that the replacement ladder truck will not be delivered until the end of

2017, which will place the age of the current ladder truck at just under 20 years. Other factors relevant to the fair condition categorization, include, existing mechanical or suspension repairs necessary, downtime is increasing and operational costs are above average, parts become harder to find and/or obsolete, very little resale value and does not meet all NFPA 1901 and 1911 safety standards.

The Houston Galveston Area Council allows buyers to choose a vendor based upon factors other than strictly cost. It allows the fleet managers to purchase proven components based upon life cycle and service to the agency. It allows the buyers to consider fleet consistency for both maintenance and operational considerations. Because HGAC competitive bids several manufactures of like products in specific categories, it allows for the best pricing while maintaining a choice of proven products for the buyers.

The Fire Department may join this cooperative purchasing agreement pursuant to Tracy Municipal Code section 2.20.220. Other public entities within the state that have purchased this truck through HGAC include Oakland, San Mateo, Chico, Foster City, Salinas, Contra Costa County, Santa Rosa and Fremont.

The fleet replacement fund 606 currently allocates \$231,000 annually for replacement of fire vehicles. Because this requested purchase is greater than this amount and because there were other recent necessary replacement purchases in the Fire Department, it is anticipated that the Fire Department's vehicle replacement allotment will be increased during the next seven years to repay its share from fund 606, through the normal budget process.

STRATEGIC PLAN

This agenda item relates to Council's Public Safety Strategy, Goal 3; Objective 1. Enhance Citywide Emergency Preparedness to better respond to manmade and natural disasters.

FISCAL IMPACT

This purchase is not a budgeted item for Fiscal Year 2016/17 and will require budget authorization and appropriation. A supplemental appropriation of \$1,189,639 from the Vehicle Replacement fund 606 and \$126,714 from the equipment replacement fund 605 is proposed.

RECOMMENDATION

Staff recommends that the City Council authorize the purchase of a replacement 100' aerial drawn tractor ladder truck from Pierce Manufacturing, Inc. Outfitted with required equipment to meet national standards under a cooperative purchasing agreement through the Houston Galveston area council pursuant to section 2.20.220 of the Tracy Municipal Code and appropriate \$1,189,639 from Vehicle Replacement Fund 606 and in the amount of \$126,714 from the Equipment Replacement Fund 605 for the purchase of the truck and required equipment.

Agenda Item 1.G
December 20, 2016
Page 3

Prepared by: Patrick Vargas, Acting Division Chief

Reviewed by: Randall Bradley, Fire Chief
Martha Garcia, Interim Administrative Services Director
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

RESOLUTION _____

AUTHORIZE PURCHASE OF A REPLACEMENT 100' AERIAL DRAWN TRACTOR LADDER TRUCK FROM PIERCE MANUFACTURING, INC. OUTFITTED WITH REQUIRED EQUIPMENT TO MEET NATIONAL STANDARDS UNDER A COOPERATIVE PURCHASING AGREEMENT THROUGH THE HOUSTON GALVESTON AREA COUNCIL PURSUANT TO SECTION 2.20.220 OF THE TRACY MUNICIPAL CODE AND APPROPRIATE \$1,189,639 FROM VEHICLE REPLACEMENT FUND 606 AND IN THE AMOUNT OF \$126,714 FROM THE EQUIPMENT REPLACEMENT FUND 605 FOR THE PURCHASE OF THE TRUCK AND REQUIRED EQUIPMENT

WHEREAS, The Fire Department's current ladder truck is beyond its usual life according to the General Service Administration standards, and categorized as being in fair condition according to the Fire Apparatus Manufactures Association guidelines, and

WHEREAS, Staff is recommending the purchase of one 100' aerial drawn tractor ladder truck outfitted with required equipment to meet national standards from Pierce Manufacturing, Inc., and

WHEREAS, This purchase will create standardization of apparatus and provide an organized workspace for all necessary safety equipment, lending to greater fire ground operations and emergency scene management, and

WHEREAS, The tractor drawn aerial will be purchased under a cooperative purchasing agreement with Houston Galveston Area Council as authorized under Tracy Municipal Code section 2.20.220;

NOW, THEREFORE, BE IT RESOLVED that the City Council authorizes the purchase of one 100' aerial drawn tractor ladder truck outfitted with required emergency equipment, from Pierce Manufacturing, Inc., under a cooperative purchasing agreement through the Houston Galveston Area council, and appropriates \$1,189,639 from the Vehicle Replacement fund 606 and \$126,714 from the Equipment Replacement fund 605.

The foregoing Resolution _____ is hereby passed and adopted by the Tracy City Council this 20th day of December 2016, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 3

REQUEST

INTRODUCTION OF AN ORDINANCE ADOPTING, BY REFERENCE, THE 2016 CALIFORNIA BUILDING AND RELATED CODES, SPECIFYING WHICH APPENDICES APPLY TO THE CITY OF TRACY, RE-ADOPTING CERTAIN EXISTING SECTIONS OF TITLE 9 OF THE TRACY MUNICIPAL CODE, ADOPTING LOCAL STANDARDS RELATED TO STRAW BALE CONSTRUCTION, EXTERIOR PALLET STORAGE, RADIO AMPLIFICATION SYSTEMS, AUTOMATIC SPRINKLER SYSTEMS, FIRE FIGHTER AIR REPLENISHMENT SYSTEMS AND OTHER EMERGENCY RESPONDER REQUIREMENTS AND SETTING A PUBLIC HEARING DATE AND TIME FOR ADOPTION OF THE ORDINANCE

EXECUTIVE SUMMARY

The 2016 California Building and Fire Codes are mandated to be enforced throughout California six months after the publication date regardless of the local adoption process. The state-mandated effective date of local enforcement occurs on January 1, 2017. However, to enforce necessary local amendments, adopt certain appendices to the Building Codes update and contemporize administrative provisions, antiquated codes and references, modifications to Title 9 of the Tracy Municipal Code are requested at this time.

DISCUSSION

New versions of the various building and fire codes (California Codes) related to building design and construction are adopted by the State of California every three years. As new codes are adopted by the legislature, the City of Tracy amends our local ordinances as necessary. The codes under current consideration are the 2016 California Codes that replace the 2013 versions as set forth in Title 24 of the California Code of Regulations. These California Codes include the following:

- California Building Code (CBC),
- California Fire Code, (CFC),
- California Mechanical Code (CMC),
- California Plumbing Code (CPC),
- California Electrical Code (CEC),
- California Energy Code (CEnC),
- California Residential Code (CRC),
- California Existing Building Code (CEBC),
- California Green Standards Building Code (CGBSC),
- California Historical Building Code (CHBC).

Additionally, some of the California Codes are amended International Codes (copyrighted by the International Code Council or ICC), Uniform Codes (copyrighted by the International Association of Plumbing and Mechanical Officials or IAPMO) and the National Electric Code (copyrighted by the National Fire Protection Agency or NFPA),

having been amended by various state agencies and ratified by the California State Building Standards Commission.

These codes provide minimum requirements and standards for the protection of life, limb, health, property, safety and welfare of the general public, owners and occupants of buildings. The California Health and Safety Code requires cities to enforce the most recent editions of the California Codes. As such, the 2016 California Codes are required by the State to be enforced beginning January 1, 2017.

However, local agencies, such as Tracy, are able to adopt appendices that are not uniformly required otherwise. In addition to the mandated 2016 California Codes mentioned above, City staff is recommending adoption of certain appendices. This approach was also taken in 2012, and with previous building code updates.

The following list of California Codes and corresponding appendices are recommended for adoption:

- 2016 California Building Code: Appendices C, F, H, K
- 2016 California Electrical Code
- 2016 California Mechanical Code: Appendices D and F
- 2016 California Plumbing Code: Appendices A, B, C, D, E, G, H, I, J and K
- 2016 California Energy Code: Appendix 1-A
- 2016 California Residential Code: Appendix H, S and W
- 2016 California Historical Building Code: Appendix A
- 2016 California Existing Building Code
- 2016 California Green Standards Building Code
- 2016 California Fire Code: Appendices B, BB, C, CC, D, F, H, L and N

Local Amendments to the Building Codes

As stated above, most of the 2016 California Codes have appendices that are not applicable unless adopted locally. Some of the local amendments contained within the proposed ordinance are those that have been previously adopted by the City. Those specific items are excluded from this discussion but the new amendments are mentioned below. Not all appendices are proposed for local adoption.

The list below identifies all of the appendices recommended for approval and briefly clarifies the reason for recommendation; it also includes the appendices not recommended for approval and the rationale.

Recommended Appendices

- 2016 CBC Appendix C; gives specific requirements and definitions related to agricultural buildings wherever such exist within the City limits
- 2016 CBC Appendix F; gives specific requirements enabling rodent-proofing
- 2016 CBC Appendix H; provides requirements for unique construction aspects of commercial signage
- 2016 CBC Appendix K; State-mandated requirements for the Central Valley Flood Protection Plan for commercial buildings

- 2016 CRC Appendix H; provides requirements for unique aspects of patio construction
- 2016 CRC Appendix S; provides requirements for straw bale construction where such may be used
- 2016 CRC Appendix W; provides standards associated with State-mandated regulations for the 200-year flood event
- 2016 CMC Appendix D; provides fuel supply requirements specific to mobile home parks and recreational vehicle parks
- 2016 CMC Appendix F; provides additional sizing information for venting systems and outdoor combustion requirements
- 2016 CPC Appendix A; provides standardization to the sizing of water supply systems
- 2016 CPC Appendix B; provides explanatory direction for combination waste and vent systems
- 2016 CPC Appendix C; clarifies procedures for the design and approval of engineered plumbing systems, alternate materials and equipment not specifically covered in other parts of the CPC
- 2016 CPC Appendix D; provides standardization for sizing of storm water and drainage systems
- 2016 CPC Appendix E; provides criteria for the design and installation of manufactured and/or mobile home park plumbing and drainage systems
- 2016 CPC Appendix G; provides requirements for the sizing of venting systems for Category I appliances
- 2016 CPC Appendix H; where private sewage disposal is approved, this appendix provides the necessary requirements
- 2016 CPC Appendix I; provides standardization for specific plumbing installations
- 2016 CPC Appendix J; provides design information for combination of indoor and outdoor combustion and ventilation opening design
- 2016 CPC Appendix K; provides standards where potable rainwater catchment systems are installed
- 2016 CENC Appendix 1-A; provides expanded information regarding energy standards and other documents referenced within the CEnC
- 2016 CHBC Appendix A; clarifies if modifications made to qualified historical buildings meet Federal and State requirements as the CHBC is intended to work in conjunction with both Federal and State standards
- 2016 CFC Appendix B; provides criteria for fire flow requirements
- 2016 CFC Appendix BB; provides criteria for fire flow requirements specific to private and public schools
- 2016 CFC Appendix C; provides criteria for hydrant location and appropriate number thereof
- 2016 CFC Appendix CC; provides criteria for hydrant location and appropriate number thereof specific to private and public schools
- 2016 CFC Appendix D; provides additional requirements as it relates to Fire Department emergency access to buildings
- 2016 CFC Appendix F; clarifies hazardous materials placarding requirements based on NFPA 704
- 2016 CFC Appendix H; creates a standard for a hazardous materials management plan and hazardous materials inventory sheets

- 2016 CFC Appendix L; provides requirements for fire fighter air replenishment systems
- 2016 CFC Appendix N provides standards for haunted houses where none currently exist.

The list below identifies all of the appendices and annexes not recommended for approval, and also briefly clarifies the reason for exclusion from recommendation. Additionally, annexes that are included within certain codes contain non-mandatory information relative to the use of the code and are not part of the enforceable requirements of the code. Therefore, annexes contained in the codes are not necessary to adopt locally.

Appendices and Annexes Not Recommended

- 2016 CBC Appendix A; the City's Human Resources Department provides employee qualifications
- 2016 CBC Appendix B; TMC already has Building Board of Appeals provisions
- 2016 CBC Appendix D; enforces construction restrictions in fire districts that are more restrictive than the Building Code. For example, the typical wood framing of a single family dwelling would not be allowed.
- 2016 CBC Appendix E; the appendix is reserved
- 2016 CBC Appendix G; TMC already has requirements for flood-resistant construction
- 2016 CBC Appendix I; the CRC already has requirements for residential patio covers
- 2016 CBC Appendix J; the City already has standards for grading
- 2016 CBC Appendix L; requires accelerographs to be installed in buildings to record earthquake acceleration
- 2016 CBC Appendix M; provides tsunami-generated flood hazard regulatory criteria
- 2016 CRC Appendix A; these regulations represent different national code standards than already provided in the CPC
- 2016 CRC Appendix B; these regulations represent different national code standards than already provided in the CPC
- 2016 CRC Appendix C; these regulations represent different national code standards than already provided in the CPC
- 2016 CRC Appendix D; the City does not perform inspections of existing appliances and therefore does not need these prescriptive requirements
- 2016 CRC Appendix E; these regulations are comparative to the applicable California Code of Regulations Title 25
- 2016 CRC Appendix F; Tracy is a low potential area where radon-resistant construction is not needed
- 2016 CRC Appendix G; repetitive requirements already found in CBC.
- 2016 CRC Appendix I; these regulations represent different national code standards than already provided in the CPC
- 2016 CRC Appendix J; TMC already has requirements for existing buildings and structures
- 2016 CRC Appendix K; repetitive, sound transmission requirements already found in CBC
- 2016 CRC Appendix L; the City already has a fee schedule

- 2016 CRC Appendix M; State law already provides requirements for home day care
- 2016 CRC Appendix N; these regulations represent different national code standards than already provided in the CPC.
- 2016 CRC Appendix O; these regulations are redundant as they are found in the CFC.
- 2016 CRC Appendix P; these regulations represent different national code standards than already provided in the CPC
- 2016 CRC Appendix Q; reserved appendix
- 2016 CRC Appendix R; only applies to seismic design categories that do not exist in Tracy
- 2016 CRC Appendix T; represents only a recommended procedure for vent testing
- 2016 CRC Appendix U; provides solar-ready provisions that already exist in the CGBSC
- 2016 CRC Appendix V; repetitive requirements already found in the CBC
- 2016 CEBC Appendix A; provides guidelines for seismic strengthening for various building types that are voluntary measures for existing buildings
- 2016 CMC Appendix A; this appendix is a form to calculate the HVAC loads for a residential system and is not necessary to adopt
- 2016 CMC Appendix B; the City does not place gas equipment in operation and therefore does not need these prescriptive procedures Agenda Item 8 January 7, 2014 Page 5
- 2016 CMC Appendix C; the City does not install and test oil fuel-fired equipment
- 2016 CMC Appendix E; provides a comprehensive set of technical provisions that would mandate additional sustainable practices than what is already required through the CGBSC
- 2016 CMC Appendix G; provides an example calculation that is not necessary to adopt
- 2016 CGBSC Appendix A4; additional residential requirements such as higher levels of landscape irrigation design, recycled content requirements, thermal insulation requirements and mandatory cool roof and permeable paving requirements that will have an adverse economic impact to the project.
- 2016 CGBSC Appendix A5; additional commercial requirements such as higher levels of requirements for fuel-efficient vehicles, recycled building materials, cool roofing, outdoor lighting and interior pollutant controls that will have an adverse economic impact to the project.
- 2016 CGBSC Appendix A-6.1; provides additional standards for facilities regulated by the State
- 2016 CEC Annex A; identifies product safety standards which are informational and not necessary to adopt
- 2016 CEC Annex B; provides an alternate method for calculating ampacities and is not necessary to adopt
- 2016 CEC Annex C; provides conduit and tubing fill tables that are useful but not necessary to adopt
- 2016 CEC Annex D; provides load calculation examples that are helpful to understand load calculations but not necessary to adopt
- 2016 CEC Annex E; provides information related to types of construction that are not necessary to adopt

- 2016 CEC Annex F; provides information for critical operations power systems and is not necessary to adopt
- 2016 CEC Annex G; provides parameters for supervisory control and data acquisition systems (SCADA) but is not necessary to adopt
- 2016 CEC Annex H; the City already has administrative provisions for the CEC
- 2016 CEC Annex I; provides recommended torque tables as informational tables only and therefore, is not necessary to adopt
- 2016 CPC Appendix F; provides redundant requirements already found in Appendix L of the 2016 CFC
- 2016 CPC Appendix L; provides a comprehensive set of technical provisions that would mandate additional sustainable practices than what is already required through the CGBSC
- 2016 CFC Appendix A; provides a standard for an appeals board other than what the TMC has already provided
- 2016 CFC Appendix E; is informational only and is not intended for adoption
- 2016 CFC Appendix G; is informational only and is not intended for adoption
- 2016 CFC Appendix I; represents a redundancy of elements of inspection already being accomplished
- 2016 CFC Appendix J; provides a standard for a building information sign wherein the Fire Department incident preplanning operations provide the equivalent information.
- 2016 CFC Appendix K; requires existing ambulatory care facilities to be upgraded to meet current requirements

Additional Explanation for the Recommended Adoption of Various Appendices and Amendments

The 2010 CRC first required suppression systems for all new single-family dwellings. Title 25 of the California Code of Regulations does not require that manufacturers of 'manufactured homes' install sprinkler systems in such homes unless a local ordinance mandates such systems. Yet, the protection of life provided by suppression systems should not be limited to site-built homes. Therefore, staff is proposing that the City of Tracy require suppression systems in all of its newly built or manufactured homes with the 2016 CRC as a code amendment.

The 2016 CFC section 315 is proposed to be amended by consolidating provisions of the National Fire Protection Association Standard 1 and other portions of the 2016 California Fire Code. The amendment addresses the extraordinary hazard of exterior pallet fires. After an exterior pallet fire is initiated, the extreme rate of fire growth and heat intensity can contribute to a fire with major building-to-building flame spread over a great distance due to radiant heat generation that can be intensified by the windy conditions experienced in Tracy. Separation distances to property lines, buildings on site and to other on-site combustible storage are proposed to reduce the potential hazard.

Emergency responders, particularly firefighters, need ready access into buildings to rescue people within such buildings, find the source of the hazard, contain the hazard and eliminate the hazard. Various CFC amendments are being proposed for local adoption to do just this. For example, locked electrical gates need to have a nonproprietary use of signal receiver compatible with that used by fire engine companies

for automatic access. Other amendments clarify the make, model, manufacturer and installation requirements of keyed entrance boxes. These boxes house the keys to businesses enabling ready emergency access by the Fire Department so that destructive access is avoided. Also, an amendment has been added to require the installation of a container which is to house current information regarding quantities, type and location of hazardous materials within a specific structure and/or site. This information is essential to firefighting personnel in responding to a fire involving, for example, hazardous substances or confronting a major accidental chemical release.

The proposed amendments to the 2016 Fire Code requires automatic sprinklers in existing buildings when a remodel or alteration is in excess of \$285,000 in valuation (current threshold that will increase again in January 2017) and where the existing structure is in excess of 6000 square feet in area. This monetary threshold has a nexus to a construction cost index that allows for annual increases. Hence, the requirement of automatic sprinkler systems in existing buildings is tied directly to the overall valuation of the project. This amendment makes for a reasonable approach to life and safety concerns of existing buildings and less of an impact upon business and building owners.

If adopted, this amendment would establish a three-year period within which expenditures for permitted improvements to a structure in excess of the adjusted \$285,000 valuation would trigger the installation of an automatic sprinkler system. There are also provisions for additions, change of use and minimum square footages for any type of newly constructed building that will also mandate automatic sprinkler protection. Such protection has proven not only to control, if not altogether extinguish fires that may start, but more importantly, save lives.

Staff proposes that the 2016 California Fire Code be amended to require emergency responder radio coverage within existing buildings where certain improvements to the structure would impede such emergency radio communications. The intent is to further protect against loss of life (either on behalf of customers, employees or others within a building during an emergency event or the emergency responders).

It's been recently documented that an additional element of concern for fighting fires in mid and high-rise buildings, underground structures or tunnels and large area structures is the lack of air supply for the fire fighters. Hence, staff proposes that Appendix L of the 2016 California Fire Code be adopted. This appendix provides requirements to deliver a safe, reliable, constant supply of breathing air when and where firefighters need it most — inside a structure and closer to the seat of a fire. Firefighters can refill their air bottles in less than a minute at filling stations located throughout these aforementioned specific type buildings and can use a self-contained breathing apparatus (SCBA) quick-connect feature to make ground air management achievable in such complex structures. Fire Fighter Air Replenishment Systems (FARS) is a permanently installed arrangement of piping, valves, fittings, and equipment to facilitate the replenishment of breathing air. Currently, shuttling cylinders up and down stairs or in and out of buildings is a time consuming, labor-intensive process, causing unnecessary risk and fatigue on the fire ground. As such, FARS has proven to dramatically improve safety on the fireground by minimizing firefighter fatigue, properly utilizing on-scene personnel and providing lifesaving air to firefighters during emergency operations.

Most of the changes noted within the 2016 California Codes from previous editions should have minimal impact upon construction, yet constitute a continued effort to achieve the highest levels of health and life safety in the built environment under specified minimum standards. However, the most significant changes are the requirements found in the CEC related to increased energy efficiencies and requirements that are intended to have a positive environmental impact.

A public hearing to adopt the mandated codes is not required. Government Code section 50022.2 provides an exception to the public hearing requirements for adopting codes by reference for those codes which the City is required to enforce as a condition of compliance with a state statute. However, a public hearing is required for adoption of the various non-mandated appendices to the codes so Staff is requesting that Council set a date for such public hearing to occur concurrently with adoption (second reading) of the proposed ordinance.

Upon Council adoption of the aforementioned local amendments, staff will file these amendments with the California Building Standards Commission.

STRATEGIC PLAN

The adoption of the 2016 California Codes does not directly support any portion of the 2015-2017 Strategic Plan and yet is not in conflict with any of the Strategic Plan's goals or objectives.

FISCAL IMPACT

There is no fiscal impact to the General Fund.

RECOMMENDATION

It is recommended that City Council introduce an ordinance adopting the 2016 California Building, Fire, and related codes, specifying which appendices apply to the City of Tracy and re-adopting certain existing sections of Title 9 of the Tracy Municipal Code and adopting local standards related to straw bale construction, exterior pallet storage, radio amplification systems, automatic sprinkler systems and other emergency responder requirements and set a public hearing date and time for adoption of the proposed ordinance.

Prepared by: Kevin Jorgensen, Chief Building Official, Fire Code Official

Reviewed by: William Dean, Assistant Development Services Director
Martha Garcia, Interim Administrative Services Director
Andrew Malik, Development Services Director
Randall Bradley, Fire Chief
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment A – Proposed Ordinance adopting various Uniform Codes and appendices thereto, including local amendments, and repealing, amending and adding to Title 9 of the Tracy Municipal Code.

ORDINANCE _____

AN ORDINANCE OF THE CITY OF TRACY ADOPTING THE 2016 CALIFORNIA BUILDING CODE, 2016 CALIFORNIA ELECTRICAL CODE, 2016 CALIFORNIA PLUMBING CODE, 2016 CALIFORNIA RESIDENTIAL CODE, 2016 CALIFORNIA MECHANICAL CODE, 2016 CALIFORNIA GREEN BUILDING STANDARDS CODE, 2016 CALIFORNIA HISTORICAL BUILDING CODE, 2016 CALIFORNIA EXISTING BUILDING CODE, AND 2016 CALIFORNIA ENERGY CODE, 2016 CALIFORNIA FIRE CODE, ADOPTING APPENDICES C, F, H, AND K OF THE 2016 CALIFORNIA BUILDING CODE, APPENDICES A, B, C, D, E, G, H, I, J AND K OF THE 2016 CALIFORNIA PLUMBING CODE, ALL APPENDICES OF THE 2016 CALIFORNIA ENERGY CODE, APPENDICES D AND F OF THE 2016 CALIFORNIA MECHANICAL CODE, APPENDICES H, S AND W OF THE 2016 CALIFORNIA RESIDENTIAL CODE, ALL APPENDICES OF THE 2016 CALIFORNIA HISTORICAL BUILDING CODE, APPENDICES B, BB, C, CC, D, F, H, L AND N OF THE 2016 CALIFORNIA FIRE CODE, ADOPTING SUPPRESSION REQUIREMENTS FOR MANUFACTURED HOMES, CLARIFYING REQUIREMENTS FOR AUTOMATIC SUPPRESSION SYSTEMS FOR TENANT IMPROVEMENTS AND REQUIREMENTS FOR HAZARDOUS PALLET STORAGE, CLARIFYING STANDARDS FOR RADIO AMPLIFICATION SYSTEMS FOR EXISTING BUILDINGS, ADOPTING EMERGENCY RESPONSE STANDARDS, AND REPEALING SECTIONS TO REORGANIZE EXISTING ORDINANCE LANGUAGE, CORRECT CODE REFERENCES, CLARIFY LANGUAGE AND ELIMINATE REDUNDANT LANGUAGE

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

SECTION 1: Readopted sections. Tracy Municipal Code sections 9.04.010, 9.04.020 and 9.04.040 are readopted in their entirety without change.

SECTION 2: Repealed sections. Tracy Municipal Code sections 9.04.060 and 9.04.070 are repealed in their entirety.

SECTION 3: Amended sections. Tracy Municipal Code sections 9.04.030 and 9.04.050 are hereby amended to read as follows:

9.04.030 Adoption by reference of the California Building Code.

The City hereby adopts by reference the code entitled "2016 California Building Code," Volumes 1 and 2, including appendices C, F, H and K, copyrighted by the International Code Council and the California Building Standards Commission (hereinafter "California Building Code"), as amended by this chapter. The California Building Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6.

9.04.050 Amendments to the California Building Code

The City of Tracy hereby makes the following local amendments to the California Building Code:

CHAPTER 1

Section 105.3.2 is amended to read as follows:

Section 105.3.2 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the building official, an application shall not be extended more than

two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained and corresponding fees shall be paid when a permit has expired.

Section 105.5 is amended to read as follows:

Section 105.5 Expiration. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the building official, a permit shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained and corresponding fees shall be paid when a permit has expired.

CHAPTER 5

Section 501.2 is amended to read as follows:

Section 501.2 Address identification. New and existing buildings shall be provided with approved address identification. The address identification shall be placed in figures not less than four inches (nominal) high on illuminated background and a minimum of ½-inch stroke width. Addressing shall be illuminated at night. Such address signs shall be internally or externally illuminated at an intensity of not less than 5.0 foot-candles. Such numbers shall also contrast with their background and shall be placed on a portion of the building that is both legible and visible from the street fronting the property a minimum of six feet above grade. Entrance numbers shall not be placed on any moveable door and shall be unobstructed from the view of such numbers from the street. Additionally, where access is by means of a private road and/or the building address cannot be viewed from the public way, a monument, pole or other approved sign or means shall be used to identify the structure. Address numbers shall be Arabic numbers or alphabetical letters. Address figures shall be maintained. Where required by the fire code official, address numbers/figures shall be provided in additional approved locations to facilitate emergency response. Multiple tenant spaces serviced by vehicular access to the rear of the building through any driveway, alleyway, or parking lot shall have numbers or addresses placed prior to occupancy on all new and existing buildings as to be plainly visible and legible from the rear access way. Multiple tenant spaces serviced by rear access through a corridor, exit court, or exit yard shall have approved numbers or addresses displayed on the rear of the tenant space. Multiple tenant spaces that front on interior walkways or pedestrian malls shall have approved numbers or addresses placed over the entrance door in all new and existing buildings. An illuminated annunciator or directory board shall be required at every entrance where deemed necessary by the fire code official.

CHAPTER 18

Section 1808.6.1 is amended by adding the following text to the end of the section:

3. Slabs-on-grade installed in conjunction with foundations shall also be designed to resist differential volume changes and to prevent horizontal and vertical displacement of the slab.

SECTION 4: Readopted sections. Tracy Municipal Code sections 9.06.010, 9.06.020, 9.06.040 and 9.06.050 are readopted in their entirety without change.

SECTION 5: Amended sections. Tracy Municipal Code sections 9.06.030 and 9.06.060 are hereby amended to read as follows:

9.06.030 Adoption by reference of the California Fire Code.

The City hereby adopts by reference the code entitled "2016 California Fire Code" including appendices B, BB, C, CC, D, F, H, L and N, copyrighted by the International Code Council and the California Building Standards Commission (hereinafter "California Fire Code"), as amended by this chapter. The California Fire Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6.

9.06.060 Amendments to the California Fire Code.

The City of Tracy hereby makes the following local amendments to the California Fire Code:

CHAPTER 1

Section 103.2 Appointment, is hereby repealed in its entirety as it purports to give vested employment rights different than currently exists for the fire code official.

Section 105.2.3 is amended to read as follows:

Section 105.2.3 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the fire code official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the fire code official, an application shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained and corresponding fees shall be paid when a permit has expired.

Section 105.3.2 is amended to read as follows:

Section 105.3.2 Extensions. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The fire code official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the fire code official, a permit shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained and corresponding fees shall be paid when a permit has expired."

Section 105 is amended by adding subsection 105.6.48 to read as follows:

Section 105.6.50 Christmas tree lots, haunted house or corn maze. An operational permit is required to operate a temporary or permanent operation.

Section 106 is amended by adding subsection 106.2.3 to read as follows:

106.2.3 Reinspection Fee. A reinspection fee may be assessed for each inspection, test, or reinspection when such portion of work for which an inspection is requested is not complete or when corrections requested to be inspected are not made. This section is not to be interpreted as requiring reinspection fees the first time an inspection or test is rejected for failure to comply with the requirements of the code, but as controlling the practice of requesting inspections/tests before the job is ready for such inspection or test. Reinspection fees may be assessed when the approved plans are not readily available to the inspector, for failure to provide access on the date for which the inspection/test is requested, failure for those individuals conducting the test to

show up at the scheduled time or deviating from the approved plans. The fee shall be equal to all incurred costs for inspection and administrative staff at the fully burdened rate.

CHAPTER 2

Section 202 subsection FALSE ALARM is amended to read as follows:

FALSE ALARM shall mean the giving, signaling or transmission to any public fire station or company or to any officer or employee thereof, whether by telephone, spoken word or otherwise, information to the effect that there is a fire, medical emergency, rescue request, or other need for emergency service at or near the place indicated by the person giving, signaling, or transmitting such information, and there is found to be no need for emergency services.

CHAPTER 3

Section 315 is amended by adding subsection 315.6 to read as follows:

Section 315.7 Outside storage of pallets, palletized packing boxes, bin boxes and other combustibles.

Section 315.6.1 Operational permit required. An operational permit shall be obtained to store pallets, palletized packing boxes, bin boxes and other combustible materials in excess of 2500 cubic feet.

Section 315.6.2 Height

Pallets, palletized packing boxes, bin boxes and other combustible materials shall be stored or piled with due regard to stability but in no case greater than 15 feet in height.

Exception: Bin boxes may be stacked to a maximum height of 20 feet.

Section 315.6.3 Proximity to other combustible yard storage

Pallets, palletized packing boxes and bin boxes shall be stored within the limitations to other combustible yard storage as per Table 315.6.3 (a). The distance of stacked pallets, palletized packing boxes or bin boxes adjacent to buildings on the same lot shall comply with Table 315.6.3 (b)

Table 315.6.3 (a)

Minimum distance of piled storage to other combustible yard storage

# of Pallets Bins or boxes	Min. Ft.
<50	20 Feet
50-200	30 Feet
>200	50 Feet

Table 315.6.3 (b)

Minimum distance of piled or combustible storage to buildings

Building Wall Construction	# of Pallets, Bins or Boxes		
	<50	50-200	>200
Masonry without openings	0 ft.	0 ft.	15 ft.
Wood or metal With outside sprinklers	10 ft.	20 ft.	30 ft.
Wood, Metal or Masonry W/O outside sprinklers	20 ft.	30 ft.	50 ft.

Section 315.6.4 Proximity to property line

Where pallets, palletized packing boxes, bin boxes or other combustibles are piled or stored adjacent to a property line, the distance from such storage or pile shall not be less than 20 feet to the property line.

Section 315.6.5 Fire access

Fire access driveways between and around pallets, palletized packing boxes, bin boxes or other combustibles shall be a minimum of 20 feet in width and maintained free from accumulation of rubbish, weeds, machinery, equipment or other obstructions that may block access or add to the fire hazard. Driveways shall be spaced so as to establish a maximum grid of storage not to exceed 50 feet by 50 feet and no pile shall exceed 2500 square feet in dimension or more than 50 feet in any one dimension. An approved turning radius around such piles shall be maintained at all times.

Section 315.6.6 Fencing

Outside storage of pallets, palletized packing boxes, bin boxes or other combustibles operating under a permit shall be enclosed by a suitable fence not less than 6 feet in height.

Section 315.6.7 Water Supply

An approved water supply and hydrants capable of supplying the required fire flow shall be provided within 400 feet or all portions of the storage area in accordance with section 507 of the 2016 California Fire Code or NFPA 1142 (where municipal water supplies are not available).

CHAPTER 4

Section 401.5 is amended by adding subsection 401.5.1 Cost to read as follows:

Section 401.5.1 Cost recovery. All costs incurred by the City to any response to a false alarm will be charged to that person, property owner, firm or corporation causing the transmission of the false alarm.

CHAPTER 5

Section 503.6 is amended to read as follows:

Section 503.6 Security gates. The installation of security gates across a fire apparatus access road shall require, prior to installation, approval by the fire code official. Where security gates are installed they shall have an approved means of emergency operation. The security gates and the emergency operation shall be maintained operational at all times. All electrically operated automatic gates across fire apparatus access roads shall be equipped with traffic preempting optical signal receivers compatible with the emitters utilized by the Fire Department, which will activate the gate and override all command functions of the gate controller. Knox Switches shall be provided at automatic gates. The traffic preemptive optical signal receiver and key switch shall be provided on both sides of an automatic access gate where an exit loop is not provided. The automatic gate shall have a battery backup or manual mechanical disconnect readily accessible to emergency personnel in case of power failure. All gates must meet Fire Department standards deemed necessary by the fire code official for rapid, reliable access. Electric gate operators, where provided, shall be listed in accordance with UL 325. Gates intended for automatic operation shall be designed, constructed and installed to comply with the requirements of ASTM F 2200. All manual gates shall be equipped with a Knox-Box containing a key to the gate, or an approved Knox-Padlock.

Section 505.1 is amended to read as follows:

Section 505.1 Address identification. New and existing buildings shall be provided with approved address identification. The address identification shall be placed in figures not less than four inches (nominal) high on illuminated background and a minimum of ½-inch stroke width. Addressing shall be illuminated at night. Such address signs shall be internally or externally illuminated at an intensity of not less than 5.0 foot-candles. Such numbers shall also contrast with their background and shall be placed on a portion of the building that is both legible and visible from the street fronting the property a minimum of six feet above grade. Entrance numbers shall not be placed on any moveable door and shall be unobstructed from the view of such numbers from the street. Additionally, where access is by means of a private road and/or the building address cannot be viewed from the public way, a monument, pole or other approved sign or means shall be used to identify the structure. Address numbers shall be Arabic numbers or alphabetical letters. Address figures shall be maintained. Where required by the fire code official, address numbers/figures shall be provided in additional approved locations to facilitate emergency response. Multiple tenant spaces serviced by vehicular access to the rear of the building through any driveway, alleyway, or parking lot shall have numbers or addresses placed prior to occupancy on all new and existing buildings as to be plainly visible and legible from the rear access way. Multiple tenant spaces serviced by rear access through a corridor, exit court, or exit yard shall have approved numbers or addresses displayed on the rear of the tenant space. Multiple tenant spaces that front on interior walkways or pedestrian malls shall have approved numbers or addresses placed over the entrance door in all new and existing buildings. An illuminated annunciator or directory board shall be required at every entrance where deemed necessary by the fire code official.

Section 506.1 is amended to read as follows:

Section 506.1 Where required. Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life safety or firefighting purposes, the fire code official is authorized to require a key box in which all keys necessary for entering any portion of the property, building or area shall be contained. The key box shall be manufactured by Knox (listed in accordance with UL 1037) and as a minimum size, shall be a Knox-Box 3200 series box with exterior dimensions of 5"x4"x3 ¾". Larger boxes will be required dependent upon the number of keys to be set within the box. The Knox-Box shall be installed at a height of 72" above finished grade in an accessible location approved by the fire code official. Keys within the box shall be permanently and readily identified.

Section 506 is amended by adding subsection 506.3 to read as follows:

Section 506.3 Hazardous materials management plan box. When a facility stores or uses hazardous materials, the fire code official may require the installation of a secured box manufactured by KNOX and located at the facilities primary entrance or fire control room. The plan box shall contain up-to-date hazardous materials inventory sheets (HMIS) of all of the hazardous materials stored or used within the facility, hazardous materials management plan (HMMP) and contact information of the company liaison to the fire department. The plan box shall be water proof and of sufficient size to contain HMMP and HMIS information without the need to fold the documentation.

Section 509 is amended by adding subsection 509.3 to read as follows:

509.3 Fire Control Room. All new buildings protected with an automatic fire extinguishing system shall be provided with a Fire Control Room in which shall contain system control valves and where practical, fire alarm panel, smoke exhaust controls and all other equipment (excluding fire pump) as designated by the fire code official. If the electrical power equipment is not located within the Fire Control Room, then, it shall be located in a room immediately

adjacent thereto or as approved by the fire code official. The fire control room shall be located so as to be directly accessible from the exterior of the building and provided with a durable and permanent sign on the exterior of the access door to identify the space as the fire control room.

CHAPTER 9

Section 903 is amended by adding subsection 903.2.20 to read as follows:

Section 903.2.20 Automatic fire sprinklers. In addition to the requirements specified in Section 903 of this code, an automatic fire sprinkler system shall be installed throughout and maintained in operable condition in the following buildings:

1. Every building hereafter constructed in which the total area of the building is greater than 6,000 square feet including overhangs.
2. Every building hereafter constructed of three or more stories in height as defined in the building code.
3. Every building hereafter remodeled or improved within a three-year period of time when the cost of improvements (alterations and/or structural repairs to the building) requiring permits exceeds a valuation threshold as specified below and the total area of the building exceeds 6,000 square feet. The calculation is determined using a valuation threshold of \$100,000 based on the 1985 "ENR US20 Cities" Average Construction Cost Index of 4195 adjusted by area cost factors. The City will annually update the valuation threshold to a current amount based on the increase in the index since the last figure used.
4. Every building hereafter changed in occupancy classification and the total area is greater than 6,000 square feet, and the proposed use is deemed to be more hazardous based on risk analysis by the fire code official
5. Every building hereafter in which square footage is increased by 50% or more within a three-year period and the total square footage of the building exceeds 6000 square feet. If the additional square footage added to a building creates a total that exceeds the minimum code requirement for sprinklers for that occupancy type, then automatic sprinklers shall be required.
6. (Exception) Minor additions; not greater than 500 square feet in area to existing non-sprinklered buildings and the purpose of the addition is for accessory storage or disabled access upgrades.

Section 912.4 is amended to read as follows:

Section 912.5 Signs. A metal sign with raised letters at least 1 inch (25 mm) in size shall be mounted on all fire department connections serving automatic sprinklers, standpipes or fire pump connections. Such signs shall read: AUTOMATIC SPRINKLERS or STANDPIPES or TEST CONNECTION or a combination thereof as applicable. Where the fire department connection serves a portion of a building or a specific building among multiple buildings a sign shall be provided to reflect the appropriate building or portion of building served.

Section 913 is amended by adding the following text to the end of the section:

Section 913.1.1 Meters and testing devices. Where fire pumps are provided, they shall a test loop installed in accordance with the applicable portions of NFPA 20 Section 4.21.2.

CHAPTER 11

Section 1103.2 amended to read as follows:

Section 1103.2 Emergency responder radio coverage in existing buildings. Existing buildings that do not have approved radio coverage for emergency responders within the building based upon the existing coverage levels of the public safety communication systems of the jurisdiction shall be equipped with such coverage when any of the following conditions apply:

1. Where the use or occupancy group of the building has been changed and the use or occupancy is more hazardous.
2. Where the addition of metal racking systems, equipment, or interior walls utilizing metal, masonry or concrete materials that interfere with emergency responder radio coverage within the building as noted below:
 - a. Where multiple tenant spaces exist within a single structure, only the tenant space where improvements are made that trigger radio coverage shall have radio coverage. The improvements made to provide adequate radio coverage shall be designed, however, to have the capability to expand indoor radio coverage to all other areas of the building by adding cable and antennas if needed for subsequent improvements in these other areas of the building. Survivability of the cable pathway and "junction" locations between tenant spaces shall be addressed.
 - b. New metal racks (including required aisle and flue space) or equipment installed that increase existing metal racks (including required aisle and flue space) or equipment by 40% or greater of tenant spaces up to 100,000 square feet, 35% or greater of tenant spaces up to 400,000 square feet and 25% or greater of tenant spaces greater than 400,000 square feet shall require radio coverage.
 - c. New metal racks (including required aisles and flue spaces) or equipment that cover 30% or greater area of the tenant space where no such improvements previously existed shall require radio coverage in tenant spaces up to 100,000 square feet; 25% or greater of tenant spaces up to 400,000 square feet and 20% or greater of tenant spaces greater than 400,000 square feet.
 - d. New masonry or concrete walls and elevated floor/ceilings and metal-framed walls or floor/ceilings installed that increase existing masonry or concrete walls and elevated floor/ceilings and metal-framed walls and floor/ceilings (area calculation) by 40% or greater of tenant spaces up to 100,000 square feet, 35% or greater of tenant spaces up to 400,000 square feet and 25% or greater of tenant spaces more than 400,000 square feet shall require radio coverage.
 - e. New masonry or concrete walls and elevated floor/ceilings and metal-framed walls or floor/ceilings installed that cover 30% or greater area of the tenant space (area calculation) where no such improvements previously existed shall require radio coverage in tenant spaces up to 100,000 square feet, 25% or greater of tenant spaces up to 400,000 square feet and 20% or greater of tenant spaces more than 400,000 square feet.
3. Every building hereafter in which square footage of the building is increased by 50% or more within a three-year period and the total square footage of the building exceeds 10,000 square feet.

Exception: 1). Group R Division 3 Occupancies and buildings constructed entirely of structural members made of wood.

APPENDIX B

Section B105.2 is amended by adding the following text to the end of the section:

Exception:

2. A maximum reduction in required fire-flow of up to 50 percent, as approved by the fire code official, is allowed when the building is provided with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 as opposed to the 75% reduction values given for minimum fire flows in Table B1105.2. A reduction in required fire-flow of up to 75 percent, as approved by the fire code official, is allowed for warehouse buildings of Type I, Type II, and Type III construction provided with ESFR automatic fire sprinkler systems. The resulting fire-flow for any of these reductions shall not be less than 1500 gallons per minute for the prescribed duration according to Table

B105.1(2). Reduction of fire-flow applies to the fire hydrants requirements as specified in Appendix C.

APPENDIX BB

Section BB105.1 and Exception is amended to read as follows:

Section BB105.1 The minimum fire-flow and flow duration for school buildings shall be as specified in Table BB105.1.

Exception: A reduction in required fire flow of up to 50 percent is allowed when the building is provided with an approved automatic sprinkler system. When a reduction in fire flow is used, fire flow shall not be less than 1500 gallons per minute for the prescribed duration as specified in Table BB105.1. Reduction of fire-flow applies to the fire hydrants requirements as specified in Appendix CC.

APPENDIX C

Appendix C is amended by adding section C106 to read as follows:

Section C106 Hydrant type. The fire code official shall approve the type of fire hydrants to be installed in the public right of way or on private property prior to any such installation.

Table C102.1 Number and Distribution of Fire Hydrants, footnote "b" is repealed and amended to read as follows:

Table C105.1 footnote "b"

b. Where streets are provided with median dividers that make access to hydrants difficult, cause time delay, or create undue hazard or both, or where arterial streets are provided with four or more traffic lanes, hydrant spacing shall average 500 feet on each side of the street and be arranged on an alternating basis.

APPENDIX CC

Appendix CC is amended by adding section CC106 to read as follows:

Section CC106 Hydrant type. The fire code official shall approve the type of fire hydrants to be installed in the public right of way or on private property prior to any such installation.

Table CC105.1 Number and Distribution of Fire Hydrants, footnote "b" is repealed and amended to read as follows:

Table CC105.1 footnote "b"

b. Where streets are provided with median dividers that make access to hydrants difficult, cause time delay, or create undue hazard or both, or where arterial streets are provided with four or more traffic lanes, hydrant spacing shall average 500 feet on each side of the street and be arranged on an alternating basis.

SECTION 6: Readopted sections. Tracy Municipal Code sections 9.08.010, 9.08.020, 9.08.040 and 9.08.060 through 9.08.160 are readopted in their entirety without change.

SECTION 7: Amended sections. Tracy Municipal Code sections 9.08.030 and 9.08.050 are hereby amended to read as follows:

9.08.030 Adoption by reference of the California Electrical Code.

The City hereby adopts by reference the code entitled "2016 California Electrical Code," copyrighted by the National Fire Protection Association and approved by the California Building Standards Commission (hereinafter "California Electrical Code"), as amended by this chapter. The California Electrical Code is on file with the City Clerk, and is available for inspection and

copying in accordance with Government Code section 50022.6.”

9.08.050 Rod and Pipe electrodes.

California Electrical Code subsection California Electrical Code subsection 250.52(A)(5), Rod and Pipe Electrodes and 250.52(A)(7), Plate Electrodes, are amended by deleting the existing text of subsections 250.52(A)(5) and 250.52(A)(7), and replacing it with the following:

- (5) Rod and pipe electrodes. Rod and pipe electrodes shall not be less than 8 feet in length and shall consist of the following materials.
 - (a) Grounding electrodes of pipe or conduit shall not be smaller than metric designator 21 (trade size ¾) and any piping subject to undue corrosive action, electrolysis, erosion or mechanical damage shall be protected in a manner suitable for the purpose and subject to the approval of the Building Official (e.g. copper electrodes or copper-clad electrodes).
 - (b) Grounding electrodes of rods of stainless steel and copper coated steel shall be at least 15.87 mm (5/8 -inch) in diameter, unless listed for use in corrosive soils and not less than 12.70 mm (½-inch) in diameter.
- (7) *Plate Electrodes*. Each plate electrode shall expose not less than 0.186 m² (2 ft²) of surface to exterior soil. Electrodes of iron or steel plates shall not be permitted. Electrodes of nonferrous metal shall be at least 1.5 mm (0.06 in.) in thickness.

SECTION 8: Readopted sections. Tracy Municipal Code sections 9.10.010, 9.10.020, 9.10.040 and 9.10.050 are readopted in their entirety without change.

SECTION 9: Amended sections. Tracy Municipal Code section 9.10.030 is hereby amended to read as follows:

“9.10.030 Adoption by reference of the California Residential Code the City hereby adopts by reference the code entitled "2016 California Residential Code" and appendices H, S and W copyrighted by the International Code Council and the California Building Standards Commission (hereinafter "California Residential Code"), as amended by this chapter. The California Residential Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6.”

SECTION 10: Readopted sections. Tracy Municipal Code sections 9.12.010 and 9.12.020 are readopted in their entirety without change.

SECTION 11: Amended sections. Tracy Municipal Code sections 9.12.030, 9.12.040 and 9.12.050 are hereby amended to read as follows:

9.12.030 Adoption by reference of the California Plumbing Code.
The City hereby adopts by reference the code entitled "2016 California Plumbing Code," including appendices A, B, C, D, E, G, H, I, J and K, copyrighted by the International Association of Plumbing and Mechanical Officials and the California Building Standards Commission (hereinafter "California Plumbing Code"), as amended by this chapter. The California Plumbing Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6.”

9.12.040 Penalty provisions.

California Plumbing Code section 106.0 Violations and Penalties is amended by deleting the text of subsection 106.3, and adding the following text:

106.3 Penalties. Violations of this chapter shall be enforced by the City in accordance with Tracy Municipal code section 9.02.040.

9.12.050 Time Limitation of Application for Plan Review and Permit

California Plumbing Code section 104.3.3, Time Limitation of Application, is amended to read as follows:

An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the building official, an application shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained and corresponding fees shall be paid when a permit has expired.

California Plumbing Code section 104.4.3, Expiration, is amended to read as follows:

Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the building official, a permit shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained and corresponding fees shall be paid when a permit has expired.”

SECTION 12: Readopted sections. Tracy Municipal Code sections 9.14.010 and 9.14.020 are readopted in their entirety without change.

SECTION 13: Amended sections. Tracy Municipal Code sections 9.14.030 and 9.14.040 are hereby amended to read as follows:

9.14.030 Adoption by reference of the California Green Building Standards Code
The City hereby adopts by reference the code entitled "2016 California Green Building Standards Code" without appendices and copyrighted by the California Building Standards Commission (hereinafter "California Green Building Standards Code"), as amended by this chapter. The California Green Building Standards Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6.”

9.14.040 Penalty provisions.

Violations of this chapter shall be enforced by the City in accordance with Tracy Municipal Code section 9.02.040.

SECTION 14: Readopted sections. Tracy Municipal Code sections 9.16.010 and 9.16.020 are readopted in their entirety without change.

SECTION 15: Amended sections. Tracy Municipal Code sections 9.16.030, 9.16.040 and 9.16.050 are hereby amended to read as follows:

“9.16.030 Adoption by reference of the California Mechanical Code.

The City hereby adopts by reference the code entitled "2016 California Mechanical Code," and appendices D and F attached thereto, copyrighted by the International Association of Plumbing and Mechanical Officials and the California Building Standards Commission (hereinafter "California Mechanical Code"), as amended by this chapter. The California Mechanical Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6.”

9.16.040 Penalty provisions.

California Mechanical Code section 106.3, Penalties, is amended by deleting the text of 106.3 and adding the following text:

Violations of this chapter shall be enforced by the City in accordance with Tracy Municipal Code section 9.02.040.

9.16.050 Expiration of Application for Plan Review and Permit

California Mechanical Code section 104.3.3, Time Limitation of Application, is amended to read as follows:

An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the building official, an application shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained and corresponding fees shall be paid when a permit has expired.

California Mechanical Code section 104.4.3, Expiration, is amended to read as follows:

Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the building official, a permit shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained and corresponding fees shall be paid when a permit has expired.

SECTION 16: Readopted sections. Tracy Municipal Code sections 9.48.010, 9.48.020 and 9.48.040 are readopted in their entirety without change.

SECTION 17: Amended section. Tracy Municipal Code section 9.48.030 is hereby amended to read as follows:

9.48.030 Adoption by reference of the California Historical Building Code.

The City hereby adopts by reference the code entitled "2016 California Historical Building Code" including all appendices attached thereto and copyrighted by the California Building Standards Commission (hereinafter "California Historical Building Code"), as amended by this chapter. The California Historical Building Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6."

SECTION 18: Readopted section. Tracy Municipal Code section 9.50.010 is readopted in its entirety without change.

SECTION 19: Amended sections. Tracy Municipal Code section 9.50.020, 9.50.030 and 9.50.040 are hereby amended to read as follows:

9.50.020 Purpose of chapter.

The purpose of this chapter is to provide flexibility to permit the use of alternative approaches to achieve public health, safety and welfare insofar as they are affected by the repair, alteration, change of occupancy, subject to the criteria provided in the California Existing Building Code.

9.50.030 Adoption by reference of the California Existing Building Code.

The City hereby adopts by reference the code entitled "2016 California Existing Building Code", without amendments, copyrighted by the International Code Council and the California Building Standards Commission (hereinafter "California Existing Building Code"), as amended by this chapter. The California Existing Building Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022."

9.50.040 Penalty provisions.

California Existing Building Code section 113.4, Violation penalties, is amended by adding the following text to the end of the section:

Violations of this chapter shall be enforced by the City in accordance with Tracy Municipal Code section 9.02.040.

SECTION 20: Added section. Tracy Municipal Code section 9.50.050 is hereby added to read as follows:

9.50.050 Time limitation of application and permit expiration.

California Existing Building Code section 105.3.2, Time limitation of application, is amended to read as follows:

An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the building official, an application shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained and corresponding fees shall be paid when a permit has expired.

California Existing Building Code section 105.5, Expiration, is amended to read as follows:

Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such

permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the building official, a permit shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained and corresponding fees shall be paid when a permit has expired.

SECTION 21: Readopted sections. Tracy Municipal Code sections 9.64.010, 9.64.020 and 9.64.040 are readopted in their entirety without change.

SECTION 22: Amended section. Tracy Municipal Code section 9.64.030 is hereby amended to read as follows:

9.64.030 Adoption by reference of the California Energy Code.

The City hereby adopts by reference the code entitled "2016 California Energy Code," including all appendices attached thereto, published by the International Code Council and copyrighted by the California Building Standards Commission (hereinafter "California Energy Code"), as amended by this chapter. The California Energy Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6."

SECTION 23: Title, chapter and section headings. Title, chapter, and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning or intent of the provisions of any title, chapter, or section hereof.

SECTION 24: Constitutionality. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the Ordinance.

SECTION 25: Effective date. This Ordinance shall take effect thirty days after its final passage and adoption.

SECTION 26: Publication. A summary of this ordinance shall be published 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).)

* * * * *

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the 20th day of December, 2016, and finally adopted on the _____ day of _____, 2017, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 4

REQUEST

**ADOPT A RESOLUTION APPROVING THE ANNUAL REPORT ON DEVELOPMENT
IMPACT FEE REVENUES, EXPENDITURES AND FINDINGS REGARDING
UNEXPENDED FUNDS**

EXECUTIVE SUMMARY

The City is required by law to issue an annual fiscal report identifying the development impact fees collected and expended during the prior fiscal year.

The City has approximately 88 different development impact fees through 39 funds, with combined collected revenues of \$14,405,311 (including interest), plus \$1,741,544 in pass-through revenue collected for habitat mitigation and forwarded to the County in Fiscal Year 2015-2016. Development impact capital expenditures for Fiscal Year 2015-2016 totaled \$12,970,546. For Council consideration is the resolution regarding the annual report on development impact fee revenues and expenditures and the findings as to unexpended development fees.

DISCUSSION

The Mitigation Fee Act, commonly referred to as AB 1600 and codified as Government Code sections 66000-66006, imposes requirements for the collection and expenditure of development impact fees. Section 66006(b)(1) requires the City to prepare and make available to the public information for each separate account or fund, including:

- (a) a brief description of the type of fee;
- (b) the amount of the fee;
- (c) the beginning and ending balance;
- (d) the amount of the fees collected and interest earned;
- (e) an identification of each public improvement on which fees were expended, the amount of expenditures on each improvement including the total percentage of the cost that was funded with fees;
- (f) an identification of an approximate date by which construction of the public improvement will begin if the city determines sufficient funds have been collected;
- (g) a description of each interfund transfer or loan, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid and the rate of interest; and
- (h) the amount of refunds made, if any.

The report must be made available to the public within 180 days after the end of each fiscal year.

Historically, the City has complied with this requirement through the City Council's acceptance of the Development Impact Fees Annual Report containing the required information and adopting a resolution confirming acceptance of the report. This report

and the information attached to the proposed Resolution satisfy the statutory requirements for the accounting of development impact fees.

The Building Industry Association of the Greater Valley and Seecon Finance and Construction Company have requested a copy of this report, and it was provided to each of them at least 15 days before the Council meeting, as required by law.

STRATEGIC PLAN

This item is mandated by state law and does not have bearing on the City Council's Strategic Plans.

FISCAL IMPACT

There is no fiscal impact to the City associated with this agenda item.

RECOMMENDATION

Adopt the attached resolution approving the annual report on development impact fee revenues, expenditures and findings as to unexpended funds.

Prepared By: Linda Moniz, Accounting Coordinator

Reviewed By: Martha Garcia, Interim Finance Director
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved By: Troy Brown, City Manager

ATTACHMENTS

- Exhibit A Summary of Fund Balances, Fees Collected, Interest Earned and Project Expenditures
- Exhibit B Brief Description of Fees and Amounts of Fees (Including Exhibits B-1 through B-16)
- Exhibit C Fee-funded Capital Improvement Projects
- Exhibit D Report of Findings for Development Fee Funds

RESOLUTION NO. _____

APPROVING THE ANNUAL REPORT ON DEVELOPMENT IMPACT FEE REVENUES,
EXPENDITURES AND FINDINGS REGARDING UNEXPENDED FUNDS FOR FISCAL YEAR
2015-16 IN ACCORDANCE WITH AB 1600

WHEREAS, the Mitigation Fee Act, enacted by Assembly Bill 1600 (AB 1600) in 1987 and codified as Government Code sections 66000-66006 imposes requirements for the collection and expenditure of development impact fees; and

WHEREAS, pursuant to Government Code section 66006(b), the City of Tracy must issue an annual report relating to the development impact fees it imposes; and

WHEREAS, pursuant to Government Code section 66001(d), the City must make certain findings, at least every five years with respect to that portion of each development fee account remaining unexpended; and

WHEREAS, pursuant to Government Code section 66006(b)(2), notice of the City Council meeting at which this report was considered was mailed at least 15 days before the meeting to interested parties who requested notice.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Tracy that it hereby resolves, declares, determines, and orders as follows:

1. Annual Report of Development Impact Fees. The City Council approves the attached annual report of development impact fee revenues and expenditures for the fiscal year ending June 30, 2016, as set forth in Exhibits A, B and C.
2. Findings. The City Council here adopts the findings contained in the attached report of findings for the fiscal year ending June 30, 2016, as set forth in Exhibit D.

* * * * *

The foregoing Resolution _____ was adopted by the Tracy City Council on the 20th day of December, 2016, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk



City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

FINANCE & ADMINISTRATIVE
SERVICES DEPARTMENT

MAIN 209.831.6800
FAX 209.831.6848
www.ci.tracy.ca.us

CITY OF TRACY

DEVELOPMENT IMPACT FEES

ANNUAL REPORT, DECEMBER 2016 FOR FISCAL YEAR JULY 1, 2015 – JUNE 30, 2016

Adopted by City Council Resolution No. _____

December 20, 2016

This Annual Report is adopted pursuant to Government Code sections 66006(b) and 66001(d). The Report consists of four main parts, which are attached:

- Exhibit A Summary of Fund Balances, Fees Collected, Interest Earned and Project Expenditures
- Exhibit B Brief Description of Fees and Amounts of Fees, Including Exhibits B-1 through B-16
- Exhibit C Fee-Funded Capital Improvement Projects
- Exhibit D Report of Findings for Development Fee Funds

EXHIBIT A
Fund Balances, Fees Collected, Interest Earned and Project Expenditures
For Fiscal Year Ended June 30, 2016
(Government Code §66006(b)(1)(C) and (D).)

Fund	Fund Description	Beginning Fund Balance 07/01/15	Capital Development Fees Collected ¹	Interest / Investment Earnings ²	Fiscal Agent Earnings ³	Other Revenues ⁴	CIP Expenditures ⁵	Project Reimbs &/or Interfund Transfers	Other Expenditures ^{6,7,8}	Ending Fund Balance 06/30/16
311	Infill, Parks	\$ 1,287,123	\$ 180,333	\$ 16,900	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,484,355
312	Infill, Strm Drn	733,741	(29,571)	8,602	-	-	(27,190)	(800,000)	-	(114,418)
313	Infill, Arterials	719,215	149,350	7,366	-	-	(352,206)	800,000	-	1,323,726
314	Infill, Bldg & Eqpt	298,338	133,090	4,485	-	-	(5,325)	-	-	430,588
316	Infill, Parking	89,095	-	1,039	-	-	-	-	-	90,134
321	Plan C, Parks	2,589,290	30,960	31,903	-	-	-	-	-	2,652,153
322	Plan C, Strm Drn	6,417,493	66,840	78,976	-	-	-	-	-	6,563,309
323	Plan C, Arterials	3,275,795	111,024	39,276	-	-	(259,734)	-	-	3,166,361
324	Plan C, Gen Fac	5,853,665	135,576	72,616	-	-	(13,938)	-	-	6,047,919
325	Plan C, Utilities	3,577,145	834,958	47,052	-	-	16,622	-	-	4,475,776
345	RSP, Prgm Mgt	3,151,667	-	38,100	-	-	(44,122)	-	(4,082)	3,141,563
351	NEI, Ph 1	1,912,982	7,397.03	37,516	-	-	(1,178,367)	-	-	779,528
352	S MacArthur Area	11,219,453	986,958	140,274	-	-	(732,931)	-	-	11,613,753
353	I-205 Corridor	4,692,496	376,518	58,523	-	284,325	(1,854,063)	-	-	3,557,799
354	ISP, South	2,937,060	715,015	36,957	-	-	(541,335)	-	-	3,147,698
355	Presidio	5,210,109	-	73,611	-	-	(4,651)	-	-	5,279,068
356	Gateway	3,061,649	-	37,228	-	-	(29,525)	-	-	3,069,352
357	NEI, Ph 2	7,482,072	3,035,916	54,167	744	-	(200,389)	-	-	10,372,510
358	Ellis	-	2,502,483	16,443	-	-	(4,421)	-	-	2,514,504
361	TIMP, Parks	1,385,418	121,312	17,867	-	-	-	-	-	1,524,597
362	TIMP, Strm Drn	1,033,833	(38,051)	4,612	-	-	(887,842)	-	-	112,552
363	TIMP, Traffic	7,561,888	(232,732)	40,452	-	-	(5,484,536)	-	-	1,885,072
364	TIMP, Wastewater	6,732,504	(315,482)	80,320	-	-	-	-	-	6,497,342
365	TIMP, Water	2,612,125	438,907	25,812	-	-	(1,138,999)	-	-	1,937,846
366	TIMP, Public Fac	316,749	58,637	4,307	-	-	-	-	-	379,693
367	TIMP, Public Safety	421,995	13,002	5,266	-	-	(454)	-	-	439,809
391	Urban Mgt Plan-PM	2,992,210	1,447,086	56,214	-	-	(217,532)	-	-	4,277,978
395	Infill, Prgm Mgt	131,763	-	5	-	-	(9,608)	-	-	122,160
511	Infill, Water	-	123,587	-	-	-	-	(123,587)	-	-
521	Infill, Wastewater	-	227,539	-	-	-	-	(227,539)	-	-
808	Reg Transp Imp	4,574,233	1,471,451	2,469	-	-	-	-	(556,142)	5,492,010
N/A	Ag Mit Fees	790,269	119,747	-	-	-	-	-	-	910,016
N/A	County Facilities Fees	433,275	376,887	-	-	-	-	-	(1,081,074)	(270,911)
N/A	Habitat Mitigation Fees	71,181	33,147	-	-	-	-	-	(104,328)	-
TOTALS		\$ 93,565,831	\$ 13,081,884	\$ 1,038,358	\$ 744	\$ 284,325	\$ (12,970,546)	\$ (351,126)	\$ (1,745,626)	\$ 92,903,844

Footnotes:

- ¹ No Capital Development Fees collected were refunded in FY15-16.
- ² Investment Earnings total includes cash-fair market value offsets.
- ³ Fiscal Agent Earnings are cash reserves held by bond Trustees.
- ⁴ Other Revenues: F353,\$274,325-Sale of Park & Ride property; F353, \$10,000-Sale of ROW, CIP 73014.
- ⁵ Capital Improvement Project (CIP) Expenditures: See Exhibit C for more detail; F352 reimbursed F325 for prior year expenditures, resulting in a negative balance.
- ⁶ F345 program management fees omitted in error on FY14-15 report.
- ⁷ These are "pass-through fees" for Habitat Mitigation, Agricultural Mitigation, County Facilities and Regional Transportation; Collected on behalf of other agencies.
- ⁸ Negative fund balance due to late posting of cash receipt. Payment was received in June, reported in June, but posted in July.

EXHIBIT B
Brief Descriptions of Fees and Amounts of Fees
For Fiscal Year Ended June 30, 2016
 (Government Code §66006(b)(1)(A) and (B).)

Fund	Fund Description	Finance and Implementation Plan (FIP) Fee Descriptions	Resolution Number	Tracy Municipal Code §	Residential Fees Per Dwelling Unit (Except as indicated)			Non-Residential Fees Per Gross Acre (Except as indicated)				
					SFDU	2 - 4	≥ 5	Institution	Industrial	Office	Storage	Retail
311	¹ Infill Area, Parks	Mini/Neighborhood and Community Parks	2012-060	13.12.010	\$5,429	\$4,524	\$3,619	N/A	N/A	N/A	N/A	N/A
312	¹ Infill Area, Strm Drn	Storm Drainage	2012-060	13.04.010	\$1,429	\$949	\$850	N/A	\$22,141	\$22,141	N/A	\$22,141
313	¹ Infill Area, Arterials	Traffic Safety, Streets & Highways	2012-060	13.04.010	\$2,700	\$2,700	\$1,296	N/A	\$25,781	\$35,230	N/A	\$50,834
314	^{1a} Infill Area, Pub Bldgs	General Government & Public Safety Facilities	2014-158	13.04.010	\$3,336	\$2,491	\$2,481	N/A	\$163 ^{1a}	\$815 ^{1a}	N/A	\$489 ^{1a}
317	¹ Infill Area, Water	Water Supply, Treatment, Storage and Distribution	2012-060	13.04.010	\$5,850	\$4,212	\$2,984	N/A	\$18,251	\$18,251	N/A	\$24,334
318	¹ Infill Area, Wastewater	Wastewater Treatment and Conveyance	2012-060	13.04.010	Exh B-1	Exh B-1	Exh B-1	Exh B-1	Exh B-1	Exh B-1	N/A	Exh B-1
316	² Infill Area, Downtown Imprvs Parking	Downtown Incentive Area Parking Fee	97-114	10.08.3470	N/A	N/A	N/A	N/A	N/A	Exh B-2	N/A	Exh B-2
321	³ Plan C Area, Parks	Mini/Neighborhood and Community Parks	2007-133	13.12.010	Exh B-3	Exh B-3	Exh B-3	Exh B-3	Exh B-3	Exh B-3	N/A	Exh B-3
322	³ Plan C Area, Strm Drn	Storm Drainage	2007-133	13.04.010	Exh B-3	Exh B-3	Exh B-3	Exh B-3	Exh B-3	Exh B-3	N/A	Exh B-3
323	^{3,17} Plan C Area, Arterials	Traffic Safety, Streets & Highways	2014-070	13.04.010	Exh B-3	Exh B-3	Exh B-3	Exh B-3	Exh B-3	Exh B-3	N/A	Exh B-3
324	¹⁸ Plan C Area, General Facilities	General Government & Public Safety Facilities	2014-158	13.04.010	\$5,662	\$5,649	\$2,589	N/A	N/A	N/A	N/A	\$10,904
325	³ Plan C Area, Utilities - Water	Water Supply, Treatment, Storage and Conveyance	2007-133	13.04.010	Exh B-3	Exh B-3	Exh B-3	Exh B-3	Exh B-3	Exh B-3	N/A	Exh B-3
325	³ Plan C Area, Utilities - Wastewater	Wastewater Treatment and Conveyance	2007-133	13.04.010	Exh B-3	Exh B-3	Exh B-3	Exh B-3	Exh B-3	Exh B-3	N/A	Exh B-3
341	⁴ Residential Specific Plan Area, Parks	Mini/Neighborhood and Community Parks	2003-266	13.12.010	Exh B-4	Exh B-4	Exh B-4	N/A	N/A	N/A	N/A	N/A
342	⁴ Residential Specific Plan Area, Strm Drn	Storm Drainage	2003-266	13.20.010	Exh B-4	Exh B-4	Exh B-4	Exh B-4	Exh B-4	Exh B-4	N/A	Exh B-4
344	⁴ Residential Specific Plan Area, Pub Bldgs	General Government & Public Safety Facilities	2003-266	13.20.010	Exh B-4	Exh B-4	Exh B-4	Exh B-4	Exh B-4	Exh B-4	N/A	Exh B-4
351	⁵ Northeast Industrial Area, Ph 1, Arterials	Traffic Safety, Streets & Highways	2012-077	13.04.010	N/A	N/A	N/A	N/A	Exh B-5	N/A	N/A	N/A
351	⁵ Northeast Industrial Area, Ph 1, Strm Drn	Storm Drainage	2012-077	13.04.010	N/A	N/A	N/A	N/A	Exh B-5	N/A	N/A	N/A
351	Northeast Industrial Area, Ph 1, Water	Water Supply, Treatment, Storage and Distribution	2008-065	13.04.010	N/A	N/A	N/A	N/A	\$5,228	N/A	N/A	N/A
351	⁵ Northeast Industrial Area, Ph 1, Wastewater	Wastewater Treatment and Conveyance	2008-065	13.04.010	N/A	N/A	N/A	N/A	Exh B-5	N/A	N/A	N/A
351	Northeast Industrial Area, Ph 1, Pub Bldgs	General Government & Public Safety Facilities	2014-158	13.04.010	N/A	N/A	N/A	N/A	\$3,708	N/A	N/A	N/A
352	^{6,17} South MacArthur Plan Area, Arterials	Traffic Safety, Streets & Highways	2011-227	13.04.010	Exh B-6	Exh B-6	Exh B-6	N/A	N/A	N/A	N/A	N/A
352	⁶ South MacArthur Plan Area, Strm Drn	Storm Drainage	2005-253	13.04.010	Exh B-6	Exh B-6	Exh B-6	N/A	N/A	N/A	N/A	N/A
352	⁶ South MacArthur Plan Area, Parks	Mini/Neighborhood and Community Parks	2005-253	13.12.010	Exh B-6	Exh B-6	Exh B-6	N/A	N/A	N/A	N/A	N/A
352	South MacArthur Plan Area, Water	Water Supply, Treatment, Storage and Distribution	2005-253	13.04.010	\$4,646	N/A	N/A	N/A	N/A	N/A	N/A	N/A
352	⁶ South MacArthur Plan Area, Wastewater	Wastewater Treatment and Conveyance	2005-253	13.04.010	Exh B-6	Exh B-6	Exh B-6	N/A	N/A	N/A	N/A	N/A
352	¹⁸ South MacArthur Plan Area, Pub Bldgs	General Government & Public Safety Facilities	2014-158	13.04.010	\$3,322	N/A	N/A	N/A	N/A	N/A	N/A	N/A
354	Industrial Specific Plan South Area, Arterials	Traffic Safety, Streets & Highways	2009-048	13.04.010	\$6,645	\$3,189	\$3,189	N/A	\$74,620	\$86,714	N/A	\$125,120
354	⁷ Industrial Specific Plan South Area, Strm Drn	Storm Drainage	2009-048	13.04.010	Exh B-7	Exh B-7	Exh B-7	N/A	Exh B-7	Exh B-7	N/A	Exh B-7
354	Industrial Specific Plan South Area, Parks	Mini/Neighborhood and Community Parks	2009-048	13.12.010	\$7,309	\$6,091	\$4,872	N/A	N/A	N/A	N/A	N/A
354	Industrial Specific Plan South Area, Pub Bldgs	General Government & Public Safety Facilities	2014-158	13.04.010	\$2,780	\$2,315	\$1,853	N/A	\$4,318	\$18,371	N/A	\$17,969
354	Industrial Specific Plan South Area, Water	Water Supply, Treatment, Storage and Distribution	2009-048	13.04.010	\$4,613	\$3,829	\$3,091	N/A	\$8,448	\$8,448	N/A	\$8,448
354	⁷ Industrial Specific Plan South Area, Wastewater	Wastewater Treatment and Conveyance	2009-048	13.04.010	Exh B-7	Exh B-7	Exh B-7	N/A	Exh B-7	Exh B-7	N/A	Exh B-7
355	Presidio Area, Arterials	Traffic Safety, Streets & Highways	2001-351	13.04.010	\$4,142	N/A	N/A	N/A	N/A	N/A	N/A	N/A
355	Presidio Area, Arterials-Regional Fee	Regional Traffic Fee	2000-265	13.04.010	\$1,500	N/A	N/A	N/A	N/A	N/A	N/A	N/A
355	⁸ Presidio Area, Strm Drn	Storm Drainage	2000-265	13.04.010	Exh B-8	Exh B-8	Exh B-8	Exh B-8	Exh B-8	Exh B-8	N/A	Exh B-8

EXHIBIT B
Brief Descriptions of Fees and Amounts of Fees
For Fiscal Year Ended June 30, 2016
 (Government Code §66006(b)(1)(A) and (B).)

Fund	Fund Description	Finance and Implementation Plan (FIP) Fee Descriptions	Resolution Number	Tracy Municipal Code §	Residential Fees Per Dwelling Unit (Except as indicated)			Non-Residential Fees Per Gross Acre (Except as indicated)					
					SFDU	2 - 4	≥ 5	Institution	Industrial	Office	Storage	Retail	
355	¹⁸ Presidio Area, Pub Bldgs	General Government & Public Safety Facilities	2000-265	13.04.010	\$1,620	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
355	Presidio Area, Water	Water Supply, Treatment, Storage and Distribution	2001-351	13.04.010	\$556	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
355	Presidio Area, Wastewater	Wastewater Treatment and Conveyance	2000-265	13.04.010	\$1,105	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
356	^{9,17} Tracy Gateway Area, Arterials	Traffic Safety, Streets & Highways	2011-227	13.04.010	N/A	N/A	N/A	Exh B-9	Exh B-9	Exh B-9	N/A	Exh B-9	N/A
356	⁹ Tracy Gateway Area, Strm Drn	Storm Drainage	2007-175	13.04.010	N/A	N/A	N/A	Exh B-9	Exh B-9	Exh B-9	N/A	Exh B-9	N/A
356	⁹ Tracy Gateway Area, Pub Bldgs	General Government & Public Safety Facilities	2014-158	13.04.010	N/A	N/A	N/A	Exh B-9	Exh B-9	Exh B-9	N/A	Exh B-9	N/A
356	⁹ Tracy Gateway Area, Water	Water Supply, Treatment, Storage and Distribution	2007-175	13.04.010	N/A	N/A	N/A	Exh B-9	Exh B-9	Exh B-9	N/A	Exh B-9	N/A
356	⁹ Tracy Gateway Area, Wastewater	Wastewater Treatment and Conveyance	2007-175	13.04.010	N/A	N/A	N/A	Exh B-9	Exh B-9	Exh B-9	N/A	Exh B-9	N/A
357	^{10,17} Northeast Industrial Area, Ph 2, Arterials	Traffic Safety, Streets & Highways	2012-077	13.04.010	N/A	N/A	N/A	N/A	Exh B-10	N/A	N/A	N/A	N/A
357	¹⁰ Northeast Industrial Area, Ph 2, Strm Drn	Storm Drainage	2012-077	13.04.010	N/A	N/A	N/A	N/A	Exh B-10	N/A	N/A	N/A	N/A
357	Northeast Industrial Area, Ph 2, Water	Water Supply, Treatment, Storage and Distribution	2008-010	13.04.010	N/A	N/A	N/A	N/A	\$17,639	N/A	N/A	N/A	N/A
357	¹⁰ Northeast Industrial Area, Ph 2, Wastewater	Wastewater Treatment and Conveyance	2008-010	13.04.010	N/A	N/A	N/A	N/A	Exh B-10	N/A	N/A	N/A	N/A
357	Northeast Industrial Area, Ph 2, Pub Bldgs	General Government & Public Safety Facilities	2014-158	13.04.010	N/A	N/A	N/A	N/A	\$2,953	N/A	N/A	N/A	N/A
353	¹¹ I-205 Corridor Area, Arterials	Traffic Safety, Streets & Highways	2007-136	13.04.010	11	11	11	11	11	11	N/A	11	11
353	¹¹ I-205 Corridor Area, Strm Drn	Storm Drainage	2007-136	13.04.010	11	11	11	11	11	11	N/A	11	11
353	¹¹ I-205 Corridor Area, Parks	Mini/Neighborhood and Community Parks	2007-136	13.12.010	11	11	11	11	11	11	N/A	11	11
353	¹¹ I-205 Corridor Area, Pub Bldgs	General Government & Public Safety Facilities	2014-158	13.04.010	11	11	11	11	11	11	N/A	11	11
353	¹¹ I-205 Corridor Area, Water	Water Supply, Treatment, Storage and Distribution	2007-136	13.04.010	11	11	11	11	11	11	N/A	11	11
353	¹¹ I-205 Corridor Area, Sewer Treatment	Wastewater Treatment and Conveyance	2007-136	13.04.010	11	11	11	11	11	11	N/A	11	11
3XX	¹² Habitat Mitigation Fees	Multi-Species Habitat Conservation & Open Space	2015-180	13.04.010	Exh B-12	Exh B-12	Exh B-12	Exh B-12	Exh B-12	Exh B-12	N/A	Exh B-12	Exh B-12
116	¹³ Agricultural Mitigation Fees	Agricultural Land Mitigation/Farmland Preservation	2005-278	13.28.010	Exh B-13	Exh B-13	Exh B-13	Exh B-13	Exh B-13	Exh B-13	N/A	Exh B-13	Exh B-13
391	¹⁴ County Facilities Fees (CFF)	San Joaquin County Public Facilities	2005-142	13.24.010	Exh B-14	Exh B-14	Exh B-14	Exh B-14	Exh B-14	Exh B-14	N/A	Exh B-14	Exh B-14
808	¹⁵ Regional Transportation Fees (RTIF)	Regional Transportation Impact Fees (RTIF)	Ord 1087	13.32.010	Exh B-15	Exh B-15	Exh B-15	Exh B-15	Exh B-15	Exh B-15	N/A	Exh B-15	Exh B-15
315	¹⁶ Infill Area, Prgm Mgmt	Specific Plan Area Program Management	2012-060	13.04.010	16	16	16	16	16	16	16	16	16
391	¹⁶ Plan C Area, Prgm Mgmt	Specific Plan Area Program Management	2007-133	13.04.010	16	16	16	16	16	16	16	16	16
345	¹⁶ Residential Specific Plan Area, Prgm Mgmt	Specific Plan Area Program Management	2003-266	13.04.010	16	16	16	16	16	16	16	16	16
351	¹⁶ Northeast Industrial Area, Ph 1, Prgm Mgmt	Specific Plan Area Program Management	2008-065	13.04.010	16	16	16	16	16	16	16	16	16
352	¹⁶ South MacArthur Plan Area, Prgm Mgmt	Specific Plan Area Program Management	2005-253	13.04.010	16	16	16	16	16	16	16	16	16
353	¹⁶ I-205 Corridor Area, Prgm Mgmt	Specific Plan Area Program Management	2007-136	13.04.010	16	16	16	16	16	16	16	16	16
354	¹⁶ Industrial Specific Plan South Area, Prgm Mgmt	Specific Plan Area Program Management	2009-048	13.04.010	16	16	16	16	16	16	16	16	16
355	¹⁶ Presidio Area, Prgm Mgmt	Specific Plan Area Program Management	2000-265	13.04.010	16	16	16	16	16	16	16	16	16
356	¹⁶ Tracy Gateway Area, Prgm Mgmt	Specific Plan Area Program Management	2007-175	13.04.010	16	16	16	16	16	16	16	16	16
357	¹⁶ Northeast Industrial Area, Ph 2, Prgm Mgmt	Specific Plan Area Program Management	2008-010	13.04.010	16	16	16	16	16	16	16	16	16
357	¹⁶ Ellis Program Area, Prgm Mgmt	Specific Plan Area Program Management	2013-136	13.04.010	16	16	16	16	16	16	16	16	16
391	¹⁶ Citywide Master Plan Prgm Area, Prgm Mgmt	Specific Plan Area Program Management	2014-10	13.04.010	16	16	16	16	16	16	16	16	16
358	¹⁹ Ellis Program Area	Parks and Recreation	2013-136	13.04.010	\$ 8,128	\$ 6,651	\$ 5,419	N/A	N/A	N/A	N/A	N/A	N/A

EXHIBIT B
Brief Descriptions of Fees and Amounts of Fees
For Fiscal Year Ended June 30, 2016
 (Government Code §66006(b)(1)(A) and (B).)

Fund	Fund Description	Finance and Implementation Plan (FIP) Fee Descriptions	Resolution Number	Tracy Municipal Code §	Residential Fees Per Dwelling Unit (Except as indicated)			Non-Residential Fees Per Gross Acre (Except as indicated)				
					SFDU	2 - 4	≥ 5	Institution	Industrial	Office	Storage	Retail
358	¹⁹ Ellis Program Area	Storm Drainage	2013-136	13.04.010	\$ 1,797	\$ 981	\$ 2,229	N/A	N/A	N/A	\$ 6,691	\$ 23,836
358	¹⁹ Ellis Program Area	Traffic	2013-136	13.04.010	\$ 2,693	\$ 2,693	\$ 1,293	N/A	N/A	N/A	\$ 2,693	\$ 42,825
358	¹⁸ Ellis Program Area	Public Buildings	2014-158	13.04.010	\$ 3,479	\$ 2,846	\$ 2,319	N/A	N/A	N/A	\$ 2,369	\$ 2,369
358	¹⁹ Ellis Program Area	Water Supply, Treatment, Storage and Distribution	2013-136	13.04.010	\$ 7,058	\$ 6,070	\$ 4,094	N/A	N/A	N/A	\$ 39,736	\$ 39,736
358	¹⁹ Ellis Program Area	Wastewater Treatment and Conveyance	2013-136	13.04.010	\$ 8,337	\$ 6,753	\$ 5,586	N/A	N/A	N/A	\$ 3,168	\$ 43,352
358	¹⁹ Ellis Program Area	Recycled Water	2013-136	13.04.010	\$ 2,654	\$ 2,282	\$ 1,539	N/A	N/A	N/A	\$ 14,942	\$ 14,942
361	²⁰ Citywide Master Plan Fees	Parks	2014-10	13.04.010	\$ 7,557	\$ 7,557	\$ 6,183	N/A	N/A	N/A	N/A	N/A
362	²⁰ Citywide Master Plan Fees	Storm Drainage	2014-10	13.04.010	Exh B-16	Exh B-16	Exh B-16	Exh B-16	Exh B-16	Exh B-16	N/A	Exh B-16
363	²⁰ Citywide Master Plan Fees	Transportation	2014-10	13.04.010	\$ 5,186	\$ 5,186	\$ 3,164	N/A	\$ 72,243	126,334	N/A	\$ 158,334
367	¹⁸ Citywide Master Plan Fees	Public Safety Facilities	2014-158	13.04.010	\$ 1,349	\$ 1,349	\$ 1,103	N/A	\$136.23 ^{19a}	\$681.11 ^{19a}	N/A	\$408.67 ^{19a}
366	²⁰ Citywide Master Plan Fees	Public Facilities	2014-10	13.04.010	\$ 2,953	\$ 2,953	\$ 2,416	\$ 1,969	\$76.69 ^a	\$127.82 ^{19a}	N/A	\$25.57 ^{19a}
365	²⁰ Citywide Master Plan Fees	Water Supply, Treatment, Storage and Distribution	2014-10	13.04.010	\$ 9,344	\$ 6,728	\$ 4,765	N/A	\$ 29,153	\$ 29,153	N/A	\$ 38,871
364	²⁰ Citywide Master Plan Fees	Wastewater Treatment and Conveyance (East Conveyance)	2014-10	13.04.010	\$ 9,132	\$ 7,472	\$ 6,088	N/A	\$ 36,528	\$ 39,434	N/A	\$ 39,434
364	²¹ Citywide Master Plan Fees	Wastewater Treatment and Conveyance (West Conveyance)	2014-10	13.04.010	\$ 8,337	\$ 6,821	\$ 5,558	N/A	\$ 33,348	\$ 36,001	N/A	\$ 36,001
365	²⁰ Citywide Master Plan Fees	Recycled Water	2014-10	13.04.010	\$ 2,654	\$ 2,282	\$ 1,539	N/A	\$ 12,182	\$ 12,182	N/A	\$ 14,842
368	²⁰ Citywide Master Plan Fees	Program Management	2014-10	13.04.010	¹⁶	¹⁶	¹⁶	¹⁶	¹⁶	¹⁶	N/A	¹⁶

Footnotes:

- ¹ Infill Area - Parks, Strm Drn, Arterials, Water and Program Management fee adopted April 2012. Wastewater fees: See Exhibit B-1; Public Building Fee Updated 9/16/14.
- ^{1a} Infill Area - Pub Bldgs fees for non-residential development are per 1,000 Sq Ft of building area; Public Building Fees Updated 9/16/14
- ² Infill Area - Downtown Improvements is for a Downtown Incentive Area Parking Fee. See Exhibit B-2 for fee schedule.
- ³ Plan C Area - Parks, Strm Drn, Water and Wastewater fees; Adopted 6/19/07. Arterials fees: See Exhibit B-3
- ⁴ Residential Specific Plan Area - Arterial fees were no longer applicable after the July 2003 FIP Update.
- ⁵ Northeast Industrial Area, Ph 1 - Arterials, Strm Drn and Wastewater fees: See Exhibit B-5; Roadway and Strm Drn Fee Update adopted 5/1/12.
- ⁶ South MacArthur Plan Area - Arterials, Strm Drn, Parks and Wastewater fees: See Exhibit B-6; Roadway Fee Update adopted 12/6/11.
- ⁷ Industrial Specific Plan South Area - Strm Drn and Wastewater fees: See Exhibit B-7.
- ⁸ Presidio Area - Strm Drn fees: See Exhibit B-8.
- ⁹ Tracy Gateway Area - Golf Course, Golf Course Club House and Golf Maintenance Facilities fees were spread to other Phase 1 land uses: See Exhibit B-9; Roadway Fee Update adopted 12/6/11.
- ¹⁰ Northeast Industrial Area, Ph 2 - Arterials, Strm Drn and Wastewater fees: See Exhibit B-10; Roadway and Strm Drn Fee Update adopted 5/1/12.
- ¹¹ I-205 Corridor Area - Obligations vary between parcels: See Exhibit B-17 (Exhibit E titled "Current Approved Finance Plans, June 2007").
- ¹² Habitat Mitigation fees are collected to mitigate loss of multi-species habitat. Fees are paid to San Joaquin Council of Governments (SJCOCG). See Exhibit B-12.
- ¹³ Agricultural Mitigation fees are collected to mitigate loss of farmland and open spaces. See Exhibit B-13.
- ¹⁴ County Facilities Fees are collected to offset costs associated with County capital facilities. Fees are paid to San Joaquin County. See Exhibit B-14.
- ¹⁵ Regional Transportation Impact Fees are collected to finance the regional transportation capital projects. See Exhibit B-15.
- ¹⁶ Program Management fees are 5% of Construction Costs.

EXHIBITS B-1 THROUGH B-16
SUPPLEMENTAL DATA TO EXHIBIT B
Amounts and Descriptions of Fees
For Fiscal Year Ended June 30, 2016
(Government Code §66006(b)(1)(A) and (B).)

EXHIBIT B-1: INFILL AREA - WATER, WASTEWATER, STORM DRAINAGE FEES

Public Facilities	Residential Fees Per Unit			Non-Residential Fee Per Gross Acre			
	SFD	2 - 4	≥ 5	Industrial	Institutional	Office	Retail
WW Conveyance-Corral Hollow Sewer	\$9,394	\$7,609	\$6,294	\$37,576	\$37,576	\$40,394	\$48,849
WW Conveyance-Eastside Sewer	\$9,293	\$7,527	\$6,226	\$37,172	\$37,172	\$39,960	\$48,324
WW Conveyance-City Core Sewer	\$10,125	\$8,201	\$6,784	\$40,500	\$40,500	\$43,538	\$52,650
WW Conveyance-MacArthur	\$9,816	\$7,951	\$6,577	\$39,264	\$39,264	\$42,209	\$51,043

EXHIBIT B-2: INFILL AREA - DOWNTOWN INCENTIVE AREA PARKING FEE

Parking Fee	(\$500 + [\$0.19 x the number of square feet within the building]) x 5
-------------	--

EXHIBIT B-3: PLAN C AREA - WATER, WASTEWATER, ROADWAYS, STORM DRAINAGE, PARKS

Public Facilities	Residential Fees Per Unit			Non-Residential (Edgewood Subd Only) Fee Per Gross Acre			
	SFD	2 - 4	≥ 5	Industrial	Institutional	Office	Retail
Mini/Neighborhood Parks	\$4,693	\$3,911	\$3,129	N/A	N/A	N/A	N/A
Community Parks	\$1,549	\$1,290	\$1,032	N/A	N/A	N/A	N/A
Storm Drainage-Upgrade-Byron Zone	\$3,953	\$2,451	\$2,010	N/A	N/A	N/A	N/A
Storm Drainage-Upgrade-Purple Zone	\$6,642	\$4,117	\$3,375	N/A	N/A	N/A	N/A
Storm Drainage-Upgrade-Yellow Zone	\$5,392	\$3,343	\$2,742	N/A	N/A	N/A	N/A
Storm Drainage-Upgrade-Orange Zone	\$4,146	\$2,571	\$2,109	N/A	N/A	N/A	\$52,575
Storm Drainage-Upgrade-Blue Zone	\$6,593	\$4,087	\$4,193	N/A	N/A	N/A	N/A
Storm Drainage-Upgrade-Pink Zone	\$4,876	\$3,024	\$2,486	N/A	N/A	N/A	N/A
Storm Drn-Subdrains-Byron Zn-Huntington Park	\$138	N/A	N/A	N/A	N/A	N/A	N/A
Storm Drn-Subdrains-Byron Zone-Lyon Crossroads	\$281	N/A	N/A	N/A	N/A	N/A	N/A
Storm Drn-Subdrains-Byron Zone-San Marco	\$346	N/A	N/A	N/A	N/A	N/A	N/A
Storm Drn-Subdrains-Byron Zone-Westgate	\$334	N/A	\$97	N/A	N/A	N/A	N/A
Arterials-Upgrade-Northwest	\$9,717	\$4,626	\$4,626	N/A	N/A	N/A	N/A
Arterials-Upgrade-Southwest	\$4,413	\$2,103	\$2,103	N/A	N/A	N/A	\$68,894
Arterials-Upgrade-Southeast	\$6,615	\$3,150	\$3,150	N/A	N/A	N/A	N/A
Water Supply-Edgewood	\$1,363	\$1,131	\$913	N/A	N/A	N/A	\$982
Water SSJID-Edgewood	\$746	\$621	\$497	N/A	N/A	N/A	\$1,123
Wastewater Conveyance	\$328	\$272	\$220	N/A	N/A	N/A	\$1,749
Wastewater Collection-Corral Hollow	\$774	\$645	\$516	N/A	N/A	N/A	\$3,546
Wastewater Collection-East Side	\$570	\$475	\$379	N/A	N/A	N/A	\$2,610
WW Treatment Plant Expansion	\$12,807	\$10,677	\$8,539	N/A	N/A	N/A	\$29,280

EXHIBIT B-4: RESIDENTIAL SPECIFIC PLAN AREA - STORM DRAINAGE, PUBLIC BUILDINGS, PARKS

Public Facilities	Fees based on number of Project Equivalent Consumer Units	
	All Residential Projects	All Non-Residential Projects
Parks	\$523	N/A
Storm Drainage	\$9,105	\$9,105
Public Buildings	\$19,672	N/A

EXHIBITS B-1 THROUGH B-16
SUPPLEMENTAL DATA TO EXHIBIT B
Amounts and Descriptions of Fees
For Fiscal Year Ended June 30, 2016
(Government Code §66006(b)(1)(A) and (B).)

EXHIBIT B-5: NORTHEAST INDUSTRIAL AREA, PH 1 - WASTEWATER, ARTERIALS, STORM DRAINAGE

Public Facilities	Residential			Non-Residential (Industrial Only)			
	Fees Per Unit			Fee Per Gross Acre			
	SFD	2 - 4	≥ 5	Industrial	Institutional	Office	Retail
Arterials Upgrades	N/A	N/A	N/A	\$65,609	N/A	N/A	N/A
Arterials CFD 89-1 Reimb	N/A	N/A	N/A	\$382	N/A	N/A	N/A
Arterials RSP Reimb	N/A	N/A	N/A	\$1,484	N/A	N/A	N/A
Storm Drainage Upgrade	N/A	N/A	N/A	\$31,763	N/A	N/A	N/A
Storm Drainage CFD 89-1 Reimb	N/A	N/A	N/A	\$176	N/A	N/A	N/A
Wastewater Conveyance Upgrade	N/A	N/A	N/A	\$8,428	N/A	N/A	N/A
Wastewater Treatment Plant Upgrade	N/A	N/A	N/A	\$28,617	N/A	N/A	N/A
Wastewater CFD 89-1 Reimb	N/A	N/A	N/A	\$1,405	N/A	N/A	N/A

EXHIBIT B-6: SOUTH MACARTHUR PLAN AREA - ALL FEES

Public Facilities (Residential Projects Only)	Yosemite Vista Subdivision			Elissagaray Ranch Subdivision		
	Fees Per Unit			Fees Per Unit		
	SFD	2 - 4	≥ 5	SFD	2 - 4	≥ 5
Arterials - Upgrades	\$7,858	N/A	N/A	\$7,858	N/A	N/A
Arterials - CFD 89-1 Reimb	\$89	N/A	N/A	\$89	N/A	N/A
Arterials - RSP Reimb	\$664	N/A	N/A	\$664	N/A	N/A
Storm Drainage - Upgrade	\$3,855	N/A	N/A	\$3,855	N/A	N/A
Mini/Neighborhood Parks	\$3,663	N/A	N/A	\$3,663	N/A	N/A
Community Parks	\$1,973	N/A	N/A	\$1,973	N/A	N/A
Wastewater-Eastside Sewer System Connection	\$543	N/A	N/A	\$543	N/A	N/A
Wastewater-Gravity Sewer Improvements	\$406	N/A	N/A	\$406	N/A	N/A
Wastewater Treatment Plant Upgrade	\$10,436	N/A	N/A	\$10,436	N/A	N/A

EXHIBIT B-7: INDUSTRIAL SPECIFIC PLAN SOUTH AREA - STORM DRAINAGE, WASTEWATER

Public Facilities	Residential			Non-Residential			
	Fees Per Unit			Fee Per Gross Acre			
	SFD	2 - 4	≥ 5	Industrial	Institutional	Office	Retail
Storm Drainage - Upgrades - Zone 1	\$3,654	\$2,265	\$1,847	\$46,037	N/A	\$46,037	\$46,037
Storm Drainage - Westside Outfall - Zone 1	\$449	\$220	\$227	\$5,662	N/A	\$5,662	\$5,662
Storm Drainage - Upgrades - Zone 2	\$1,311	\$642	\$526	\$16,519	N/A	\$16,519	\$16,519
Storm Drainage - Westside Outfall - Zone 2	\$449	\$220	\$227	\$5,662	N/A	\$5,662	\$5,662
Wastewater Treatment Plant Upgrade	\$1,943	\$1,620	\$1,295	\$10,356	N/A	\$8,938	\$8,938
Wastewater - Sewer Collection Conveyance	\$3,237	\$2,676	\$2,158	\$1,995	N/A	\$1,995	\$1,995
Wastewater - Cheng Diversion Reimb	\$208	\$173	\$139	\$1,108	N/A	\$970	\$970

EXHIBITS B-1 THROUGH B-16
 SUPPLEMENTAL DATA TO EXHIBIT B
 Amounts and Descriptions of Fees
 For Fiscal Year Ended June 30, 2016
 (Government Code §66006(b)(1)(A) and (B).)

EXHIBIT B-8: PRESIDIO AREA - STORM DRAINAGE							
Public Facilities Residential Only Single Family Dwelling Units	Fees Per Unit			Non-Residential			
	Pink Zone	Purple Zone	Yellow Zone	Fee Per Gross Acre			
				Industrial	Institutional	Office	Retail
Storm Drainage - Westside Channel Reimb	\$963	N/A	N/A	N/A	N/A	N/A	N/A
Storm Drainage - Upgrades	N/A	\$333	\$717	N/A	N/A	N/A	N/A
Storm Drainage - RSP Reimb	N/A	\$1,145	\$1,145	N/A	N/A	N/A	N/A

EXHIBIT B-9: TRACY GATEWAY AREA - ALL FEES						
Public Facilities	Residential			Non-Residential		
	Fees Per Unit			Fee Per Gross Acre		
	SFD	2 - 4	≥ 5	Retail	Ofc w/ Def	Hotel (200 Room)
Arterials - Streets & Highways	N/A	N/A	N/A	\$36,952	\$1,626	\$34,606
Storm Drainage	N/A	N/A	N/A	\$9,549	\$4,350	\$5,199
Public Buildings	N/A	N/A	N/A	\$7,385	\$17,806	\$15,307
Water & Non-Potable Water	N/A	N/A	N/A	\$80,459	\$72,302	\$352,851
Wastewater-Conveyance & WRF	N/A	N/A	N/A	\$28,176	\$1,106	\$123,567

EXHIBIT B-10: NORTHEAST INDUSTRIAL AREA, PH 2 - WASTEWATER, ARTERIALS, STORM DRAINAGE							
Public Facilities	Residential			Non-Residential (Industrial Only)			
	Fees Per Unit			Fee Per Gross Acre			
	SFD	2 - 4	≥ 5	Industrial	Institutional	Office	Retail
Arterials - Upgrades	N/A	N/A	N/A	\$44,059	N/A	N/A	N/A
Arterials - RSP Reimb	N/A	N/A	N/A	\$416	N/A	N/A	N/A
Arterials - Traffic Signals	N/A	N/A	N/A	\$1,412	N/A	N/A	N/A
Arterials - Land/Easement Acquisitions	N/A	N/A	N/A	\$18,721	N/A	N/A	N/A
Storm Drainage - Watershed Improvements	N/A	N/A	N/A	\$6,593	N/A	N/A	N/A
Storm Drainage - Land/Easement Acquisitions	N/A	N/A	N/A	\$29,233	N/A	N/A	N/A
Storm Drainage - CFD 89-1 Reimb	N/A	N/A	N/A	\$271	N/A	N/A	N/A
Wastewater - Collections System Improvements	N/A	N/A	N/A	\$16,494	N/A	N/A	N/A
Wastewater - Treatment Plant Upgrade	N/A	N/A	N/A	\$16,786	N/A	N/A	N/A
Wastewater - CFD 89-1 Reimb	N/A	N/A	N/A	\$1,431	N/A	N/A	N/A

EXHIBITS B-1 THROUGH B-16
 SUPPLEMENTAL DATA TO EXHIBIT B
 Amounts and Descriptions of Fees
 For Fiscal Year Ended June 30, 2016
 (Government Code §66006(b)(1)(A) and (B).)

EXHIBIT B-12: HABITAT MITIGATION FEES				
Land Use	Multi-Purpose Open Space	Natural and Agricultural Lands	Vernal Pool - Uplands	Vernal Pool - Wetted
Fee Per Gross Acre	\$7,281	\$14,543	\$42,784	\$85,631

EXHIBIT B-13: AGRICULTURAL MITIGATION FEES	
Description	Fee Per Gross Acre
Agricultural Mitigation-Ag Land Purchase	\$2,601

EXHIBIT B-14: COUNTY FACILITIES FEES							
Fee Category	Fee Per Dwelling Unit			Fee Per Building Square Foot			
	SFDU	2 - 4	≥ 5	Industrial	Institution	Office	Retail
County Facilities Fee	\$ 1,926	\$ 1,651	\$ 1,651	\$ 0.22	N/A	\$ 0.39	\$ 0.44

EXHIBIT B-15: REGIONAL TRANSPORTATION IMPACT FEES								
Fee Category	Fee Per Dwelling Unit			Fee Per Building Square Foot				
	SFDU	2 - 4	≥ 5	Warehouse	Industrial	Institution	Office	Retail
Regional Transportation Impact Fee	\$ 3,141	\$ 1,885	\$ 1,885	\$ 0.40	\$ 0.95	\$ 0.95	\$ 1.58	\$ 1.25

EXHIBIT B-16: CITYWIDE MASTERPLANS- STORM DRAINAGE							
Fee Category	Residential Fees Per Unit			Non-Residential (Industrial Only) Fee Per Gross Acre			
	SFD	2 - 4	≥ 5	Industrial	Institutional	Office	Retail
Storm Drainage - Keenan	\$ 2,141	\$ 1,446	\$ 1,293	N/A	N/A	N/A	N/A
Storm Drainage - Westside Residential	\$ 4,571	\$ 3,062	\$ 2,732	N/A	N/A	N/A	N/A
Storm Drainage - NW WSO	N/A	N/A	N/A	\$ 16,384	N/A	\$ 16,384	\$ 16,384
Storm Drainage - Larch Clover	N/A	N/A	N/A	N/A	N/A	N/A	\$ 10,056
Storm Drainage - East Side Industrial	N/A	N/A	N/A	\$ 48,957	N/A	N/A	\$ 48,957
Storm Drainage - Chrisman & East UR-1	\$ 1,572	\$ 1,045	\$ 933	\$ 28,682	\$28,682	\$ 28,682	\$ 28,682
Storm Drainage - South MacArthur & Rocha	\$ 4,469	\$ 2,971	\$ 2,659	N/A	N/A	N/A	\$ 81,501
Storm Drainage - Mtn. House	N/A	N/A	N/A	\$ 15,795	\$15,795	\$ 15,795	\$ 15,795
Storm Drainage - Lammers Watershed	\$ 1,304	\$ 868	\$ 777	\$ 23,818	\$23,818	\$ 23,818	\$ 23,818
Storm Drainage - Kagehiro & West Larch Clover**	\$ 532	\$ 375	\$ 335	N/A	N/A	N/A	N/A

EXHIBIT C
Summary of Expenses and Anticipated Construction Dates
for Fiscal Year Ended June 30, 2016
(Government Code §66006(b)(1)(C) and (D).)

CITY OF TRACY		FEE FUNDED CAPITAL IMPROVEMENT PROJECT LISTINGS					FIVE YEAR PLAN - FY16-17 THROUGH FY20-21					01-JUL-16		
Project #	Project Title	Project \$ Total ¹	Funding Sources	Prior Years Expenditures	FY15-16 Expenditures ²	Total	Adopted Capital Budget FY16-17	<----- New Appropriations Required ----->				Anticipated Completion & Comments	% Fee Funded	
							FY17-18	FY18-19	FY19-20	FY20-21				
71035	City Hall Vehicles - New Development	\$97,503	F324-Gen Fac Plan C	23,773	0	44,730	44,730	0	0	0	0	Jan 17	New Equipment	70%
			F352-So MacArthur Area	0	0	7,000	7,000	0	0	0	0			7%
			F354-ISP South Area	0	0	16,200	16,200	0	0	0	0			17%
			F355-Presidio Area	0	0	5,800	5,800	0	0	0	0			6%
71050	Public Safety Communications Eqpt	\$2,350,000	F301-General Projects	2,146,166	66,342	-1,162,508	137,492	0	-1,300,000	0	0	Apr 15	Work Underway	45%
			F367-TIMP Pub Safety	0	0	1,300,000	0	0	1,300,000	0	0			55%
71052	Police Radio Repeater & Tower-SMPA	\$18,300	F352-So MacArthur Area	0	0	18,300	0	0	18,300	0	0	Apr 19	Deferred to Future	100%
71061	New Fire Station - Relocate Station #96 - West Grant Line Rd	\$3,256,843	F353-I205 Plan Area	1,708,918	0	0	0	0	0	0	0	Apr 14	Work Completed	52%
			F314-Infill Buildings	714,600	5,325	0	0	0	0	0	0			22%
			F345-RSP Area	828,000	0	0	0	0	0	0	0			25%
71062	New Fire Station - Relocate #92 - Banta East Grant Line Rd	\$3,689,756	F301-General Projects	2,360,413	38	-938	-938	0	0	0	0	Apr 14	Work Completed	64%
			F351-NE Ind Area Ph 1	322,000	5,325	0	0	0	0	0	0			9%
			F357-NE Ind Area Ph 2	271,200	0	0	0	0	0	0	0			7%
			Tracy Rural Fire District	731,718	0	0	0	0	0	0	0			20%
71086	New Fire Station - Tracy Hills (TIMP FS C)	\$7,850,000	F367-TIMP Pub Safety	0	0	7,850,000	900,000	6,950,000	0	0	0	Dec 18	New Facility	100%
71PP-052	Public Safety Facilities New Development Areas	\$2,321,720	F356-Tracy Gateway Area	0	0	568,500	0	0	70,000	498,500	0	Jun 20	New & Expansion	24%
			F358-Ellis Area	0	0	1,753,220	0	0	48,000	1,705,220	0			76%
71PP-058	New Fire Vehicle - Ladder Truck	\$1,000,000	F314-Infill Buildings	0	0	130,400	0	10,400	120,000	0	0	Jun 19	New Equipment	13%
			F324-Gen Fac Plan C	0	0	666,600	0	666,600	0	0	0			67%
			F352-So MacArthur Area	0	0	68,000	0	68,000	0	0	0			7%
			F354-ISP South Area	0	0	135,000	0	135,000	0	0	0			14%
71PP-067	New Fire Station - Southwest Tracy (TIMP FS E)	\$4,189,000	F367-TIMP Pub Safety	0	0	4,189,000	0	0	753,000	3,436,000	0	Dec 20	New Facility	100%
71PP-068	New Fire Station - Relocate Station #97 - South Tracy	\$4,387,500	F314-Infill Buildings	0	0	609,000	0	0	0	609,000	0	Jun 20	New Facility	14%
			F345-RSP Arterials	0	0	1,470,200	0	0	380,000	1,090,200	0			34%
			F324-Gen Fac Plan C	0	0	929,000	0	0	0	929,000	0			21%
			F352-So MacArthur Area	0	0	216,000	0	0	0	216,000	0			5%
			F354-ISP South Area	0	0	1,163,300	0	0	0	1,163,300	0			27%
71PP-075	Public Safety Training Facility	\$17,245,000	F367-TIMP Pub Safety	0	0	17,245,000	0	1,520,000	0	1,275,000	14,450,000	Dec 20	New Facility	100%
72068	Traffic Signal Lammers & West Schulte	\$1,299,740	F313-Infill Arterials	0	6,427	-6,427	-6,427	0	0	0	0	Dec 16	Design Underway	0%
			F323-Arterials Plan C	0	10,000	351,800	351,800	0	0	0	0		ROW Acquisition	28%
			Developer Contribution	71,662	0	665,178	665,178	0	0	0	0			57%

EXHIBIT C
Summary of Expenses and Anticipated Construction Dates
for Fiscal Year Ended June 30, 2016
(Government Code §66006(b)(1)(C) and (D).)

CITY OF TRACY		FEE FUNDED CAPITAL IMPROVEMENT PROJECT LISTINGS					FIVE YEAR PLAN - FY16-17 THROUGH FY20-21					01-JUL-16		
Project #	Project Title	Project \$ Total ¹	Funding Sources	Prior Years Expenditures	FY15-16 Expenditures ²	Total	Adopted Capital Budget FY16-17	<----- New Appropriations Required ----->				Anticipated Completion & Comments	% Fee Funded	
							FY16-17	FY17-18	FY18-19	FY19-20	FY20-21			
			F301-General Projects	0	10,507	190,593	190,593	0	0	0	0		15%	
72082	Traffic Signal	\$449,960	F354-ISP South Area	14,440	175,350	73,392	73,392	0	0	0	0	Jun 16	Design Underway	58%
	Valpico & Sycamore Pkwy		Grant Funding	0	130,630	49,179	49,179	0	0	0	0			40%
			F245-Gas Tax-Sec 2106	0	6,969	0	0	0	0	0	0			2%
72090	Traffic Signal-Tracy & Linne Rd	\$624,000	F313-Infill Arterials	0	0	624,000	84,000	0	0	540,000	0	Jun 20	New Installation	100%
72094	Traffic Signal-Tracy & Gandy Dancer	\$350,000	F313-Infill Arterials	0	0	350,000	350,000	0	0	0	0	Dec 17	New Installation	100%
72095	Traffic Signal-	\$1,290,000	F354-ISP South Area	0	0	540,000	540,000	0	0	0	0	Mar 19	New Installation	42%
	Corral Hollow & Valpico		Grant Funding	0	0	750,000	750,000	0	0	0	0			58%
72096	Intersection Improvements- Hansen Rd & Old Schulte Rd	\$376,000	F363-TIMP Traffic	0	375,940	60	60	0	0	0	0	Nov 15	Work Completed	100%
72097	Intel Transp System- Hansen Rd & Old Schulte Rd	\$344,300	F363-TIMP Traffic	0	344,225	75	75	0	0	0	0	Nov 15	Work Completed	100%
72014	Traffic Signal Upgrades I205 Area Eastside	\$1,257,876	F353-I205 Plan Area	100	0	261,300	0	0	0	0	261,300	Jun 21	Upgrade	21%
			F323-Arterials Plan C	0	0	573,600	0	0	0	0	573,600			46%
			Developer Contribution	105,076	0	317,800	0	0	0	0	317,800			34%
72038	Traffic Signal - Tracy Blvd & Valpico	\$573,036	F354-ISP South Area	2,936	0	510,580	0	510,580	0	0	0	Dec 04	Work Completed	90%
			F358-Ellis Area	0	0	59,520	0	59,520	0	0	0			10%
			Developer Contribution	570,100	0	-570,100	0	-570,100	0	0	0			0%
72056	Signal Modifications-11th & Lammers	\$405,000	F356-Tracy Gateway Area	0	0	192,900	0	0	0	192,900	0	Jun 20	Upgrade	48%
			F245-Gas Tax-Sec 2106	0	0	212,100	0	0	0	212,100	0			52%
72062	Intersection Imprvmnts-I205 & MacArthur	\$15,821,405	F352-So MacArthur Area	0	0	1,081,000	0	0	0	0	1,081,000	Jun 21	Expansion	7%
			F355-Presidio Area	0	0	814,800	0	0	0	260,000	554,800			5%
			F357-NE Ind Area Ph 2	3,035	0	13,922,570	0	1,496,970	0	0	12,425,600			88%
72073	Intersection Imprvmnts-MacArthur & Valp	\$310,010	F354-ISP South Area	3,910	0	306,100	0	306,100	0	0	0	Jun 18	Design Completed	100%
72074	Intersection Imprvmnts-Tracy & Valpico	\$200,010	F354-ISP South Area	3,910	0	196,100	0	196,100	0	0	0	Jun 18	Design Completed	100%
72PP-028	Traffic Signal-Grant Line & Street "A"	\$356,500	F353-I205 Plan Area	0	0	356,500	0	0	356,500	0	0	Jun 19	New Installation	100%
72PP-029	Traffic Signal Naglee Road & Auto Plaza Drive	\$350,000	F353-I205 Plan Area	0	0	309,900	0	309,900	0	0	0	Jun 18	New Installation	89%
			F245-Gas Tax-Sec 2106	0	0	40,100	0	40,100	0	0	0			11%
72PP-030	Intersection Improvements	\$762,800	F352-So MacArthur Area	0	0	278,000	0	0	0	50,000	228,000	Dec 19	Expansion	36%

EXHIBIT C
Summary of Expenses and Anticipated Construction Dates
for Fiscal Year Ended June 30, 2016
(Government Code §66006(b)(1)(C) and (D).)

CITY OF TRACY		FEE FUNDED CAPITAL IMPROVEMENT PROJECT LISTINGS					FIVE YEAR PLAN - FY16-17 THROUGH FY20-21					01-JUL-16			
Project #	Project Title	Project \$ Total ¹	Funding Sources	Prior Years Expenditures	FY15-16 Expenditures ²	Total	Adopted	<----- New Appropriations Required ----->				Anticipated Completion & Comments	% Fee Funded		
							Capital Budget	FY16-17	FY17-18	FY18-19	FY19-20			FY20-21	
	1580 & Corral Hollow		F355-Presidio Area	0	0	201,900	0	0	0	0	201,900	0		26%	
			F358-Ellis Area	0	0	167,700	0	0	0	0	167,700	0		22%	
			F363-TIMP Traffic	0	0	115,200	0	0	0	0	115,200	0		15%	
72PP-033	Traffic Signals-2.6 Collectors	\$959,000	Future Developments	0	0	959,000	0	0	959,000	0	0	0	Jun 19	New Installation	100%
72PP-042	Traffic Signal-MacArthur & Glenbrook	\$337,500	Developer Contribution	0	0	185,000	0	0	0	185,000	0	0	Jun 17	New Installation	55%
			Grant Funding	0	0	152,500	0	0	0	152,500	0	0			45%
72PP-054	Intersection Improvements - Corral Hollow & Linne	\$8,600,000	F358-Ellis Area	0	0	415,300	0	415,300	0	0	0	0	Dec 18	New Installation	5%
			F363-TIMP Traffic	0	0	8,184,700	0	8,184,700	0	0	0	0			95%
72PP-064	Intersection Improvements-Variou Locat	\$327,000	F363-TIMP Traffic	0	0	327,000	0	0	0	327,000	0	0	Jun 20	Upgrade	100%
72PP-071	Traff Signal-Chrisman & Kellogg's Entran	\$270,000	Developer Contribution	0	0	270,000	0	0	0	270,000	0	0	Jun 20	New Installation	100%
72PP-081	Intersection Improvements-Grant Line & Lammers Roads	\$869,300	F353-I205 Plan Area	0	0	50,200	0	0	0	0	50,200	0	Dec 21	Upgrade	6%
			F363-TIMP Traffic	0	0	819,100	0	0	0	0	819,100	0			94%
72PP-082	Intersection Improvements-Grant Line & Naglee Roads	\$418,100	F353-I205 Plan Area	0	0	20,800	0	0	0	0	20,800	0	Dec 21	Upgrade	5%
			F363-TIMP Traffic	0	0	397,300	0	0	0	0	397,300	0			95%
72PP-083	Intersection Improvements-Naglee Road & Pavilion Pkwy	\$388,700	F353-I205 Plan Area	0	0	345,300	0	0	345,300	0	0	0	Jun 19	Upgrade	89%
			F363-TIMP Traffic	0	0	43,400	0	0	43,400	0	0	0			11%
72PP-084	Intersection Improvements-Grant Line & I205 Ramps	\$2,538,500	F353-I205 Plan Area	0	0	493,800	0	0	0	0	493,800	0	Dec 21	Upgrade	19%
			F363-TIMP Traffic	0	0	2,044,700	0	0	0	0	2,044,700	0			81%
72PP-085	Intersection Improvements-Grant Line & Corral Hollow Rd	\$4,639,200	F353-I205 Plan Area	0	0	2,069,400	0	0	0	2,069,400	0	0	Dec 20	Upgrade	45%
			F323-Arterials Plan C			319,200	0	0	0	319,200	0	0			7%
			F363-TIMP Traffic	0	0	2,250,600	0	0	0	2,250,600	0	0			49%
72PP-086	Intersection Improvements-Lammers & 11th Street	\$907,170	F353-I205 Plan Area	0	0	864,700	0	0	0	0	864,700	0	Jun 21	Upgrade	95%
			F358-Ellis Area	0	0	7,920	0	0	0	0	7,920	0			1%
			F363-TIMP Traffic	0	0	34,550	0	0	0	0	34,550	0			4%
72PP-087	Intersection Improvements-11th Street & Corral Hollow Road	\$975,500	F353-I205 Plan Area	0	0	9,800	0	0	0	9,800	0	0	Dec 20	Upgrade	1%
			F363-TIMP Traffic	0	0	965,700	0	0	0	965,700	0	0			99%
72PP-090	Traffic Signal/Intersection Improvements-Chrisman Rd, So of Paradise	\$385,000	Developer Contribution	0	0	385,000	0	385,000	0	0	0	0	Jun 18	New Installation	100%
72PP-091	Traffic Signal/Intersection Improvements-Chrisman Rd & Paradise	\$501,000	Developer Contribution	0	0	501,000	0	0	0	501,000	0	0	Jun 20	New Installation	100%

EXHIBIT C
Summary of Expenses and Anticipated Construction Dates
for Fiscal Year Ended June 30, 2016
(Government Code §66006(b)(1)(C) and (D).)

CITY OF TRACY		FEE FUNDED CAPITAL IMPROVEMENT PROJECT LISTINGS					FIVE YEAR PLAN - FY16-17 THROUGH FY20-21					01-JUL-16		
Project #	Project Title	Project \$ Total ¹	Funding Sources	Prior Years Expenditures	FY15-16 Expenditures ²	Total	Adopted Capital Budget FY16-17	<----- New Appropriations Required ----->				Anticipated Completion & Comments	% Fee Funded	
							FY16-17	FY17-18	FY18-19	FY19-20	FY20-21			
72PP-092	Traffic Signal -Pescadero/Western Drive	\$337,500	Developer Contribution	0	0	337,500	0	0	0	337,500	0	Jun 20	New Installation	100%
72PP-094	Intersection Imprvmnts-11th St & Lincoln	\$766,700	F313-Infill Arterials	0	0	766,700	0	0	0	766,700	0	Jun 21	Upgrade	100%
72PP-095	Intersection Improvements-Grant Line Road & Tracy Blvd	\$290,300	F363-TIMP Traffic	0	0	290,300	0	0	0	0	290,300		Planned for Future	100%
72PP-096	Intersection Improvements-Schulte & Tra	\$152,400	F363-TIMP Traffic	0	0	152,400	0	0	0	0	152,400	Jun 20	Upgrade	100%
72PP-098	Traffic Improvements-Tracy Gateway Area	\$2,288,500	F356-Tracy Gateway Area	0	0	2,288,500	0	0	0	0	2,288,500	Jun 20	Rehabilitation	100%
72PP-201	Intersection Improvements-Ellis Prgm Area	\$3,762,500	F358-Ellis Area	0	0	2,121,860	0	0	0	2,121,860	0	Jun 20	New Installation	56%
			Grant Funding	0	0	1,640,640	0	0	0	1,640,640	0			44%
73014	Widening - Corral Hollow Road - Grant Line to Mall Entry	7,777,414	F345-RSP Arterials	421,656	28	-98	-98	0	0	0	0	Feb 16	Work Completed	5%
			Developer Contribution	739,700	0	0	0	0	0	0	0			10%
			F353-I205 Plan Area	2,361,434	0	-60,416	-60,416	0	0	0	0			30%
			F242-Prop K Tr Sales Tx	3,229,330	0	185,780	185,780	0	0	0	0			44%
			Highways Grants	900,000	0	0	0	0	0	0	0			12%

EXHIBIT C
Summary of Expenses and Anticipated Construction Dates
for Fiscal Year Ended June 30, 2016
(Government Code §66006(b)(1)(C) and (D).)

CITY OF TRACY		FEE FUNDED CAPITAL IMPROVEMENT PROJECT LISTINGS					FIVE YEAR PLAN - FY16-17 THROUGH FY20-21					01-JUL-16	
Project #	Project Title	Project \$ Total ¹	Funding Sources	Prior Years Expenditures	FY15-16 Expenditures ²	Total	Adopted Capital Budget FY16-17	<----- New Appropriations Required ----->			Anticipated Completion & Comments	% Fee Funded	
							FY17-18	FY18-19	FY19-20	FY20-21			
73084	New Interchange- I205 & Lammers Road	\$53,400,000	F356-Tracy Gateway Area	52,730	0	18,037,270	27,270	0	18,010,000	0	Jun 21	Design Underway	34%
			F242-Prop K Tr Sales Tx	6,910	0	2,672,090	93,090	0	500,000	2,079,000		ROW Acquired	5%
			F363-TIMP Traffic	0	0	25,483,200	0	9,000,000	0	16,483,200			48%
			Federal TEA Grant	4,034,323	546,585	2,066,892	2,066,892	0	0	0			12%
			F301-General Projects	414,497	17,210	68,293	68,293	0	0	0			1%
73095	Widening-Valpico Rd, Tracy to Pebblebrook	\$10,887,300	F242-Prop K Tr Sales Tx	346,281	0	253,719	153,719	100,000	0	0	Jun 19	Design Underway	6%
			F354-ISP South Area	0	0	10,201,500	0	2,344,800	7,856,700	0			94%
			F358-Ellis Area	0	0	85,800	0	0	85,800	0			1%
73102	Widening-Corral Hollow Rd, Byron to Grant Line (Phase II)	\$4,160,200	F353-I205 Plan Area	540,155	349,960	409,885	409,885	0	0	0	Dec 17	Ph2 Dsgn Underway	31%
			F363-TIMP Traffic	0	0	2,860,200	2,860,200	0	0	0			69%
73103	Widening-Corral Hollow Rd, 11th to Schulte	\$5,779,600	F323-Arterials Plan C	841,781	189,247	1,292,672	1,292,672	0	0	0	Dec 18	Design Underway	40%
			F245-Gas Tax-Sec 2106	4,725	15,078	3,436,097	172,197	3,263,900	0	0			60%
73109	New Interchange- I205 & Paradise Road	\$25,800,838	F245-Gas Tax-Sec 2106	329,048	0	160,790	160,790	0	0	0	Jul 22	EIR Underway	2%
			Federal TEA Grant	579,361	0	220,639	220,639	0	0	0		Design Underway	3%
			F363-TIMP Traffic	0	0	24,511,000	0	3,000,000	0	21,511,000			95%
73126	Widening-MacArthur Dr Schulte to Valpico, Phase II	\$7,343,900	F313-Infill Arterials	296,394	345,779	318,827	-417,173	736,000	0	0	Dec 18	Design Underway	13%
			F352-So MacArthur Area	0	264,316	1,235,684	1,235,684	0	0	0			20%
			Federal TEA Grant	310,885	0	1,378,015	1,378,015	0	0	0			23%
			RSTP Grant	0	0	3,194,000	3,194,000	0	0	0			43%
73136	Directional Signs in I205 at 2 Locations	\$818,000	F345-RSP Arterials	1,680	1,377	814,943	814,943	0	0	0	Dec 16	Design Underway	100%
73141	Improvements-Fabian Road, w of Corral Hollow	\$781,500	F323-Arterials Plan C	59,839	60,487	352,574	352,574	0	0	0	Jul 17	Design Underway	61%
			F313-Infill Arterials	0	0	308,600	308,600	0	0	0			39%
73143	Widening-11th Street, MacArthur to Chrisman	\$391,900	F352-So MacArthur Area	0	0	223,700	223,700	0	0	0	Sep 16	Expansion	57%
			F355-Presidio Area	0	0	168,200	168,200	0	0	0			43%
73144	Widening-Corral Hollow Rd, Linne to Old Schulte	\$19,000,000	F242-Prop K Tr Sales Tx	0	0	13,000,000	0	4,000,000	4,000,000	5,000,000	Mar 19	Expansion	68%
			F245-Gas Tax-Sec 2106	0	0	962,300	300,000	662,300	0	0			5%
			Highways Grants	0	0	750,000	0	750,000	0	0			4%
			F808-Reg Transp Impact	0	0	4,287,700	500,000	3,787,700	0	0			23%
			F363-TIMP Traffic	0	2,922	-2,922	-2,922	0	0	0			0%
73146	Overcrossing Upgrade - I205 & Mt House Pkwy	\$18,851,100	F363-TIMP Traffic	0	43,778	18,807,322	1,639,422	17,167,900	0	0	Jun 18	EIR Underway	100%
			Developer Contribution	0	0	0	0	0	0	0			0%
73147	Overcrossing Upgrade - I580 & Mt House Pkwy	\$23,658,900	F363-TIMP Traffic	0	3,443	23,655,457	2,187,257	21,468,200	0	0	Jun 18	EIR Underway	100%
			Developer Contribution	0	0	0	0	0	0	0			0%

EXHIBIT C
Summary of Expenses and Anticipated Construction Dates
for Fiscal Year Ended June 30, 2016
(Government Code §66006(b)(1)(C) and (D).)

CITY OF TRACY		FEE FUNDED CAPITAL IMPROVEMENT PROJECT LISTINGS					FIVE YEAR PLAN - FY16-17 THROUGH FY20-21					01-JUL-16		
Project #	Project Title	Project \$ Total ¹	Funding Sources	Prior Years Expenditures	FY15-16 Expenditures ²	Total	Adopted	<----- New Appropriations Required ----->				Anticipated Completion & Comments	% Fee Funded	
							Capital Budget	FY16-17	FY17-18	FY18-19	FY19-20			FY20-21
73148	Bridge Widening- Delta Mendota Canal & Mt House Pkwy	\$5,777,500	F363-TIMP Traffic Developer Contribution	0 0	1,205 0	5,776,295 0	554,095 0	5,222,200 0	0 0	0 0	0 0	Jun 18	EIR Underway	100% 0%
73149	Bridge Widening-CA Aqueduct & Mt House Pkwy	\$5,985,800	F363-TIMP Traffic Developer Contribution	0 0	1,716 0	5,984,084 0	581,784 0	5,402,300 0	0 0	0 0	0 0	Jun 18	EIR Underway	100% 0%
73150	Bridge Widening- DMC & Old Schulte Rd	\$4,804,100	F363-TIMP Traffic	0	21,637	4,782,463	439,763	4,342,700	0	0	0	Jun 18	EIR Underway	100%
73153	Widening-Hansen Rd Old Schulte Rd to N of Old Rd E	\$1,540,600	F363-TIMP Traffic Developer Contribution	0 0	1,555,991 0	-15,391 0	-15,391 0	0 0	0 0	0 0	0 0	Jul 15	Work Completed	100% 0%
73154	Extension-Old Schulte Rd DM Canal to East Road	\$872,400	F363-TIMP Traffic Developer Contribution	0 0	881,049 0	-8,649 0	-8,649 0	0 0	0 0	0 0	0 0	Jul 15	Work Completed	100% 0%
73155	Widening-Mountain House Parkway Schulte Road to Old Schulte Road	\$3,860,080	F363-TIMP Traffic Developer Contribution	0 0	2,252,628 0	1,607,452 0	1,607,452 0	0 0	0 0	0 0	0 0	Jul 15	Work Completed	100% 0%
73158	Aqueduct Crossings- Corral Hollow Road	\$10,000,000	F352-So MacArthur Area F355-Presidio Area F363-TIMP Traffic	0 0 0	0 0 0	254,600 191,400 9,554,000	254,600 191,400 0	0 0 9,554,000	0 0 0	0 0 0	0 0 0	Dec 18	Expansion	3% 2% 96%
73159	Widening-MacArthur Dr, I-205 to Pescade	\$1,510,000	F357-NE Ind Area Ph 2	0	0	1,510,000	1,510,000	0	0	0	0	Jun 18	Expansion	100%
73161	Widening- Corral Hollow Road, I580 to Linne	\$13,000,000	F352-So MacArthur Area F355-Presidio Area F363-TIMP Traffic	0 0 0	0 0 0	636,000 474,000 11,890,000	636,000 474,000 1,000,000	0 0 10,890,000	0 0 0	0 0 0	0 0 0	Dec 18	Expansion	5% 4% 91%
73165	Widening-Corral Hollow Rd, I205 north to City Limits	\$2,975,900	F352-So MacArthur Area F355-Presidio Area Developer Contribution	0 0 0	0 0 0	57,900 43,200 2,874,800	57,900 43,200 0	0 0 0	0 0 0	0 0 0	0 0 2,874,800	Dec 21	Expansion	2% 1% 97%
73002	Extension-MacArthur Drive, 11th to Mt Diablo - Ph 1	\$12,195,519	F345-RSP Arterials Highways Grants F242-Prop K Tr Sales Tx	750,549 0 0	0 0 0	98,770 7,650,800 3,695,400	0 0 0	0 0 0	0 0 0	0 500,000 0	98,770 7,150,800 3,695,400	Jun 21	Design Underway ROW Acquisition	7% 63% 30%
73035	Widening-Grant Line Rd, Naglee Rd to Lammers Rd	\$3,502,412	F353-I205 Plan Area Developer Contribution	1,376,642 266,170	0 0	1,859,600 0	0 0	1,859,600 0	0 0	0 0	0 0	Jun 18	Partial Completion	92% 8%
73057	Construction-Street C, Naglee to Corral H	\$2,134,200	F353-I205 Plan Area	0	0	2,134,200	0	0	0	241,000	1,893,200	Jun 21	New Facility	100%
73061	Extension-Valpico Rd, Pebblebrook to MacArthur	\$2,045,800	F354-ISP South Area	0	0	2,045,800	0	0	300,000	1,745,800	0	Jun 20	New Installation	100%
73069	Construct-Street "A",	\$1,917,600	F353-I205 Plan Area	0	0	841,700	0	0	250,000	591,700	0	Jun 20	New Installation	44%

EXHIBIT C
Summary of Expenses and Anticipated Construction Dates
for Fiscal Year Ended June 30, 2016
(Government Code §66006(b)(1)(C) and (D).)

CITY OF TRACY		FEE FUNDED CAPITAL IMPROVEMENT PROJECT LISTINGS					FIVE YEAR PLAN - FY16-17 THROUGH FY20-21					01-JUL-16		
Project #	Project Title	Project \$ Total ¹	Funding Sources	Prior Years Expenditures	FY15-16 Expenditures ²	Total	Adopted Capital Budget FY16-17	<----- New Appropriations Required ----->				Anticipated Completion & Comments	% Fee Funded	
							FY17-18	FY18-19	FY19-20	FY20-21				
	Grant Line Road to Auto Mall Drive		Developer Contribution	0	0	1,075,900	0	0	0	1,075,900	0		56%	
73090	Extension-Chrisman Rd, Grant Line to I-2	\$3,985,891	F357-NE Ind Area Ph 2	270,391	0	3,715,500	0	297,400	3,418,100	0	0	Jun 19	Prel Plan Complete	100%
73092	Widening-Lammers Rd, 3,000 Ft So of 11	\$10,009,030	F356-Tracy Gateway Area	1,498,630	0	8,510,400	0	0	0	8,510,400	0	Dec 20	Expansion	100%
73093	Widening-11th Street, 4,500 feet west of Lammers	\$14,230,200	F356-Tracy Gateway Area	0	0	13,974,000	0	0	0	13,974,000	0	Dec 17	Expansion	98%
			F358-Ellis Area	0	0	256,200	0	0	0	256,200	0			2%
73PP-010	Widening-Grant Line Rd, Parker to MacArthur	\$0	F245-Gas Tax-Sec 2106	0	0	-2,710,500	0	0	0	0	-2,710,500	Jan 21	Reimbursement	0%
			F313-Infill Arterials	0	0	2,710,500	0	0	0	0	2,710,500			100%
73PP-028	Intchg Improvements - I205 & Grant Line Road, Phase II	\$18,300,000	F245-Gas Tax-Sec 2106	0	0	300,000	0	0	0	50,000	250,000	Dec 21	Expansion	2%
			F363-TIMP Traffic	0	0	18,000,000	0	0	0	5,750,000	12,250,000			98%

EXHIBIT C
Summary of Expenses and Anticipated Construction Dates
for Fiscal Year Ended June 30, 2016
(Government Code §66006(b)(1)(C) and (D).)

CITY OF TRACY		FEE FUNDED CAPITAL IMPROVEMENT PROJECT LISTINGS					FIVE YEAR PLAN - FY16-17 THROUGH FY20-21					01-JUL-16	
Project #	Project Title	Project \$ Total ¹	Funding Sources	Prior Years Expenditures	FY15-16 Expenditures ²	Total	Adopted Capital Budget FY16-17	<----- New Appropriations Required ----->				Anticipated Completion & Comments	% Fee Funded
							FY17-18	FY18-19	FY19-20	FY20-21			
73PP-041	Widening-MacArthur Drive, 11th to Schulte, Phases II and III	\$6,834,500	F352-So MacArthur Area	0	0	125,400	0	0	0	125,400	Jun 21	Expansion	2%
			F355-Presidio Area	0	0	94,100	0	0	0	94,100			1%
			F363-TIMP Traffic	0	0	6,615,000	0	0	586,000	6,029,000			97%
73PP-042	Widening-Grant Line Rd, Tracy Blvd to Corral Hollow Rd	\$758,000	F313-Infill Arterials	0	0	486,300	0	0	486,300	0	Jun 20	Expansion	64%
			F352-So MacArthur Area	0	0	155,300	0	0	155,300	0			20%
			F355-Presidio Area	0	0	116,400	0	0	116,400	0			15%
73PP-043	Widening-Grant Line Rd, Lammers Rd to Street A	\$5,120,500	F352-So MacArthur Area	0	0	86,000	0	0	86,000	0	Dec 20	Expansion	2%
			F355-Presidio Area	0	0	65,000	0	0	65,000	0			1%
			F358-Ellis Area	0	0	239,500	0	0	239,500	0			5%
			F363-TIMP Traffic	0	0	2,750,000	0	0	2,750,000	0			54%
			Developer Contribution	0	0	1,980,000	0	0	1,980,000	0			39%
73PP-047	Widening-Lammers Rd, 11th St, So to City Limit	\$29,835,600	F352-So MacArthur Area	0	0	425,200	0	0	425,200	0	Jun 21	Expansion	1%
			F355-Presidio Area	0	0	319,400	0	0	0	319,400			1%
			F358-Ellis Area	0	0	1,761,000	0	0	0	1,761,000			6%
			F363-TIMP Traffic	0	0	27,330,000	0	0	974,500	26,355,500			92%
73PP-103	Construction-N Roadways, I205 NW Area	\$579,000	F353-I205 Plan Area	0	0	579,000	0	0	0	579,000	Jun 21	New Installation	100%
73PP-048	Widening-Schulte Road, Pavilion to New	\$7,239,300	F352-So MacArthur Area	0	0	108,000	0	0	0	108,000	Dec 21	Expansion	1%
			F355-Presidio Area	0	0	81,300	0	0	0	81,300			1%
			F358-Ellis Area	0	0	253,000	0	0	0	253,000			3%
			F363-TIMP Traffic	0	0	6,797,000	0	0	0	6,797,000			94%
73PP-049	Construction -Schulte Rd, Lammers to Crossroads Drive	\$6,480,400	F352-So MacArthur Area	0	0	162,000	0	0	0	162,000	Dec 21	Expansion	2%
			F355-Presidio Area	0	0	121,400	0	0	0	121,400			2%
			F363-TIMP Traffic	0	0	6,197,000	0	0	0	6,197,000			96%
73PP-050	Widening-Schulte Road, Sycamore to Crossroad Drive, Phase II	\$2,227,500	F352-So MacArthur Area	0	0	197,700	0	0	0	197,700	Dec 21	Expansion	9%
			F355-Presidio Area	0	0	148,800	0	0	0	148,800			7%
			F363-TIMP Traffic	0	0	1,881,000	0	0	0	1,881,000			84%
73PP-051	Widening-Valpico Road, Lammers to Corral Hollow	\$9,074,000	F352-So MacArthur Area	0	0	311,500	0	0	0	311,500	Dec 21	Expansion	3%
			F355-Presidio Area	0	0	234,000	0	0	0	234,000			3%
			F358-Ellis Area	0	0	1,311,100	0	0	0	1,311,100			14%
			F363-TIMP Traffic	0	0	2,307,400	0	0	0	2,307,400			25%
			Developer Contribution	0	0	4,910,000	0	0	0	4,910,000			54%
73PP-071	Widening-MacArthur Dr, I205, north to Arbor	\$1,989,500	F313-Infill Arterials	0	0	1,499,500	0	0	0	1,499,500	Jun 21	Expansion	75%
			F245-Gas Tax-Sec 2106	0	0	490,000	0	0	60,000	430,000			25%
73PP-093	Widening-Pescadero Ave,	\$2,097,800	F357-NE Ind Area Ph 2	0	0	2,097,800	0	0	0	2,097,800	Jun 21	Expansion	100%

EXHIBIT C
Summary of Expenses and Anticipated Construction Dates
for Fiscal Year Ended June 30, 2016
(Government Code §66006(b)(1)(C) and (D).)

CITY OF TRACY		FEE FUNDED CAPITAL IMPROVEMENT PROJECT LISTINGS					FIVE YEAR PLAN - FY16-17 THROUGH FY20-21					01-JUL-16		
Project #	Project Title	Project \$ Total ¹	Funding Sources	Prior Years Expenditures	FY15-16 Expenditures ²	Total	Adopted Capital Budget FY16-17	<----- New Appropriations Required ----->				Anticipated Completion & Comments	% Fee Funded	
							FY16-17	FY17-18	FY18-19	FY19-20	FY20-21			
	MacArthur to Paradise													
73PP-095	Construction-Crossroads Drive, Greystone to Schulte	\$3,820,000	F352-So MacArthur Area	0	0	152,000	0	0	0	152,000	0	Dec 20	New Installation	4%
			F363-TIMP Traffic	0	0	1,658,000	0	0	400,000	1,258,000	0			43%
			Developer Contribution	0	0	2,010,000	0	0	0	2,010,000	0			53%
73PP-097	Widening-Linne, Corral Hollow to Tracy	\$13,641,700	F313-Infill Arterials	0	0	13,641,700	0	0	0	0	13,641,700	Jun 21	Expansion	100%
73PP-103	Construction-N Roadways, I205 NW Area	\$721,814	F353-I205 Plan Area	51,114	0	670,700	0	0	0	0	670,700	Jun 21	New Installation	100%
73PP-112	Widening-Schulte Rd, W of Barcelona	\$2,228,000	F363-TIMP Traffic	0	0	2,228,000	0	0	0	0	2,228,000	Jun 20	Expansion	100%
73PP-120	Widening-MacArthur Dr, Schulte Rd to Valpico Rd, Phase 3	\$6,629,000	F313-Infill Arterials	0	0	2,794,700	0	2,794,700	0	0	0	Jun 19	Expansion	42%
			F354-ISP South Area	0	0	2,646,400	0	2,646,400	0	0	0			40%
			F358-Ellis Area	0	0	41,900	0	41,900	0	0	0			1%
			Developer Contribution	0	0	1,146,000	0	1,146,000	0	0	0			17%
73PP-127	Intersection Imprvmnts-Pavilion & Capital	\$2,044,260	F363-TIMP Traffic	0	0	2,044,260	0	0	0	2,044,260	0	Dec 20	New Installation	100%
73PP-128	Construction-Capital Parks Dr, Hansen to	\$2,498,000	F363-TIMP Traffic	0	0	2,498,000	0	0	0	2,498,000	0	Dec 20	New Installation	100%
74083	Second Outfall Pipeline - WW Treatment Plant	\$26,000,000	F357-NE Ind Area Ph 2	3,659,562	185,933	1,154,505	1,154,505	0	0	0	0	Jun 19	Design Completed	19%
			Debt Proceeds	0	0	14,000,000	14,000,000	0	0	0	0		ROW Acquisition	54%
			Developer Contribution	0	0	7,000,000	7,000,000	0	0	0	0			27%
74084	WW Line Upgrades-E Grant Line Rd	\$4,826,400	F354-ISP South Area	86,897	34,514	4,704,989	134,289	4,570,700	0	0	0	Apr 18	Design Underway	100%
74091	Wastewater Recycling Pipeline, Phase I	\$21,745,000	F523-Wastewater Capital	75,095	0	69,905	69,905	0	0	0	0	Jul 17	Planning Underway	1%
			F364-TIMP Wastewater	0	0	3,600,000	0	3,600,000	0	0	0			17%
			Grant Funding	0	0	18,000,000	4,100,000	13,900,000	0	0	0			83%
74097	Upgrade WW Collection System-Hansen Road	\$5,578,700	F356-Tracy Gateway Area	647,822	13,270	572,390	572,390	0	0	0	0	Jul 18	Work Underway	22%
			F523-Wastewater Capital	0	0	26,518	26,518	0	0	0	0			0%
			Future Developments	0	0	3,198,700	0	3,198,700	0	0	0			57%
			Developer Contribution	0	167,406	952,594	952,594	0	0	0	0			20%
74098	WW Lines Replacement Program - FY13 Phase	265,000	F523-Wastewater Capital	131,975	0	133,025	133,025	0	0	0	0	Aug 15	Work Completed	100%
			F356-Tracy Gateway Area	0	5,230	-5,230	-5,230	0	0	0	0			
74107	Wastewater Treatment Plant Expansion-Phase 2	\$37,000,000	F523-Wastewater Capital	0	0	7,000,000	3,000,000	4,000,000	0	0	0	Jun 19	Expansion	19%
			F364-TIMP Wastewater	0	0	30,000,000	0	30,000,000	0	0	0			81%
74110	WWS Improvements-Tracy Hills Area	\$9,054,000	Developer Contribution	1,294,645	0	7,759,355	7,759,355	0	0	0	0	Jun 17	Design Underway	100%

EXHIBIT C
Summary of Expenses and Anticipated Construction Dates
for Fiscal Year Ended June 30, 2016
(Government Code §66006(b)(1)(C) and (D).)

CITY OF TRACY		FEE FUNDED CAPITAL IMPROVEMENT PROJECT LISTINGS					FIVE YEAR PLAN - FY16-17 THROUGH FY20-21					01-JUL-16		
Project #	Project Title	Project \$ Total ¹	Funding Sources	Prior Years Expenditures	FY15-16 Expenditures ²	Total	Adopted Capital Budget FY16-17	<----- New Appropriations Required ----->				Anticipated Completion & Comments	% Fee Funded	
							FY16-17	FY17-18	FY18-19	FY19-20	FY20-21			
74113	Force Main Expansion - Larch Road	\$2,008,800	F325-Utilities-Plan C	8,867	0	396,133	396,133	0	0	0	0	Sep 17	Work Underway	20%
			F356-Tracy Gateway Area	0	10,865	1,592,935	1,592,935							80%
			F523-Wastewater Capital	0	38,810	-38,810	-38,810	0	0	0	0			0%
74114	WWCS Improvements- NE Industrial Area #2-Ph 2	\$5,600,000	F357-NE Ind Area Ph 2	0	0	2,436,200	813,000	1,623,200	0	0	0	Nov 18	Design Underway	44%
			Future Developments	0	0	3,163,800	0	3,163,800	0	0	0			56%
74118	New WW Lines - Corral Hollow Road	\$8,400,000	F358-Ellis Area	0	4,421	648,019	648,019	0	0	0	0	Nov 18	New Installation	8%
			F364-TIMP Wastewater	0	0	5,000,000	0	5,000,000	0	0	0			60%
			Developer Contribution	0	0	2,747,560	2,000,000	747,560	0	0	0			33%
74119	New WW Lines - East side Sewer	\$4,820,000	F354-ISP South Area	0	10,838	1,989,162	175,162	1,814,000	0	0	0	Nov 18	New Installation	41%
			F364-TIMP Wastewater	0	0	2,820,000	0	2,820,000	0	0	0			59%
74120	WW Line Upgrade- Phase II, MacArthur Dr and Pacheco	\$2,548,500	F354-ISP South Area	0	0	2,048,500	214,500	1,834,000	0	0	0	Jun 18	Upgrade	80%
			F364-TIMP Wastewater	0	0	500,000	0	500,000	0	0	0			20%
74PP-049	Wastewater Treatment Plant Expansion-Phase 3	\$90,000,000	F523-Wastewater Capital	0	0	5,000,000	0	0	0	1,000,000	4,000,000	Oct 22	Expansion	6%
			F358-Ellis Area	0	0	11,940,000	0	0	0	2,000,000	9,940,000			13%
			F364-TIMP Wastewater	0	0	73,060,000	0	0	0	5,000,000	68,060,000			81%
74PP-054	WWTP Replacements Prgm-Future Ph	\$1,045,000	F523-Wastewater Capital	0	0	1,045,000	0	250,000	260,000	265,000	270,000		Annual Phased Contingency	100%
74PP-064	Wastewater Conveyance- Tracy Gateway, Phase I	\$2,147,500	F356-Tracy Gateway Area	0	0	2,147,500	0	0	2,147,500	0	0	Dec 19	New Installation	100%
74PP-065	Reclaimed WD System-Tracy Gateway A	\$553,500	F356-Tracy Gateway Area	0	0	553,500	0	0	553,500	0	0	Jun 19	New Installation	100%
74PP-067	Reclaimed Water Improvements - Tracy Gateway Area	\$2,411,600	F356-Tracy Gateway Area	0	0	2,411,600	0	0	0	0	2,411,600	Dec 20	New Installation	100%
74PP-101	Wastewater Treatment Plant Expansion-Phase 4	\$52,100,000	F523-Wastewater Capital	0	0	4,800,000	0	0	0	0	4,800,000	Jun 25	Expansion	9%
			F364-TIMP Wastewater	0	0	47,300,000	0	0	0	0	47,300,000			91%
74PP-117	WW Treatment Plant Expansion-Ph 5	\$105,500,000	F364-TIMP Wastewater	0	0	105,500,000	0	0	0	0	105,500,000	Jun 27	Expansion	100%
74PP-112	Pump Station Upgrade Corral Hollow Rd, near Larch Rd	\$2,500,000	F364-TIMP Wastewater	0	0	2,500,000	0	0	0	235,000	2,265,000	Dec 18	Expansion	100%
75046	Water Distribution System - NE Industrial Area	2,928,999	F351-NE Ind Area Ph 1	2,588,971	480	339,548	3,448	336,100	0	0	0	Jun 18	Ph 2 Deferred	
75085	Water Distribution System - Tracy Gateway Area	\$5,338,002	F356-Tracy Gateway Area	53,572	0	5,284,430	0	5,284,430	0	0	0	Jun 16	Design Underway	100%

EXHIBIT C
Summary of Expenses and Anticipated Construction Dates
for Fiscal Year Ended June 30, 2016
(Government Code §66006(b)(1)(C) and (D).)

CITY OF TRACY		FEE FUNDED CAPITAL IMPROVEMENT PROJECT LISTINGS					FIVE YEAR PLAN - FY16-17 THROUGH FY20-21					01-JUL-16		
Project #	Project Title	Project \$ Total ¹	Funding Sources	Prior Years Expenditures	FY15-16 Expenditures ²	Total	Adopted Capital Budget	<----- New Appropriations Required ----->				Anticipated Completion & Comments	% Fee Funded	
							FY16-17	FY17-18	FY18-19	FY19-20	FY20-21			
75108	Water Lines -MacArthur Dr, Linne Rd to Valpico Rd	\$1,926,000	F513-Water Capital	0	1,190,083	146,667	33,267	113,400	0	0	0	Dec 15	Work Completed	69%
			F325-Utilities-Plan C	232,994	-16,622	-783,572	76,378	-859,950	0	0	0			-29%
			F352-So MacArthur Area	0	409,900	0	0	0	0	0	0			21%
			F354-ISP South Area	0	0	746,550	0	746,550	0	0	0			39%
75118	Construct New Clearwell-Water Treatment Plant	\$4,638,000	F358-Ellis Area	0	0	2,760,800	2,760,800	0	0	0	0	Jun 18	Design Underway	60%
			F365-TIMP Water	0	0	1,877,200	1,877,200	0	0	0	0			40%
			Developer Contribution	182,415	0	-182,415	-182,415	0	0	0	0			0%
75119	Purchase of SSJID Water Supply from Lathrop	\$5,000,000	F513-Water Capital	5,000,000	0	-5,000,000	-5,000,000	0	0	0	0	Sep 13	Purchase Complete	0%
			F365-TIMP Water	0	0	5,000,000	5,000,000	0	0	0	0			100%
75120	Water Improvements-Tracy Hills Area	\$3,414,000	Developer Contribution	1,288,444	0	2,125,556	2,125,556	0	0	0	0	Jun 17	Work Underway	100%
75121	Booster Pump Station - Water Trtmt Plant	\$7,560,000	Developer Contribution	251,953	0	7,308,047	7,308,047	0	0	0	0	Dec 17	Design Underway	100%
			F365-TIMP Water	0	0	0	0	0	0	0	0			0%
75129	Recycled Water Study	\$150,000	F365-TIMP Water	0	0	150,000	150,000	0	0	0	0	Jun 16	Study	100%
75131	Cordes Ranch Water Tanks & Booster Pu	\$8,179,500	Developer Contribution	0	0	8,179,500	8,179,500	0	0	0	0	Mar 17	New Facility	100%
75133	Cordes Ranch Water Recycling Water Lir	\$1,263,460	F365-TIMP Water	0	1,138,999	124,461	124,461	0	0	0	0	Jun 15	Work Completed	100%

EXHIBIT C
Summary of Expenses and Anticipated Construction Dates
for Fiscal Year Ended June 30, 2016
(Government Code §66006(b)(1)(C) and (D).)

CITY OF TRACY		FEE FUNDED CAPITAL IMPROVEMENT PROJECT LISTINGS					FIVE YEAR PLAN - FY16-17 THROUGH FY20-21					01-JUL-16		
Project #	Project Title	Project \$ Total ¹	Funding Sources	Prior Years Expenditures	FY15-16 Expenditures ²	Total	Adopted Capital Budget FY16-17	<----- New Appropriations Required ----->				Anticipated Completion & Comments	% Fee Funded	
							FY17-18	FY18-19	FY19-20	FY20-21				
75137	Conjunctive Groundwater Use Study	\$137,000	F513-Water Capital	0	0	62,700	62,700	0	0	0	0	Jun 17	Study	46%
			F352-So MacArthur Area	0	0	54,300	54,300	0	0	0	0			40%
			F354-ISP South Area	0	0	20,000	20,000	0	0	0	0			15%
75PP-081	Water Storage Reservoir-Tracy Gateway	\$2,268,000	F356-Tracy Gateway Area	0	0	2,268,000	0	0	0	2,268,000	0	Jun 20	New Facility	100%
75PP-082	Water Pump Stations-Tracy Gateway Area	\$1,620,000	F356-Tracy Gateway Area	0	0	1,620,000	0	0	1,620,000	0	0	Jun 19	New Facility	100%
75PP-083	Emergency Well for Tracy Gateway Area	\$2,671,100	F356-Tracy Gateway Area	0	0	2,671,100	0	0	2,671,100	0	0	Jun 19	New Facility	100%
75PP-094	Water Master Plan-City Wide Update	\$45,000	F356-Tracy Gateway Area	0	0	45,000	0	0	45,000	0	0	Jun 18	Study	100%
75PP-109	Plant Expansion-Water Treatment Plant	\$44,913,300	F358-Ellis Area	0	0	6,527,300	0	0	0	6,527,300	0	Dec 21	Expansion	15%
			F365-TIMP Water	0	0	38,386,000	0	0	0	38,386,000	0			85%
76043	Drainage Improvements - NE Indus Area	\$340,100	F351-NE Ind Area Ph 1	0	0	340,100	340,100	0	0	0	0	Jul 17	Design Underway	100%
76045	New Detention Basin 2A - ISP South, Zone 2	\$5,236,507	F354-ISP South Area	703,285	303,241	947,519	-303,241	1,250,760	0	0	0	Apr 07	Reimbursements	37%
			F322-Drainage Plan C	839,222	0	0	0	0	0	0	0			16%
			Developer Contribution	3,694,000	0	0	-1,250,760	0	-1,250,760	0	0			47%
76059	Drainage Improvements - South MacArthur, Phase 2	\$675,600	F322-Drainage Plan C	0	0	54,000	54,000	0	0	0	0	Jul 17	Design Underway	8%
			F352-So MacArthur Area	121,594	50,553	449,453	449,453	0	0	0	0			92%
76066	Detention Basin 2B Blue Zone	\$2,357,000	F312-Infill Drainage	0	27,190	1,065,610	498,310	0	567,300	0	0	Dec 18	New Installation	46%
			F322-Drainage Plan C	0	0	72,300	72,300	0	0	0	0			3%
			F354-ISP South Area	0	0	1,191,900	573,200	0	618,700	0	0			51%
76067	Storm Drains Basins LW6 - Lammers Watershed	\$5,624,300	F541-Drainage	0	0	0	0	0	0	0	0	Dec 15	Work Completed	0%
			F362-TIMP Drainage	0	887,842	4,736,458	-7,842	0	4,744,300	0	0			100%
76069	Construction-West Side Channel-North of Edgewood	\$228,200	Developer Contribution	0	0	228,200	228,200	0	0	0	0	Jun 17	New Installation	100%
76071	Water Lines-Tracy Blvd, 6th St to Mt Diablo to 4th St	\$537,100	Developer Contribution	0	0	537,100	537,100	0	0	0	0	Jun 17	New Installation	100%
76PP-027	Storm Drain-Sterling Park/Johnson (Yellow Zone)	\$172,000	F322-Drainage Plan C	0	0	172,000	0	172,000	0	0	0	Jun 06	Reimbursement	100%
			Developer Contribution	172,000	0	-172,000	0	-172,000	0	0	0			0%
76PP-028	Storm Drain-San Marco 42" (Yellow Zone)	\$181,200	F322-Drainage Plan C	0	0	181,200	0	0	181,200	0	0	Nov 99	Reimbursement	100%
			Developer Contribution	181,200	0	-181,200	0	0	-181,200	0	0			0%
76PP-035	Storm Drains Outfall	\$170,200	F322-Drainage Plan C	0	0	170,200	0	0	0	170,200	0	Jan 01	Reimbursement	100%

EXHIBIT C
Summary of Expenses and Anticipated Construction Dates
for Fiscal Year Ended June 30, 2016
(Government Code §66006(b)(1)(C) and (D).)

CITY OF TRACY		FEE FUNDED CAPITAL IMPROVEMENT PROJECT LISTINGS					FIVE YEAR PLAN - FY16-17 THROUGH FY20-21					01-JUL-16		
Project #	Project Title	Project \$ Total ¹	Funding Sources	Prior Years Expenditures	FY15-16 Expenditures ²	Total	Adopted Capital Budget FY16-17	<----- New Appropriations Required ----->				Anticipated Completion & Comments	% Fee Funded	
			Developer Contribution	170,200	0	-170,200	0	FY17-18	FY18-19	FY19-20	FY20-21		0%	
76PP-039	Drainage Improvements-S. MacArthur, Ph	\$6,500,000	F362-TIMP Drainage	0	0	6,500,000	0	0	0	0	6,500,000	Jun 21	New Installation	100%
76PP-048	Drainage Improvements - ISP South, Zone 1	\$1,291,500	F312-Infill Drainage	0	0	617,600	0	617,600	0	0	0	Jun 18	New Installation	48%
			F354-ISP South Area	0	0	673,900	0	673,900	0	0	0			52%
76PP-061	Drainage Conveyance-Tracy Gateway	\$689,100	F356-Tracy Gateway Area	0	0	689,100	0	0	0	0	689,100	Jun 21	New Installation	100%
76PP-064	Drainage Improvements-Pescadero Ave	\$11,056,900	F357-NE Ind Area Ph 2	0	0	11,056,900	0	0	0	9,619,100	1,437,800	Jun 21	New Installation	100%
76PP-065	Drainage Improvements - Chrisman Rd, Paradise to Grant Line	\$484,900	F357-NE Ind Area Ph 2	0	0	484,900	0	0	0	0	484,900	Jun 21	New Installation	100%
76PP-068	Storm Drains Outfall-Rocha and 35	\$870,800	F362-TIMP Drainage	0	0	870,800	0	0	870,800	0	0	Jun 19	New Installation	100%
76PP-070	Drainage Improvements - Bessie Ave, Eaton to Grant Line Rd	\$3,329,400	F312-Infill Drainage	0	0	3,329,400	0	0	229,600	3,099,800	0	Jun 20	Upgrade	100%
76PP-073	Detention Basin 12 So of Arbor Rd & W of MacArthur Dr	\$394,700	F312-Infill Drainage	0	0	394,700	0	0	394,700	0	0	Jun 19	New Installation	100%
76PP-074	Detention Basin Lowell So of Lowell Ave & W of Lincoln Blvd	\$772,900	F312-Infill Drainage	0	0	772,900	0	0	525,000	247,900	0	Jun 20	New Installation	100%
76PP-075	Drainage Improvements - Tracy Blvd & 12th Street	\$1,155,100	F312-Infill Drainage	0	0	1,155,100	0	0	128,400	1,026,700	0	Jun 20	New Installation	100%
76PP-076	Drainage Improvements-Greenbelt Prkwy	\$11,209,600	F362-TIMP Drainage	0	0	11,209,600	0	11,209,600	0	0	0	Dec 18	New Installation	100%
76PP-077	Detention Basin 3-MH Mountain House Watershed	\$2,793,400	F362-TIMP Drainage	0	0	2,793,400	0	0	0	0	2,793,400	Jun 20	New Installation	100%
76PP-078	Upgrade Pond 10 Pump Mountain House Watershed	\$300,000	F312-Infill Drainage	0	0	300,000	0	0	300,000	0	0	Dec 19	Upgrade	100%
78054	Aquatics Center - Ellis Area	\$13,551,000	F324-Gen Fac Plan C	1,110,480	13,938	1,631,582	1,631,582	0	0	0	0	Jan 19	Design Underway	20%
			F352-So MacArthur Area	0	0	138,800	138,800	0	0	0	0			1%
			F354-ISP South Area	0	0	231,500	231,500	0	0	0	0			2%
			F355-Presidio Area	0	0	114,700	114,700	0	0	0	0			1%
			F391-Kagehiro Parks	0	0	310,000	310,000	0	0	0	0			2%
			Developer Contribution	0	0	10,000,000	10,000,000	0	0	0	0			74%
78115	Youth Sports Facilities- Legacy Sports Field Site, Ph IA	\$10,743,630	F301-General Projects	8,211,812	0	5,818	5,818	0	0	0	0	Mar 13	Work Completed	76%
			F321-Parks Plan C	1,648,000	0	0	0	0	0	0	0			15%

EXHIBIT C
Summary of Expenses and Anticipated Construction Dates
for Fiscal Year Ended June 30, 2016
(Government Code §66006(b)(1)(C) and (D).)

CITY OF TRACY		FEE FUNDED CAPITAL IMPROVEMENT PROJECT LISTINGS					FIVE YEAR PLAN - FY16-17 THROUGH FY20-21					01-JUL-16		
Project #	Project Title	Project \$ Total ¹	Funding Sources	Prior Years Expenditures	FY15-16 Expenditures ²	Total	Adopted Capital Budget FY16-17	<----- New Appropriations Required ----->				Anticipated Completion & Comments	% Fee Funded	
							FY17-18	FY18-19	FY19-20	FY20-21				
			F352-So MacArthur Area	878,000	0	0	0	0	0	0			8%	
78155	Upgrade/Expansion-Lolly Hansen Sr Cen	\$824,100	F366-TIMP Pub Fac	0	0	824,100	824,100	0	0	0	0	Jun 21	Upgrade/Expansion	100%
78088	Library Facility Expansion-Unknown Location	\$3,408,800	F311-Infill Parks	0	0	527,000	0	527,000	0	0	0	Dec 19	Expansion	15%
			F324-Gen Fac Plan C	0	0	1,260,200	0	400,000	860,200	0	0			37%
			F352-So MacArthur Area	0	0	141,000	0	0	141,000	0	0			4%
			F354-ISP South Area	0	0	246,500	0	0	246,500	0	0			7%
			F355-Presidio Area	0	0	115,700	0	0	115,700	0	0			3%
			F358-Ellis Area	0	0	1,118,400	0	0	1,118,400	0	0			33%
78093	Park Expansion - Tracy Press Park	\$131,500	F345-RSP Prgm Mgmt Developer Contribution	0	0	131,500	0	131,500	0	0	0	Dec 05	Reimbursement	100%
				131,500	0	-131,500	0	-131,500	0	0	0			0%
78124	Dog Park Site-South Tracy	\$310,000	F301-General Projects	0	0	163,000	0	0	163,000	0	0	Jun 18	New Facility	53%
			F391-Kagehiro Parks	0	0	147,000	0	0	147,000	0	0			47%
78PP-018	Park Development - El Pescadero Park, Phase II	\$1,225,000	F301-General Projects	0	0	320,000	0	320,000	0	0	0	Jun 18	Upgrade/Expansion	26%
			Developer Contribution	0	0	905,000	0	905,000	0	0	0			74%
78PP-123	Neighborhood Park-Location TBD	\$5,186,400	F311-Infill Parks	0	0	5,186,400	0	0	0	5,186,400	0	Jun 21	New Facility	100%
78PP-128	Swainson Hawk Mitigation-I205 Area, Ph	\$572,500	F353-I205 Plan Area	0	0	572,500	0	0	572,500	0	0	Jun 19	New Facility	100%
78PP-201	Neighborhood Parks-Ellis Prgm Area	\$11,729,450	F358-Ellis Area	0	0	11,729,450	0	0	11,729,450	0	0	Jun 20	New Facility	100%
78PP-202	Community Park-Ellis Prgm Area	\$3,372,010	F358-Ellis Area	0	0	3,372,010	0	0	0	3,372,010	0	Jun 20	New Facility	100%
78PP-203	Community Center-Ellis Prgm Area	\$1,206,810	F358-Ellis Area	0	0	1,206,810	0	0	0	1,206,810	0	Jun 20	New Facility	100%
78PP-204a	South County Park-North Tracy	\$1,118,400	F358-Ellis Area	0	0	1,118,400	0	0	0	1,118,400	0	Jun 18	New Facility	100%
78PP-207	Community Recreation New Location TBD	\$25,318,000	F301-General Projects	0	0	12,040,000	0	0	0	12,040,000	0	Dec 21	New Facility	48%
			F366-TIMP Pub Fac	0	0	13,278,000	0	0	0	13,278,000	0			52%
79201	Infill Prgm Mgmt	\$966,739	F31x-Infill Funds	433,428	74	523,629	60,079	80,000	80,000	80,000	223,550	Jun 22	Annual Contingency	99%
			F395-CIP Prgm Deps		9,608	0	0	0	0	0	0			1%
79203	I205 Area Prgm Mgmt	\$802,217	F353-I205 Plan Area	811,468	103	-9,354	-9,354	0	0	0	0	Jun 14	Annual Contingency	100%
79204	Plan C Prgm Mgmt	\$5,092,512	F391-UMP Facilities	4,580,767	1,169	510,576	64,516	100,000	100,000	100,000	146,060	Jun 20	Annual Contingency	100%
79205	Industrial SP So, Prgm Mgmt	\$1,878,512	Developer Contribution	236,980	0	0	0	0	0	0	0	Jun 20	Annual Contingency	13%
			F354-ISP South Area	522,153	17,392	1,101,987	126,087	75,000	75,000	75,000	750,900			87%

EXHIBIT C
Summary of Expenses and Anticipated Construction Dates
for Fiscal Year Ended June 30, 2016
(Government Code §66006(b)(1)(C) and (D).)

CITY OF TRACY		FEE FUNDED CAPITAL IMPROVEMENT PROJECT LISTINGS					FIVE YEAR PLAN - FY16-17 THROUGH FY20-21					01-JUL-16		
Project #	Project Title	Project \$ Total ¹	Funding Sources	Prior Years Expenditures	FY15-16 Expenditures ²	Total	Adopted Capital Budget FY16-17	<----- New Appropriations Required ----->				Anticipated Completion & Comments	% Fee Funded	
							FY17-18	FY18-19	FY19-20	FY20-21				
79206	NE Industrial Area #1-Prgm Mgmt	\$2,342,332	F351-NE Ind Area Ph 1	2,163,070	1,861	113,896	46,296	67,600	0	0	0	Jun 17	Annual Contingency	97%
			Developer Contribution	63,505	0	0	0	0	0	0	0			3%
79207	So MacArthur Area-Prgm Mgmt	\$383,994	F352-So MacArthur Area	281,181	8,163	94,650	48,010	46,640	0	0	0	Jun 17	Annual Contingency	100%
79208	NE Industrial Area #2-Prgm Mgmt	\$2,226,094	F357-NE Ind Area Ph 2	541,112	14,456	1,670,526	72,926	80,000	80,000	80,000	1,357,600	Jun 20	Annual Contingency	100%
79209	Tracy Gateway-Prgm Mgmt	\$1,653,510	F356-Tracy Gateway Area	68,242	159	1,585,109	331,109	100,000	100,000	100,000	954,000	Jun 20	Annual Contingency	100%
79210	Presidio Area-Prgm Mgmt	\$437,608	F355-Presidio Area	100,739	4,651	72,406	72,406	0	0	0	0	Jun 13	Annual Contingency	41%
			Developer Contribution	259,812	0	0	0	0	0	0	0			59%
79211	Ellis Area-Prgm Mgmt	\$3,143,420	F358-Ellis Area	0	0	3,143,420	205,000	200,000	200,000	200,000	2,338,420	Jun 25	Annual Contingency	100%
79212	Infrastructure Master Plan Area-Prgm Mg	\$1,045,000	F391-UWP Facilities	1,162	48,883	994,501	194,501	200,000	200,000	200,000	200,000	Jun 35	Annual Contingency	100%
			F367-TIMP Pub Safety	0	454									
79313	Development Reviews-FY13 Projects	\$215,000	Developer Contribution	10,809	0	204,191	204,191	0	0	0	0	Ongoing	New Developments	100%
79314	Development Reviews-FY14 Projects	\$300,000	Developer Contribution	195,532	0	104,468	104,468	0	0	0	0	Ongoing	New Developments	100%
79315	Development Reviews-FY15 Projects	\$1,717,056	Developer Contribution	1,717,056	0	0	0	0	0	0	0	Ongoing	New Developments	100%
79316	Development Reviews-FY16 Projects	\$1,000,000	Developer Contribution	0	0	1,000,000	1,000,000	0	0	0	0	Ongoing	New Developments	100%
79364b	Downtown Brew Pub/Property Acquisition	\$1,000,000	F345-RSP Prgm Mgmt	46,458	0	953,542	953,542	0	0	0	0	Jun 16	Work Underway	100%
79366	Retail Incentives-Office/Industrial	\$35,000	F345-RSP Prgm Mgmt	2,745	15,000	17,255	17,255	0	0	0	0	Jun 16	Work Underway	100%
79367	Property Acquisition- West Schulte & Lammers Area	\$695,250	F345-RSP Prgm Mgmt	263,715	3,800	427,735	427,735	0	0	0	0	Jun 16	Work Underway	100%
79368	Hi-Tech Incentive Pilot Prgm	\$238,483	F345-RSP Prgm Mgmt	7,500	0	230,983	230,983	0	0	0	0	Jun 16	Work Underway	100%
79369	Facade Improvements - Grant Prgm	205,055	F268-Com Dev Block Gt	0	0	183,846	183,846	0	0	0	0	17-Jun	Planned for FY17	90%
			F345-RSP Prgm Mgmt	0	21,209	0	0	0	0	0	0			10%
79371	Housing Element Updated - FY15	100,000	F101-General	7,926	38,616	50,750	50,750	0	0	0	0	Jun 17	Work Underway	97%
			F345-RSP Prgm Mgmt	0	2,708									3%
79372	Economic Development Fund	\$500,000	F345-RSP Prgm Mgmt	0	0	500,000	500,000	0	0	0	0	Jun 15		100%
79PP-001b	Development Reviews-Future Years	\$8,000,000	Developer Contribution	0	0	8,000,000	4,000,000	1,000,000	1,000,000	1,000,000	1,000,000		New Developments	100%
79912	Wastewater CIP	\$0	F353-I205 Plan Area	0	1,504,000	2,200,000	1,100,000	1,100,000	0	0	0	Jun 19	Reimbursements	35%

EXHIBIT C
Summary of Expenses and Anticipated Construction Dates
for Fiscal Year Ended June 30, 2016
(Government Code §66006(b)(1)(C) and (D).)

CITY OF TRACY		FEE FUNDED CAPITAL IMPROVEMENT PROJECT LISTINGS					FIVE YEAR PLAN - FY16-17 THROUGH FY20-21						01-JUL-16	
Project #	Project Title	Project \$ Total ¹	Funding Sources	Prior Years Expenditures	FY15-16 Expenditures ²	Total	Adopted Capital Budget FY16-17	<----- New Appropriations Required ----->				Anticipated Completion & Comments	% Fee Funded	
							FY17-18	FY18-19	FY19-20	FY20-21				
	Reimbursements		F523-Wastewater Capital	0	-2,004,000	-10,883,200	-5,441,600	-3,838,800	-1,602,800	0	0		56%	
			F351-NE Ind Area Ph 1	0	500,000	7,205,600	3,602,800	2,000,000	1,602,800	0	0		9%	
			F356-Tracy Gateway Area	0	0	1,477,600	738,800	738,800	0	0	0			
79913	Water CIP	\$0	F353-I205 Plan Area	0	0	0	0	0	0	0	0	Jun 19	Reimbursements	21%
	Reimbursements		F513-Water Capital	0	-670,700	-3,440,400	-1,720,200	-1,720,200	0	0	0			
			F325-Utilities-Plan C	0	0	-1,548,400	-774,200	0	-774,200	0	0			
			F351-NE Ind Area Ph 1	0	670,700	3,440,400	1,720,200	1,720,200	0	0	0			54%
			F354-ISP South Area	0	0	1,548,400	774,200	0	774,200	0	0			25%
79914	Drainage CIP	\$0	F345-RSP Prgm Mgmt	0	0	-3,181,200	-1,590,600	-795,300	-795,300	0	0	Jun 19	Reimbursements	
	Reimbursements		F353-I205 Plan Area	0	0	3,181,200	1,590,600	795,300	795,300	0	0			100%
	TOTAL	\$1,147,208,936		\$75,246,047	\$12,356,712	\$1,059,606,177	\$122,891,457	\$229,880,000	\$40,866,300	\$138,611,420	\$527,357,000			
	¹ Project totals as of June 30, 2015 CIP Budget.													
	² Expenditures are within the amount appropriated by City Council.													
	³ Sufficient funds have not been collected to complete this project.													
	⁴ Program Management fees are annual contingencies for Program Plan Areas not yet built out.													
	⁵ Future Development reference means that it was anticipated the developer was constructing an improvement at their cost. In some cases, a developer contribution may be shown with a later reimbursement from an impact fee fund.													

EXHIBIT C
Summary of Expenses and Anticipated Construction Dates
for Fiscal Year Ended June 30, 2016
 (Government Code §66006(b)(1)(C) and (D).)

CITY OF TRACY		FEE FUNDED CAPITAL IMPROVEMENT PROJECT LISTINGS				FIVE YEAR PLAN - FY16-17 THROUGH FY20-21					01-JUL-16		
		Project	Funding	Prior Years	FY15-16	Adopted Capital Budget <----- New Appropriations Required ----->					Anticipated Completion & Comments	% Fee Funded	
Project #	Project Title	\$ Total ¹	Sources	Expenditures	Expenditures ²	Total	FY16-17	FY17-18	FY18-19	FY19-20			FY20-21
					\$9,608								
					\$519,383		Summary of Expenditures - FY15-16 Other Sources						
					-\$1,965,190				F101-General	\$38,616			
					\$167,406				F245-Gas Tax-Sec 2106	\$22,047			
					\$546,585				F301-General Projects	\$94,097			
					\$130,630				F513-Water Capital	\$519,383			
					\$12,356,712				F523-Wastewater Capital	-\$1,965,190			
									Federal TEA Grant	\$546,585			
									Grant Funding	\$130,630			
									Total - Other Sources	-\$613,831			
									Total - All Funding Sources	\$12,356,712			

EXHIBIT D
Report of Findings for Development Fee Funds
Collected for the Fiscal Year Ended June 30, 2016
(Government Code §66001(d).)

INFILL AREA, PARK FEE- FUND 311

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Infill April 2012 Update Finance and Implementation Plan and dated April 3, 2012, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

INFILL AREA, STORM DRAINAGE FEE - FUND 312

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Infill April 2012 Update Finance and Implementation Plan and dated April 3, 2012, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

INFILL AREA, ARTERIALS FEE - FUND 313

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Infill April 2012 Update Finance and Implementation Plan and dated April 3, 2012, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

INFILL AREA, PUBLIC BUILDINGS AND EQUIPMENT FEE - FUND 314

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Infill April 2012 Update Finance and Implementation Plan and dated April 3, 2012, (2) in the latest Public Safety Development Impact Fee Update adopted on September 16, 2014 by Resolution 2014-158 and (3) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

INFILL AREA, DOWNTOWN IMPROVEMENTS PARKING FEE - FUND 316

In conjunction with the adoption of Tracy Municipal Code chapter 6.20 regarding the Downtown Incentive Program, and TMC section 10.08.3470(d)(3), regarding off-street parking requirements within the Downtown Incentive Area, development impact fees were established to offset a portion of the City's costs in upgrading parking and streetscape improvements in the Downtown Incentive Area.

INFILL AREA, WATER FEE - FUND 317

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Infill April 2012 Update Finance and Implementation Plan and dated April 3, 2012, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

INFILL AREA, WASTEWATER FEE - FUND 318

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Infill April 2012 Update Finance and Implementation Plan and dated April 3, 2012, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

INFILL AREA, PROGRAM MANAGEMENT FEE - FUND 315

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Infill April 2012 Update Finance and Implementation Plan and dated April 3, 2012, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

EXHIBIT D
Report of Findings for Development Fee Funds
Collected for the Fiscal Year Ended June 30, 2016
(Government Code §66001(d).)

PLAN C AREA, PARKS FEE - FUND 321

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Plan C June 2007 Update Finance and Implementation Plan and dated June 19, 2007, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

PLAN C AREA, STORM DRAINAGE FEE - FUND 322

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Plan C June 2007 Update Finance and Implementation Plan and dated June 19, 2007, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

PLAN C AREA, ARTERIALS FEE - FUND 323

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Plan C June 2007 Update Finance and Implementation Plan and dated June 19, 2007, and (2) in the latest Roadway Development Impact Fee Update adopted on May 6, 2014 and adopted by Resolution 2014-070, and (3) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

PLAN C AREA, GENERAL FACILITIES FEE - FUND 324

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Plan C June 2007 Update Finance and Implementation Plan and dated June 19, 2007, (2) in the latest Public Safety Development Impact Fee Update adopted on September 16, 2014 by Resolution 2014-158, and (3) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

PLAN C AREA, UTILITIES FEE - FUND 325

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Plan C June 2007 Update Finance and Implementation Plan and dated June 19, 2007, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

PLAN C AREA, PROGRAM MANAGEMENT FEE - FUND 391

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Plan C June 2007 Update Finance and Implementation Plan and dated June 19, 2007, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

EXHIBIT D
Report of Findings for Development Fee Funds
Collected for the Fiscal Year Ended June 30, 2016
(Government Code §66001(d).)

RESIDENTIAL SPECIFIC PLAN AREA, PARKS FEE - FUND 341

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Residential Specific Plan (RSP) 2003 Update Finance and Implementation Plan and dated July 15, 2003, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

RESIDENTIAL SPECIFIC PLAN AREA, STORM DRAINAGE FEE - FUND 342

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Residential Specific Plan (RSP) 2003 Update Finance and Implementation Plan and dated July 15, 2003, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

RESIDENTIAL SPECIFIC PLAN AREA, ARTERIALS FEE - FUND 343

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Residential Specific Plan (RSP) 2003 Update Finance and Implementation Plan and dated July 15, 2003, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

RESIDENTIAL SPECIFIC PLAN AREA, PUBLIC BUILDINGS FEE - FUND 344

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Residential Specific Plan (RSP) 2003 Update Finance and Implementation Plan and dated July 15, 2003, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

RESIDENTIAL SPECIFIC PLAN AREA, PROGRAM MANAGEMENT FEE - FUND 345

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Residential Specific Plan (RSP) 2003 Update Finance and Implementation Plan and dated July 15, 2003, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

EXHIBIT D
Report of Findings for Development Fee Funds
Collected for the Fiscal Year Ended June 30, 2016
(Government Code §66001(d).)

NORTHEAST INDUSTRIAL AREA, PHASE 1, ARTERIALS FEE - FUND 351

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Northeast Industrial Area - Phase 1 Update Finance and Implementation Plan and dated April, 15 2008, (2) the latest Roadway Development Impact Fee Update adopted on May 1, 2012 by Resolution 2012-077, and (3) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

NORTHEAST INDUSTRIAL AREA, PHASE 1, STORM DRAINAGE FEE - FUND 351

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Northeast Industrial Area - Phase 1 Update Finance and Implementation Plan and dated April 15, 2008, (2) the latest Storm Drainage Development Impact Fee Update adopted on May 1, 2012 by Resolution 2012-077, and (3) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

NORTHEAST INDUSTRIAL AREA, PHASE 1, WATER FEE - FUND 351

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Northeast Industrial Area - Phase 1 Update Finance and Implementation Plan and dated April 15, 2008, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

NORTHEAST INDUSTRIAL AREA, PHASE 1, WASTEWATER FEE - FUND 351

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Northeast Industrial Area - Phase 1 Update Finance and Implementation Plan and dated April 15, 2008, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

NORTHEAST INDUSTRIAL AREA, PHASE 1, PUBLIC BUILDINGS FEE - FUND 351

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Northeast Industrial Area - Phase 1 Update Finance and Implementation Plan and dated April 15, 2008, (2) in the latest Public Safety Development Impact Fee Update adopted on September 16, 2014 by Resolution 2014-158, and (3) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

NORTHEAST INDUSTRIAL AREA, PHASE 1, PROGRAM MANAGEMENT FEE - FUND 351

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Northeast Industrial Area - Phase 1 Update Finance and Implementation Plan and dated April 15, 2008, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

EXHIBIT D
Report of Findings for Development Fee Funds
Collected for the Fiscal Year Ended June 30, 2016
(Government Code §66001(d).)

SOUTH MACARTHUR PLAN AREA, ARTERIALS FEE - FUND 352

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called South MacArthur Plan Area Finance and Implementation Plan 2005 Update and dated September 20, 2005, and (2) in the latest Roadway Development Impact Fee update adopted on December 6, 2011 by Resolution 2011-227, and (3) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

SOUTH MACARTHUR PLAN AREA, STORM DRAINAGE FEE - FUND 352

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called South MacArthur Plan Area Finance and Implementation Plan 2005 Update and dated September 20, 2005, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

SOUTH MACARTHUR PLAN AREA, PARKS FEE - FUND 352

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called South MacArthur Plan Area Finance and Implementation Plan 2005 Update and dated September 20, 2005, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

SOUTH MACARTHUR PLAN AREA, WATER FEE - FUND 352

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called South MacArthur Plan Area Finance and Implementation Plan 2005 Update and dated September 20, 2005, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

SOUTH MACARTHUR PLAN AREA, WASTEWATER FEE - FUND 352

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called South MacArthur Plan Area Finance and Implementation Plan 2005 Update and dated September 20, 2005, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

SOUTH MACARTHUR PLAN AREA, PUBLIC BUILDINGS AND SERVICES FEE - FUND 352

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called South MacArthur Plan Area Finance and Implementation Plan 2005 Update and dated September 20, 2005, (2) in the latest Public Safety Development Impact Fee Update adopted on September 16, 2014 by Resolution 2014-158, and (3) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

EXHIBIT D
Report of Findings for Development Fee Funds
Collected for the Fiscal Year Ended June 30, 2016
(Government Code §66001(d).)

INDUSTRIAL SPECIFIC PLAN SOUTH AREA, ARTERIALS FEE - FUND 354

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Updated ISP South Finance and Implementation Plan and dated March 17, 2009, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

INDUSTRIAL SPECIFIC PLAN SOUTH AREA, STORM DRAINAGE FEE - FUND 354

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Updated ISP South Finance and Implementation Plan and dated March 17, 2009, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

INDUSTRIAL SPECIFIC PLAN SOUTH AREA, PARKS FEE - FUND 354

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Updated ISP South Finance and Implementation Plan and dated March 17, 2009, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

INDUSTRIAL SPECIFIC PLAN SOUTH AREA, PUBLIC BUILDINGS FEE - FUND 354

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Updated ISP South Finance and Implementation Plan and dated March 17, 2009, and (2) in the latest Public Safety Development Impact Fee Update adopted on September 16, 2014 by Resolution 2014-158, and (3) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

INDUSTRIAL SPECIFIC PLAN SOUTH AREA, WATER FEE - FUND 354

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Updated ISP South Finance and Implementation Plan and dated March 17, 2009, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

INDUSTRIAL SPECIFIC PLAN SOUTH AREA, WASTEWATER FEE - FUND 354

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Updated ISP South Finance and Implementation Plan and dated March 17, 2009, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

INDUSTRIAL SPECIFIC PLAN SOUTH AREA, PROGRAM MANAGEMENT FEE - FUND 354

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Updated ISP South Finance and Implementation Plan and dated March 17, 2009, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

EXHIBIT D
Report of Findings for Development Fee Funds
Collected for the Fiscal Year Ended June 30, 2016
(Government Code §66001(d).)

PRESIDIO AREA, ARTERIALS FEE - FUND 355

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Presidio Planning Area Finance and Implementation Plan and dated June 30, 2000, and (2) the latest Roadway Development Impact Fee Update adopted on October 2, 2001 by Resolution 2001-351, and (3) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

PRESIDIO AREA, ARTERIALS - REGIONAL FEE - FUND 355

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Presidio Planning Area Finance and Implementation Plan and dated June 30, 2000, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

PRESIDIO AREA, STORM DRAINAGE FEE - FUND 355

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Presidio Planning Area Finance and Implementation Plan and dated June 30, 2000, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

PRESIDIO AREA, PUBLIC BUILDINGS FEE - FUND 355

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Presidio Planning Area Finance and Implementation Plan and dated June 30, 2000, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

PRESIDIO AREA, WATER FEE - FUND 355

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Presidio Planning Area Finance and Implementation Plan and dated June 30, 2000, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

PRESIDIO AREA, WASTEWATER FEE - FUND 355

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Presidio Planning Area Finance and Implementation Plan and dated June 30, 2000, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

PRESIDIO AREA, PROGRAM MANAGEMENT FEE - FUND 355

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Presidio Planning Area Finance and Implementation Plan and dated June 30, 2000, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

EXHIBIT D
Report of Findings for Development Fee Funds
Collected for the Fiscal Year Ended June 30, 2016
(Government Code §66001(d).)

TRACY GATEWAY AREA, ARTERIALS FEE - FUND 356

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Tracy Gateway Project Infrastructure Cost Obligations and Phase 1 Finance and Implementation Plan Update and dated July 17, 2007, and (2) in the latest Roadway Development Impact Fee Update adopted on December 6, 2011 by Resolution 2011-227, and (3) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

TRACY GATEWAY AREA, STORM DRAINAGE FEE - FUND 356

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Tracy Gateway Project Infrastructure Cost Obligations and Phase 1 Finance and Implementation Plan Update and dated July 17, 2007, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

TRACY GATEWAY AREA, PUBLIC BUILDINGS FEE - FUND 356

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Tracy Gateway Project Infrastructure Cost Obligations and Phase 1 Finance and Implementation Plan Update and dated July 17, 2007, (2) in the latest Public Safety Development Impact Fee Update adopted on September 16, 2014 by Resolution 2014-158, and (3) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

TRACY GATEWAY AREA, WATER FEE - FUND 356

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Tracy Gateway Project Infrastructure Cost Obligations and Phase 1 Finance and Implementation Plan Update and dated July 17, 2007, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

TRACY GATEWAY AREA, WASTEWATER FEE - FUND 356

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Tracy Gateway Project Infrastructure Cost Obligations and Phase 1 Finance and Implementation Plan Update and dated July 17, 2007, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

TRACY GATEWAY AREA, PROGRAM MANAGEMENT FEE - FUND 356

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Tracy Gateway Project Infrastructure Cost Obligations and Phase 1 Finance and Implementation Plan Update and dated July 17, 2007, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

EXHIBIT D
Report of Findings for Development Fee Funds
Collected for the Fiscal Year Ended June 30, 2016
(Government Code §66001(d).)

NORTHEAST INDUSTRIAL AREA, PHASE 2, ARTERIALS FEE - FUND 357

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Northeast Industrial Area - Phase 2 Finance and Implementation Plan and dated January 15, 2008, (2) in the arterial fees adopted on May 1, 2012, and (3) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

NORTHEAST INDUSTRIAL AREA, PHASE 2, STORM DRAINAGE FEE - FUND 357

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Northeast Industrial Area - Phase 2 Finance and Implementation Plan and dated January 15, 2008, and (2) in the latest Storm Drainage Development Impact Fee Update adopted on May 1, 2012 by Resolution 2012-077, and (3) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

NORTHEAST INDUSTRIAL AREA, PHASE 2, WATER FEE - FUND 357

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Northeast Industrial Area - Phase 2 Finance and Implementation Plan and dated January 15, 2008, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

NORTHEAST INDUSTRIAL AREA, PHASE 2, WASTEWATER FEE - FUND 357

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Northeast Industrial Area - Phase 2 Finance and Implementation Plan and dated January 15, 2008, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

NORTHEAST INDUSTRIAL AREA, PHASE 2, PUBLIC BUILDINGS FEE - FUND 357

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Northeast Industrial Area - Phase 2 Finance and Implementation Plan and dated January 15, 2008, and (2) in the latest Public Safety Development Impact Fee Update adopted on September 16, 2014 by Resolution 2014-158, and (3) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

NORTHEAST INDUSTRIAL AREA, PHASE 2, PROGRAM MANAGEMENT FEE - FUND 357

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Northeast Industrial Area - Phase 2 Finance and Implementation Plan and dated January 15, 2008, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

EXHIBIT D
Report of Findings for Development Fee Funds
Collected for the Fiscal Year Ended June 30, 2016
(Government Code §66001(d).)

I-205 CORRIDOR AREA, ARTERIALS FEE - FUND 353

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest Cost Allocation Distribution Spreadsheet, called I-205 Corridor Specific Plan Spreadsheet #47 and dated June 19, 2007, (2) in the latest Public Safety Development Impact Fee Update adopted on September 16, 2014 by Resolution 2014-158, and (3) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

I-205 CORRIDOR AREA, STORM DRAINAGE FEE - FUND 353

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest Cost Allocation Distribution Spreadsheet, called I-205 Corridor Specific Plan Spreadsheet #47 and dated June 19, 2007, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

I-205 CORRIDOR AREA, PARKS FEE - FUND 353

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest Cost Allocation Distribution Spreadsheet, called I-205 Corridor Specific Plan Spreadsheet #47 and dated June 19, 2007, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

I-205 CORRIDOR AREA, PUBLIC BUILDINGS FEE - FUND 353

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest Cost Allocation Distribution Spreadsheet, called I-205 Corridor Specific Plan Spreadsheet #47 and dated June 19, 2007, (2) in the latest Public Safety Development Impact Fee Update adopted on September 16, 2014 by Resolution 2014-158, and (3) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

I-205 CORRIDOR AREA, WATER FEE - FUND 353

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest Cost Allocation Distribution Spreadsheet, called I-205 Corridor Specific Plan Spreadsheet #47 and dated June 19, 2007, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

I-205 CORRIDOR AREA, SEWER TREATMENT FEE - FUND 353

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest Cost Allocation Distribution Spreadsheet, called I-205 Corridor Specific Plan Spreadsheet #47 and dated June 19, 2007, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2013, which is incorporated here by reference.

I-205 CORRIDOR AREA, PROGRAM MANAGEMENT FEE - FUND 353

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest Cost Allocation Distribution Spreadsheet, called I-205 Corridor Specific Plan Spreadsheet #47 and dated June 19, 2007, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

EXHIBIT D
Report of Findings for Development Fee Funds
Collected for the Fiscal Year Ended June 30, 2016
(Government Code §66001(d).)

HABITAT MITIGATION FEES - FUND XXX

The purpose of the fee is to mitigate the cumulative impacts to threatened, endangered, rare, and unlisted SJMSCP covered species and other wildlife and other impacts to recreation, agriculture, scenic values, and other beneficial open space uses of new development on undeveloped lands. The relationship between the fee and the purpose for which the fee is imposed is set forth in the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan, dated July 25, 2001 prepared by San Joaquin Council of Governments (SJCOG). The fees collected are remitted to SJCOG pursuant to the Plan.

AGRICULTURAL MITIGATION FEES - FUND 207

The purpose of the fee is to mitigate the loss of productive agricultural lands converted for urban uses within the City by permanently protecting agricultural lands planned for agricultural use and by working with farmers who voluntarily wish to sell or restrict their land in exchange for fair compensation. The relationship between the fee and the purpose is set forth in Tracy Municipal Code Chapter 13.28 and in the South San Joaquin County Farmland Conversion Fee Nexus Study, dated July 18, 2005 and prepared by ESA, including any amendments to it. Pursuant to Tracy Municipal Code section 13.28.080(b) and an agreement entered into, the monies in the fund are forwarded to the Central Valley Farmland Trust, Inc., a California non-profit public benefit corporation, a qualified entry under Chapter 13.28.

COUNTY FACILITIES FEE - FUND 391

The purpose of the fee is to finance the construction of region-serving capital facilities located throughout San Joaquin County to reduce the impacts caused by future development in San Joaquin County. The funds derived from County Facilities Fees will be used to finance the facilities identified in the San Joaquin County Facilities Fees Nexus Report dated October 23, 2003 and prepared by the County of San Joaquin. Pursuant to Tracy Municipal Code Chapter 13.24.020(b) and an agreement entered into, the monies in the fund are remitted to the County of San Joaquin, who is responsible for administering the fee funds and constructing the capital facilities.

REGIONAL TRANSPORTATION IMPACT FEE - FUND 808

The purpose of the fee is to finance the construction of transportation and transit improvements that help mitigate impacts to the San Joaquin County regional transportation network. Pursuant to Tracy Municipal Code Chapter 13.32.020(b)(2), the fees collected shall be used to finance Regional Transportation Impact Fee capital projects identified in the San Joaquin County Regional Transportation Impact Fee Technical Report dated October 27, 2005, prepared by the San Joaquin Council of Governments (SJCOG). The monies in the fund are remitted to SJCOG, who has the responsibility as the region's designated Metropolitan Planning Organization and through its powers as specified in its joint powers agreement to maintain and improve the Regional Transportation Network, as per the Regional Transportation Impact Fee Operating Agreement, dated October 27, 2005.

EXHIBIT D
Report of Findings for Development Fee Funds
Collected for the Fiscal Year Ended June 30, 2016
(Government Code §66001(d).)

ELLIS PROGRAM AREA PARKS AND RECREATION FEE - FUND 358

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Ellis Program Area Finance and Implementation Plan and dated August 20, 2013, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

ELLIS PROGRAM AREA STORM DRAINAGE FEE - FUND 358

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Ellis Program Area Finance and Implementation Plan and dated August 20, 2013, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

ELLIS PROGRAM AREA TRAFFIC FEE - FUND 358

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Ellis Program Area Finance and Implementation Plan and dated August 20, 2013, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

ELLIS PROGRAM AREA PUBLIC BUILDINGS FEE - FUND 358

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Ellis Program Area Finance and Implementation Plan and dated August 20, 2013, and (2) in the latest Public Safety Development Fee Update on September 16, 2014 by Resolution 2014-158, and (3) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

ELLIS PROGRAM AREA WATER SUPPLY, TREATMENT, STORAGE AND DISTRIBUTION FEE - FUND 358

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Ellis Program Area Finance and Implementation Plan and dated August 20, 2013, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

ELLIS PROGRAM AREA WASTEWATER TREATMENT AND CONVEYANCE FEE - FUND 358

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Ellis Program Area Finance and Implementation Plan and dated August 20, 2013, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

ELLIS PROGRAM AREA RECYCLED WATER FEE - FUND 358

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Ellis Program Area Finance and Implementation Plan and dated August 20, 2013, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

ELLIS PROGRAM AREA PROGRAM MANAGEMENT FEE - FUND 358

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Ellis Program Area Finance and Implementation Plan and dated August 20, 2013, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

EXHIBIT D
Report of Findings for Development Fee Funds
Collected for the Fiscal Year Ended June 30, 2016
(Government Code §66001(d).)

CITYWIDE MASTER PLAN PARKS FEE - FUND 361

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the Parks AB1600 Development Impact Fee Technical Memo dated May 2013 and adopted on January 7, 2015, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

CITYWIDE MASTER PLAN STORM DRAINAGE FEE - FUND 362

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the Citywide Storm Drainage Master Plan Impact Fee Analysis dated November 2013 and adopted on January 7, 2015, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

CITYWIDE MASTER PLAN TRANSPORTATION FEE - FUND 363

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the Citywide Roadway and Transportation Master Plan Traffic Impact Fee Analysis dated November 2013 and adopted on January 7, 2014, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

CITYWIDE MASTER PLAN PUBLIC SAFETY FACILITIES FEE - FUND 367

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the Public Safety AB1600 Development impact Fee Technical Memo dated May 2013 and adopted on January 7, 2014, (2) in the latest Public Safety Development Fee Update on September 16, 2014 by Resolution 2014-158, and (3) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

CITYWIDE MASTER PLAN PUBLIC FACILITIES FEE - FUND 366

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the Public Facilities AB1600 Development impact Fee Technical Memo dated May 2013 and adopted on January 7, 2014, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

CITYWIDE MASTER PLAN WATER SUPPLY, TREATMENT, STORAGE AND DISTRIBUTION - FUND 365

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the Citywide Water System Master Plan - Tier 1 Development Impact Fee Analysis For the Backbone Buildout Potable and Recycled Water System dated August 28, 2013 and adopted on January 7, 2014, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

CITYWIDE MASTER PLAN WASTEWATER TREATMENT AND CONVEYANCE - FUND 364

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the Tracy Wastewater Conveyance and Treatment Development Impact Fee Study dated January 2013 and adopted on January 7, 2014, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

CITYWIDE MASTER PLAN RECYCLED WATER - FUND 365

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the Citywide Water System Master Plan - Tier 1 Development Impact Fee Analysis For the Backbone Buildout Potable and Recycled Water System dated August 28, 2013 and adopted on January 7, 2014, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

CITYWIDE MASTER PLAN PROGRAM MANAGEMENT - FUND 391

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the various AB1600 fee studies adopted on January 7, 2014, and (2) in the extrapolation of the City's most recent Capital Improvement Plan, dated July 1, 2016, which is incorporated here by reference.

AGENDA ITEM 5

REQUEST

ADOPTION OF A RESOLUTION OF INTENTION TO ESTABLISH COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD), IMPROVEMENT AREA NO. 1 AND THE FUTURE ANNEXATION AREA; ADOPTION OF A RESOLUTION OF INTENTION TO INCUR BONDED INDEBTEDNESS AND OTHER DEBT; SETTING THE PUBLIC HEARING DATE FOR FEBRUARY 7, 2017 TO CONSIDER QUESTIONS OF ESTABLISHING THE CFD, LEVYING THE SPECIAL TAX AND INCURRING BONDED INDEBTEDNESS AND OTHER DEBT; AND DIRECTION TO PREPARE A CFD REPORT

EXECUTIVE SUMMARY

CalAtlantic Group, Inc. has petitioned the City to form a Mello-Roos Community Facilities District (CFD) in order to secure bond financing for necessary infrastructure for the Ellis Project (Project) and to levy tax assessments for certain services. Formation of the CFD must be instituted by the legislative body within 90 days after a petition is filed with the legislative body. The formation process will include tonight's actions, a future public hearing, a landowner election and related actions, and will conclude at a subsequent meeting in which the Council will be asked to adopt an ordinance ordering the levy of Special Taxes.

DISCUSSION

For this agenda item, the City Council will be asked to consider the following actions:

- Adoption of a Resolution of Intention to establish the CFD;
- Adoption of a Resolution of Intention to Incur Bonded Indebtedness and Other Debt;
- Setting a Public Hearing date of February 7, 2017 to consider questions of establishing the CFD, levying the special tax and issuing bonded indebtedness and other debt;
- Directing the preparation of a CFD Report.

BRIEF PROJECT HISTORY

In 2013, Council certified the Project's revised Environmental Impact, approved the modified Ellis Specific Plan, and approved the annexation of the Ellis site to the City of Tracy. Council approved, among other things, development of an approximately 321 acre site located at the northwest corner of Corral Hollow Road and Linne Road, including residential uses and a swim center.

Phase 1 of the Project comprises Improvement Area No. 1 of the proposed CFD. It consists of approximately 299 residential lots, a public park, and related infrastructure.

PROPOSED CFD

What the CFD Does

The CFD is a mechanism for funding the public infrastructure that the Project developer is required to build as a condition of development for the Project. The Rate and Method

of Apportionment of Special Tax (RMA) for Improvement Area No. 1 establishes two taxes: (i) a Facilities Special Tax, that will be used over an 40-year period to finance public infrastructure and (ii) a perpetual Services Special Tax, that will be used to pay for the costs of ongoing maintenance of certain public infrastructure that serves the Project. As homes are sold, the new property owners assume the responsibility to pay the Facilities Special Tax and the Services Special Tax in the amount specified in the RMA.

The Proposed Cost of Financing the Improvements

CFD bond financing for infrastructure improvements is proposed for those items listed in the Developer Petition to Council and the Resolution of Intention to Establish the CFD(see Attachment “A”).¹

The bonds and other debt issued for Improvement Area No. 1 shall be in an aggregate principal amount that does not exceed \$27,000,000 (the “Improvement Area No. 1 Indebtedness Limit”). For that portion of the CFD that is not included in Improvement Area No. 1, i.e., the Future Annexation Area,² the bonded indebtedness limit will not exceed the aggregate principal amount of \$53,000,000. The total Ellis bonded indebtedness limit will not exceed the aggregate principal amount of \$80,000,000.

Facilities Special Taxes in Improvement Area No. 1. If the number and type of housing units proposed in Phase 1 of the Project do not change, then the maximum Facilities Special Tax per residential unit in fiscal year 2016-2017 for Improvement Area No. 1 will be as follows:

Table 1
 Improvement Area No. 1
 Target **Facilities** Special Tax
 Single Family Detached Residential Property

Square Footage Category	Target Facilities Special Tax Prior to Trigger Event (FY 2016-2017) ³	Target Facilities Special Tax After Trigger Event (FY 2016-2017)
Residential Units (RU) Greater than 4,000 Square Feet	\$2,928 per RU	\$0 per RU
Residential Units 2,000 - 4,000 Square Feet	\$2,840 per RU	\$0 per RU
Residential Units Less than 2,000 Square Feet	\$2,851 per RU	\$0 per RU

It is expected that the maximum annual Facilities Special Taxes set forth in the RMA for Improvement Area No. 1 (see Exhibit “B” of the Resolution of Intention to Establish CFD No. 2016-02), will be used to service the debt for the bonds issued by the City for Improvement Area No. 1 and to pay for authorized facilities on a “pay as you go” basis.

¹ The facilities constructed or acquired may be located within or outside the CFD.

² The Future Annexation Area consists of those portions of the Project that are not part of Phase 1/Improvement Area No. 1. By identifying a Future Annexation Area for the CFD, the City will be able to utilize a more streamlined process for annexing parcels into the CFD. Parcels in the Future Annexation Area are not included in the CFD or subject to a special tax unless the owners of the parcels agree to annex into the CFD.

³ On July 1, 2017 and on each July 1 thereafter, all figures shown in the Table 1 above shall be increased by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year.

The actual amount of Facilities Special Taxes levied on undeveloped land in Improvement Area No. 1 will be dependent on the rate of development in Improvement Area No. 1. Depending upon the status of development in Improvement Area No. 1 when bonds are issued, it may be necessary to levy Facilities Special Taxes on undeveloped land in order to guarantee that bonds can be repaid until homes and commercial property in Improvement Area No. 1 are developed. The same will be true for future improvement areas in the CFD as they annex into the CFD from the Future Annexation Area.

For the first 15 years in which the Facilities Special Tax is levied in Improvement Area No. 1, the City will levy the maximum Facilities Special Tax on Developed Property and any Remainder Taxes (Facilities Special Tax revenues in excess of (i) debt service for outstanding bonds, (ii) administrative costs, (iii) amounts required to replenish reserve fund, (iv) amounts needed to cure delinquencies occurring in the prior Fiscal Year; or (v) administrative expenses from the prior six months if bonds have not been issued) will be used to reimburse the Project developer. Thereafter, the City will levy the Facilities Special Tax as necessary to pay debt service, administrative expenses and costs of Authorized Facilities, among other authorized purposes.

How Long Will it Take to Pay-off the Bond Debt

This CFD allows for multiple bond issues for each Improvement Area, each with a term of thirty years. The Facilities Special Tax can be levied in Improvement Area No. 1 for only 40 fiscal years. It is likely there will be a similar limitation for future improvement areas.

The Financing Team

The financing team for the CFD has been selected and used by the City in other bond issues and includes Jones Hall as Bond Counsel and Disclosure Counsel, Piper Jaffray, as the negotiated underwriter, Harris and Associates as Program Manager, and Goodwin Consulting Group as Special Tax Consultant and CFD Administrator. Proposals for a Bond Trustee are being solicited and will be presented to Council for approval at a later date.

Facilities Bond Financing

CFD bond funds can be used to finance all or a portion of the costs of acquisition, construction, and improvement of facilities permitted under the Mello-Roos Community Facilities Act of 1982 including, but not limited to, the following:

1. Public Buildings and Facilities⁴;
2. Wastewater Treatment Plant Improvements and Facilities;
3. Wastewater Collection Pipeline Improvements and Facilities;
4. Drainage Improvements and Facilities;
5. Water Improvements and Facilities;
6. Roadway Improvements and Facilities, including street lights, traffic signals, landscaped parkways, landscaped medians, curb, gutter, sidewalk, pavement;

⁴ In consideration of being eligible for 2,250 Residential Growth Allotments (RGAS) for the Ellis Project, Surland entered into a Development Agreement with the City obligating Surland to contribute \$10,000,000 towards a public swim center. The swim center is therefore excluded from the facilities that are financing by this CFD.

7. Public Parks and Facilities, including trails and bike paths (excludes Swim or Aquatics Center);
8. Ancillary Improvements and Facilities such as, publicly-owned masonry walls and fences.

These improvements will be built by the Project developers and builders and acquired by the City solely with funds generated by the CFD pursuant to the terms of Acquisition Agreements.

Acquisition Agreements

In general, CFDs can be “construction districts” (in which the CFD finances public infrastructure to be constructed by a public agency) or “acquisition districts” (in which the CFD finances the acquisition of public infrastructure that has been built by a developer in the CFD). CFDs can also finance certain fees payable by a developer.

It is expected that this CFD will primarily be an acquisition district, and that the City will enter into one or more Acquisition Agreements with Project developers. Staff expects to ask the City Council to approve the form of one or more Acquisition Agreements at a future meeting.

The first Acquisition Agreement will be specific to Phase 1, Improvement Area No. 1; the second “Master” Acquisition Agreement will cover the parcels that are expected to be annexed to the CFD in the future. The remaining infrastructure costs will be either paid with impact fees collected with each building permit or built by developers and dedicated to the City.

CFD Tax Levy for Services (Services Special Tax)

In addition to bond financing, the proposed CFD No. 2016-2 (ECFD) will contribute to certain services through the annual levy and collection of Services Special Taxes⁵ for:

- Annual administration of the CFD.
- Maintenance services for public landscaping and related appurtenances.
- The annual operation, maintenance and servicing of City-owned Project infrastructure.

The RMA establishes a two-phase structure for Services Special Taxes, in which the Services Special Tax will increase upon the occurrence of the “Trigger Event”, which is defined in the RMA to mean that (i) all Bonds secured by the levy and collection of Facilities Special Taxes in Improvement Area No. 1 have been fully repaid, (ii) all Administrative Expenses from prior Fiscal Years have been paid, funded, and/or reimbursed to the City, and (iii) there are no other Authorized Facilities that the City intends to fund with Bonds and Facilities Special Taxes.

⁵ These tax levies are for services and do not go toward payment of Bond-debt incurred for infrastructure improvements. The City is authorized to levy the Services Special Tax in perpetuity.

Table 2
 Improvement Area No. 1
 Maximum **Services** Special Tax
 Single Family Detached Residential Property

Type of Property	Maximum Services Special Tax Prior to Trigger Event (FY 2016-2017) ⁶	Maximum Services Special Tax After Trigger Event (FY 2016-2017)
Single Family Detached Residential Property		
Residential Units (RU) Greater than 4,000 Square Feet	\$1,494 per RU	\$2,079 per RU
RU 2,000 - 4,000 Square Feet	\$1,195 per RU	\$1,763 per RU
RU Less than 2,000 Square Feet	\$ 896 per RU	\$1,266 per RU
Developed Limited Use Property	\$ 896 per Acre	\$448 per Acre
Developed Village Center Property	\$3,585 per Acre	\$3,585 per Acre
Other Property	\$3,585 per Acre	\$3,585 per Acre
Undeveloped Limited Use Property	\$ 448 per Acre	\$ 448 per Acre
Undeveloped Village Center Property	\$1,793 per Acre	\$1,793 per Acre
Undeveloped Property	\$3,585 per Acre	\$3,585 per Acre

REQUIRED CFD LEGISLATIVE ACTIONS

First Legislative Action (first Council meeting)

The Mello-Roos Act is both a procedural law (establishing a CFD and authorizing the levy of a special tax) and a bond law (authorizing issuance of debt). Under the Mello-Roos Act, adoption of a Resolution of Intention to Establish the CFD formally starts the process for formation of the CFD by describing the work to be financed, proposing a special tax formula and setting a public hearing on the questions of establishing the CFD and levying the special tax. This resolution also directs the preparation of a CFD Report which must contain, among other things, a brief description of the public facilities and services by type which will be "required to adequately meet the needs of the district" and the estimated cost (including estimated bonding and administrative costs) of providing those facilities and services.

The City Council may also begin a concurrent process for issuance of bonds. The Resolution of Intention to Incur Bonded Indebtedness and Other Debt begins the bonding process; it sets forth the maximum amount of bonded debt and other debt to be incurred for the CFD (the debt will be a special obligation of the City payable only from special taxes levied in the CFD). This resolution also calls for a public hearing on the

⁶ On July 1, 2017 and on each July 1 thereafter, all figures shown in Table 2 above shall be increased by the lesser of (i) the percentage increase from the prior Fiscal Year, if any, in the Consumer Price Index of the San Francisco-Oakland-San Jose area for all urban consumers, or (ii) 4%.

proposed bonded and other debt, which is set for the same time as the hearing on formation of the CFD.

Second Legislative Action (second Council meeting)

The two public hearings are proposed for February 7, 2017. Protests against the establishment of the CFD, the extent of the CFD or the proposed facilities or services may be made orally or in writing by any interested persons or taxpayers. If 50 percent or more of the registered voters residing in the CFD, or 6 registered voters residing in the CFD, whichever is greater, or the owners of 50% or more of the non-exempt land in the CFD, file written protests against establishment of the CFD, the proceedings must stop for at least one year.

With respect to establishing the Future Annexation Area, protests may be made orally by any interested person. Protests regarding the regularity or sufficiency of the proceedings must be in writing and filed with the Clerk prior to the time of the hearing. The proposed formation of the Future Annexation Area must stop for one year as a result of written protests by (A) 50 percent or more of the registered voters residing in the CFD or 6 registered voters residing in the CFD, whichever is greater, (B) 50 percent or more of the registered voters residing in the Future Annexation Area or 6 registered voters residing in the Future Annexation Area, whichever is greater, (C) the owners of 50 percent or more of the area of land in the CFD, or (D) the owners of 50 percent or more of the area of land in the Future Annexation Area.

On February 7, 2017, after completion of the public hearings, the City Council will be asked to adopt the following resolutions:

1. Resolution of Formation of the CFD, Improvement Area No. 1 and the Future Annexation Area. Adoption of this resolution forms the CFD, Improvement Area No. 1 and the Future Annexation Area, establishes the scope of the facilities to be built, the scope of the services to be financed and adopts the special tax formula for Improvement Area No. 1. Any changes to the boundaries of the CFD, Improvement Area No. 1 or the Future Annexation Area must be done at this step and if there are any changes, the amended boundary map must be recorded after adoption of this resolution.
2. Resolution of Necessity to Incur Bonded Indebtedness. This resolution establishes the maximum bonded debt and other debt for the CFD and Improvement Area No. 1.
3. Resolution Calling Special Election. This resolution calls for the required vote by the qualified electors in Improvement Area No. 1 (not the Future Annexation Area) on (i) the levy of the special taxes, (ii) issuance of a not-to-exceed bonded and other indebtedness and (iii) an appropriations limit for Improvement Area No. 1 .

Under the Mello-Roos Act, if the CFD, at the end of the public hearing, contains fewer than 12 registered voters (this includes any registered voters living in the CFD, including renters), the vote is by landowners with each owner having one vote for each acre or portion of acre owned.

Because there is only one qualified elector for the proposed election in Improvement Area No. 1 -- CalAtlantic Group, Inc., the owner of the Phase 1 properties -- and because, as permitted by the Mello-Roos Act, the landowners have waived the waiting period otherwise required by the Mello-Roos Act between adoption of the Resolution of

Formation and the election, the election will be held at the same meeting as the hearing and after the adoption of the resolutions listed in "Second Legislative Action" above.

Following a successful election, the following actions would need to be taken:

1. The City Council will be asked to adopt a "Resolution Confirming Results and Directing Recording of Notice of Special Tax Lien", which determines the outcome of the election and provides for the required recording of the special tax lien notice (statutory form). Recordation of the notice of special tax lien (which is not recorded against property in the Future Annexation Area) gives constructive notice of the existence of the ability of the City Council to levy special taxes to support the bonded and other debt and to pay for the services.

2. Introduction (First Reading) of the Ordinance Ordering Levy of Special Taxes. This ordinance orders levy of the special taxes to support the bonds and the services. The levy conforms to the special tax formula approved after the hearing and provides for the taxes to be collected each year on the general tax rolls of the County.

At a third Council meeting, the City would perform the second reading and adoption of the Ordinance Ordering the Levy of Special Taxes.

At such time as the City and the owners of the Project are ready to issue bonds to pay for authorized improvements in Improvement Area No. 1, staff will return for approval of bonds and related documents.

STRATEGIC PLAN

This action to initiate the formation of a CFD, Improvement Area No. 1 and the Future Annexation Area to finance infrastructure supports goal 2 of the Council's Strategic Plan: "Ensure continued fiscal sustainability through financial and budgetary stewardship."

FISCAL IMPACT

There is no cost to the General Fund associated with this request. Bond Counsel/Disclosure Counsel, Underwriter, Tax Consultant/CFD Administrator, and Project Manager expenses are either contingent upon the successful sale and closure of the bonds and paid from bond proceeds and/or are paid through an existing Cost Recovery Agreement with the developer.

RECOMMENDATION

That Council:

- Adopt a Resolution of Intention to establish the CFD and the Future Annexation Area;
- Adopt a Resolution of Intention to Incur Bonded Indebtedness and Other Debt;
- Set a Public Hearing date of February 7, 2017 to consider questions of establishing the CFD, levying the special tax and incurring bonded indebtedness and other debt;
- Direct the preparation of a CFD Report.

Prepared by: Anne Bell, Mgt. Analyst II, ASD, Finance Division
Susan Goodwin, Goodwin Consulting Group
Chris Lynch, Jones Hall

Reviewed by: Martha Garcia, Interim Administrative Services Director
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

- A: Petition, Proposed Facilities and Services to be Financed, and Boundary Map of Ellis Phase I and Future Annexation Area
- B: Rate and Method of Apportionment for CFD No. 2016-2 (ECFD)

**PETITION TO CREATE A
COMMUNITY FACILITIES DISTRICT
(Including Waivers)**

December 5, 2016

City Council of the
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

Members of the Council:

This is a petition to create a community facilities district and related matters (the "Petition") submitted pursuant to the Mello-Roos Community Facilities Act of 1982 (Section 53311 and following of the California Government Code) (the "Act").

1. Petitioners. This Petition is submitted pursuant to the Act to the City of Tracy (the "City") by the owner (the "Property Owner") of 100% of the fee simple interest in the parcels of land identified by Assessor Parcel Numbers shown in Exhibit C (the "Property") and further shown as Improvement Area No. 1 on the map attached hereto as Exhibit B. The Property Owner warrants to the City with respect to the Property that the signatories are authorized to execute this Petition and that the submission of this Petition and participation in the City's proceedings under the Act will not constitute a violation or event of default under any existing financing arrangement in any way affecting the Property Owner and such Property, including any "due-on-encumbrance" clauses under any existing deeds of trust secured by the Property.

2. Request to Institute Proceedings. The City Council is hereby requested to do all of the following:

- a. Undertake proceedings under the Act to create a community facilities district to be designated "City of Tracy Community Facilities District No. 2016-2 (ECFD)" (the "CFD"), which CFD shall initially include only the Property;
- b. Designate the Property as "Improvement Area No. 1" of the CFD;
- c. Initiate and conduct legal proceedings pursuant to Article 3.5 of the Act, beginning with Section 53339 thereof ("Article 3.5"), to designate the cross-hatched area shown on Exhibit B as a future annexation area for the CFD (the "Future Annexation Area"). The Future Annexation Area will enable, from time to time, the future annexation of all or any portions of the Future Annexation Area to the CFD without further hearing or further action by the City Council, upon receipt of written unanimous approval of the owner or owners of each parcel or parcels at the time that the parcel or parcels are annexed, without additional hearings, all as prescribed by and in conformity with the provisions of Article 3.5;
- d. Conduct a landowner-voter election in accordance with the Act to obtain authorization (1) to levy a special tax for facilities (the "Facilities Special Tax") and

a special tax for services (the "Services Special Tax") on the non-exempt property located within Improvement Area No. 1 of the CFD and (2) to authorize the issue of special tax bonds and other debt for the CFD, all as shall be more fully established during the course of the requested legal proceedings for establishment of the CFD and Improvement Area No. 1; and

- e. Conduct proceedings for the items described in (a) through (d) above consistent with Exhibit 2 of the Development Agreement by and between the City and Surland Communities, LLC relating to the Ellis Specific Plan Project.

3. Boundaries of CFD. The Property Owner hereby asks that the territory within the boundaries of the CFD, Improvement Area No. 1, and the Future Annexation Area be as shown on the map attached hereto as Exhibit B.

4. Purpose of CFD. The CFD, Improvement Area No. 1, and each improvement area created out of the Future Annexation Area shall be created for the purpose of financing the facilities (the "Facilities") and the public services described in Exhibit A attached hereto and incorporated herein by reference. Within Improvement Area No. 1 and each improvement area created from the Future Annexation Area, Surland Communities, LLC will request from time to time that the City Council issue special tax bonds in one or more series to finance the Facilities and the related incidental expenses of the proceedings and bond financing, and the Property Owner will cooperate in each issuance of special tax bonds.

5. Elections. The Property Owner hereby asks that the special election to be held under the Act to authorize the special taxes and the issuance of the bonds and other debt and to establish an appropriations limit for Improvement Area No. 1 be consolidated into a single election and that the election be conducted by the City and its officials, using mailed or hand-delivered ballots, and that such ballots be opened and canvassed and the results certified at the same meeting of the City Council as the public hearings on the CFD under the Act or as soon thereafter as possible.

6. Waivers. To expedite the completion of the proceedings for the CFD and Improvement Area No. 1, all notices of hearings and all notices of election, applicable waiting periods under the Act for the election and all ballot analyses and arguments for the election are hereby waived. The Property Owner also waives any requirement as to the specific form of the ballot to be used for the election, whether under the Act, the California Elections Code or otherwise.

7. Deposits. Compliance with the provisions of subsection (d) of Section 53318 of the Act has been accomplished by a deposit of funds by Surland Communities, LLC with the City, made not later than the date of submission of this petition to the City Clerk, pursuant to a Cost Recovery Agreement, between the City and Surland Communities, LLC, to pay the estimated costs to be incurred by the City in conducting proceedings for establishment of the CFD.

8. Counterparts. This Petition 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.

By executing this Petition, the persons below agree to all of the above.

The property that is the subject of this Petition is identified on Exhibit C and includes 133.98 acres

The name of the owner of record of such property and the petitioner and its mailing address is:

CALATLANTIC GROUP, INC., a Delaware corporation.

By: 

Thomas Burrill

Title: Operational Vice President

Mailing Address:
1024 Central Avenue
Tracy, California 95376

EXHIBIT A

PROPOSED DESCRIPTION OF FACILITIES AND SERVICES TO BE FINANCED BY THE CFD AND EACH IMPROVEMENT AREA THEREIN

City of Tracy Community Facilities District 2016-2 (ECFD)

AUTHORIZED FACILITIES

The City of Tracy Community Facilities District No. 2016-2 (ECFD) (the "CFD") (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with subsequent annexations of all or any part of the Future Annexation Area or any other property) shall be authorized to finance all or a portion of the costs of acquisition, construction, and improvement of facilities permitted under the Mello-Roos Community Facilities Act of 1982 and that are required as conditions of development of the property within the CFD, the Future Annexation Area and any other property annexed to the CFD, including, but not limited to, the following:

1. Public Buildings and Facilities (excluding Aquatic or Swim Center);
2. Wastewater Treatment Plant Improvements and Facilities;
3. Wastewater Collection Pipeline Improvements and Facilities;
4. Drainage Improvements and Facilities;
5. Water Improvements and Facilities;
6. Roadway Improvements and Facilities, including street lights, traffic signals, landscaped parkways, landscaped medians, curb, gutter, sidewalk, pavement;
7. Public Parks and Facilities (excluding Aquatic or Swim Center), including trails and bike paths;
8. Ancillary Improvements and Facilities such as, publicly-owned masonry walls and fences.

Any facility authorized to be financed by the CFD and each Improvement Area (as originally designated and as designated in the future in conjunction with subsequent annexations of all or any part of the Future Annexation Area or any other property) may be financed through the construction and acquisition of the facility or through the payment of fees for such facility.

The facilities authorized to be financed may be located within or outside the boundaries of the CFD or any Improvement Area (as originally designated and as designated in the future in conjunction with subsequent annexations of all or any part of the Future Annexation Area or any other property).

The facilities to be financed shall include all hard and soft costs associated with the facilities, including the costs of the acquisition of land and rights-of-way, the costs of design, engineering and planning, the costs of any environmental or traffic studies, surveys or other reports, costs related to landscaping and irrigation, soils testing, permits, plan check, and inspection fees, insurance, legal and related overhead costs, coordination and supervision and any other costs or appurtenances related to any of the foregoing as further defined in one or more acquisition agreements with the developer of the property in the CFD (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with subsequent annexations of all or any part of the Future Annexation Area or any other property).

AUTHORIZED SERVICES

Special taxes collected in the CFD (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with subsequent annexations of all or any part of the Future Annexation Area or any other property) may finance, in whole or in part, the following services ("services" shall have the meaning given that term in the Mello-Roos Community Facilities Act of 1982):

1. Annual operation, maintenance and servicing, including repair and replacement of (i) the facilities authorized to be financed by the CFD and (ii) publicly-owned improvements, publicly-owned aquatic/swim centers within the CFD boundaries, and street cleaning for publicly-owned streets within the CFD boundaries. The term "publicly-owned improvements" means public improvements with an estimated useful life of five or more years, and includes but is not limited to the following improvements that are publicly-owned and located within the boundaries of the CFD: walls, special public amenities, ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems, masonry walls or other fencing, entryway monuments or other ornamental structures, furniture, recreation equipment, hardscape and any associated appurtenances within medians, parkways, dedicated easements, channel-ways, bike paths, trails, and parks. The CFD is not authorized to finance any recreation program services as defined in Section 53313 of the California Government Code.

INCIDENTAL COSTS

Special taxes collected in the CFD and any Improvement Area (as originally designated and as designated in the future in conjunction with subsequent annexations of all or any part of the Future Annexation Area or any other property) will also fund, in whole or in part, the incidental costs associated with the facilities and services authorized to be financed. Incidental costs include, but are not limited to:

1. Administrative expenses and fees including, but not limited to, costs incurred to form the CFD and designate Improvement Areas, to annex territory to the CFD, to designate future Improvement Areas, to annually administer the CFD, to levy and collect special taxes for the CFD and each Improvement Area, and any other costs incurred in standard administration of the CFD by the City or their authorized consultants;
2. Any amounts needed to cure actual or estimated delinquencies in special taxes for the current or previous fiscal years;
3. Bond related expenses, including underwriters discount, reserve fund, capitalized interest, bond, disclosure, and underwriter counsel fees and all other incidental expenses; and
4. Reimbursement of costs related to the formation of the CFD (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with subsequent annexations of all or any part of the Future Annexation Area or any other property) advanced by the City and any landowner(s) in the CFD (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with subsequent annexations of all or any part of the Future Annexation Area or any other property), or any party related to any of the foregoing, as well as reimbursement of any costs advanced by the City or any landowner(s) in the CFD (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with

subsequent annexations of all or any part of the Future Annexation Area or any other property) or any party related to any of the foregoing, for facilities, fees or other purposes or costs of the CFD (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with subsequent annexations of all or any part of the Future Annexation Area or any other property).

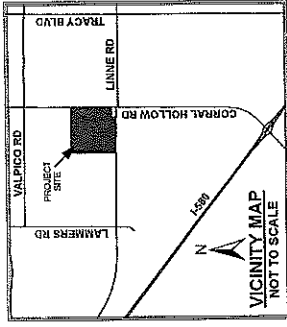
Special taxes may be collected and set-aside in designated funds and collected over several years, and used to fund facilities or services authorized to be financed by the CFD and each Improvement Area (as originally designated and as designated in the future in conjunction with subsequent annexations of all or any part of the Future Annexation Area or any other property).

EXHIBIT B

PROPOSED BOUNDARY MAP

**City of Tracy
Community Facilities District No. 2016-2
(ECFD)**

PROPOSED BOUNDARIES
CITY OF TRACY
COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD)
CITY OF TRACY
COUNTY OF SAN JOAQUIN
STATE OF CALIFORNIA



FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF TRACY, STATE OF CALIFORNIA, THIS _____ DAY OF _____, 2016.

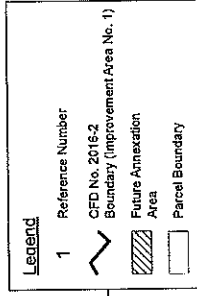
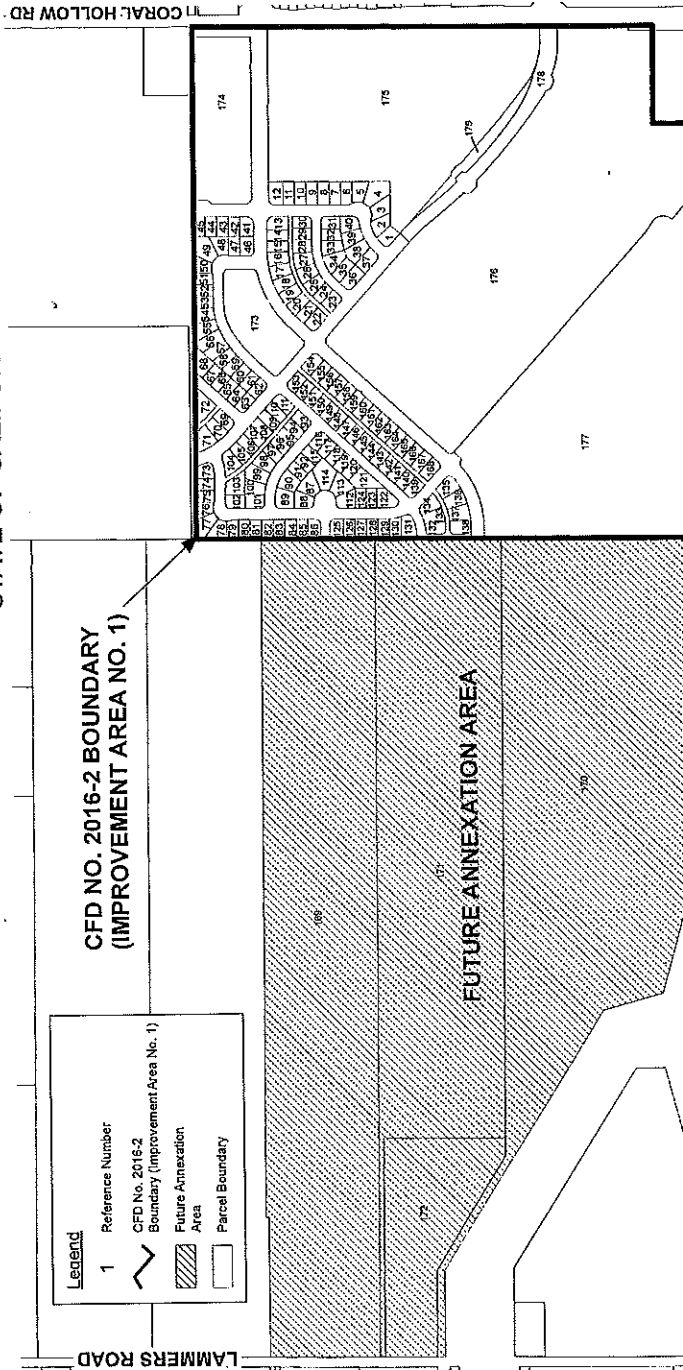
CITY CLERK
CITY OF TRACY
STATE OF CALIFORNIA

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF CITY OF TRACY COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD), CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF TRACY AT A REGULAR MEETING THEREOF, HELD ON THE _____ DAY OF _____, 2016, BY ITS RESOLUTION NO. _____

CITY CLERK
CITY OF TRACY
STATE OF CALIFORNIA

FILED THIS _____ DAY OF _____, 2016, AT THE HOUR OF _____ O'CLOCK _____ M. IN BOOK _____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE _____ IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA.

BY:
KENNETH W. BLAKEMORE
RECORDER/COUNTY CLERK
COUNTY OF SAN JOAQUIN



Assessor's Reference Number	Assessor's Parcel Number	Assessor's Reference Number	Assessor's Parcel Number	Assessor's Reference Number	Assessor's Parcel Number	Assessor's Reference Number	Assessor's Parcel Number	Assessor's Reference Number	Assessor's Parcel Number	Assessor's Reference Number	Assessor's Parcel Number	Assessor's Reference Number	Assessor's Parcel Number
1	240-690-01	1	240-690-01	1	240-690-01	1	240-690-01	1	240-690-01	1	240-690-01	1	240-690-01
2	240-690-02	2	240-690-02	2	240-690-02	2	240-690-02	2	240-690-02	2	240-690-02	2	240-690-02
3	240-690-03	3	240-690-03	3	240-690-03	3	240-690-03	3	240-690-03	3	240-690-03	3	240-690-03
4	240-690-04	4	240-690-04	4	240-690-04	4	240-690-04	4	240-690-04	4	240-690-04	4	240-690-04
5	240-690-05	5	240-690-05	5	240-690-05	5	240-690-05	5	240-690-05	5	240-690-05	5	240-690-05
6	240-690-06	6	240-690-06	6	240-690-06	6	240-690-06	6	240-690-06	6	240-690-06	6	240-690-06
7	240-690-07	7	240-690-07	7	240-690-07	7	240-690-07	7	240-690-07	7	240-690-07	7	240-690-07
8	240-690-08	8	240-690-08	8	240-690-08	8	240-690-08	8	240-690-08	8	240-690-08	8	240-690-08
9	240-690-09	9	240-690-09	9	240-690-09	9	240-690-09	9	240-690-09	9	240-690-09	9	240-690-09
10	240-690-10	10	240-690-10	10	240-690-10	10	240-690-10	10	240-690-10	10	240-690-10	10	240-690-10
11	240-690-11	11	240-690-11	11	240-690-11	11	240-690-11	11	240-690-11	11	240-690-11	11	240-690-11
12	240-690-12	12	240-690-12	12	240-690-12	12	240-690-12	12	240-690-12	12	240-690-12	12	240-690-12
13	240-690-13	13	240-690-13	13	240-690-13	13	240-690-13	13	240-690-13	13	240-690-13	13	240-690-13
14	240-690-14	14	240-690-14	14	240-690-14	14	240-690-14	14	240-690-14	14	240-690-14	14	240-690-14
15	240-690-15	15	240-690-15	15	240-690-15	15	240-690-15	15	240-690-15	15	240-690-15	15	240-690-15

EXHIBIT C

LIST OF PARCELS CONSTITUTING THE PROPERTY

City of Tracy
Community Facilities District No. 2016-2
(ECFD)

Lot No.	APN	Acres
1	240-690-01	0.16
2	240-690-02	0.17
3	240-690-03	0.20
4	240-690-04	0.29
5	240-690-05	0.18
6	240-690-06	0.16
7	240-690-07	0.17
8	240-690-08	0.17
9	240-690-09	0.17
10	240-690-10	0.17
11	240-690-11	0.17
12	240-690-12	0.20
13	240-690-13	0.17
14	240-690-14	0.14
15	240-690-15	0.14
16	240-690-16	0.17
17	240-690-17	0.16
18	240-690-18	0.17
19	240-690-19	0.16
20	240-690-20	0.16
21	240-690-21	0.14
22	240-690-22	0.18
23	240-690-23	0.16
24	240-690-24	0.13
25	240-690-25	0.16
26	240-690-26	0.17
27	240-690-27	0.17
28	240-690-28	0.15
29	240-690-29	0.14
30	240-690-30	0.13
31	240-690-31	0.15
32	240-690-32	0.14
33	240-690-33	0.17
34	240-690-34	0.19
35	240-690-35	0.17
36	240-690-36	0.19
37	240-690-37	0.18
38	240-690-38	0.21
39	240-690-39	0.18
40	240-690-40	0.17

41	240-690-41	0.16
42	240-690-42	0.14
43	240-690-43	0.14
44	240-690-44	0.14
45	240-690-45	0.14
46	240-690-46	0.16
47	240-690-47	0.14
48	240-690-48	0.17
49	240-690-49	0.28
50	240-690-50	0.16
51	240-690-51	0.14
52	240-690-52	0.14
53	240-690-53	0.14
54	240-690-54	0.16
55	240-690-55	0.19
56	240-690-56	0.19
57	240-690-57	0.17
58	240-690-58	0.15
59	240-700-01	0.14
60	240-700-02	0.13
61	240-700-03	0.13
62	240-700-04	0.14
63	240-700-05	0.14
64	240-700-06	0.13
65	240-700-07	0.13
66	240-700-08	0.13
67	240-700-09	0.13
68	240-700-11	0.15
69	240-700-12	0.16
70	240-700-15	0.16
71	240-700-16	0.14
72	240-700-17	0.14
73	240-700-18	0.16
74	240-700-19	0.23
75	240-700-20	0.19
76	240-700-21	0.13
77	240-700-22	0.14
78	240-700-23	0.14
79	240-700-24	0.14
80	240-700-25	0.14
81	240-700-26	0.14
82	240-700-27	0.14
83	240-700-28	0.15
84	240-710-14	0.16
85	240-710-15	0.14
86	240-710-16	0.14
87	240-710-17	0.14
88	240-710-18	0.14
89	240-710-19	0.14

90	240-710-20	0.20
91	240-710-11	0.21
92	240-710-12	0.13
93	240-710-13	0.13
94	240-710-01	0.18
95	240-710-02	0.21
96	240-710-03	0.31
97	240-700-29	0.21
98	240-700-30	0.18
99	240-700-31	0.22
100	240-700-32	0.20
101	240-700-33	0.13
102	240-700-34	0.13
103	240-710-04	0.13
104	240-710-05	0.13
105	240-710-06	0.13
106	240-710-07	0.13
107	240-710-08	0.13
108	240-710-09	0.13
109	240-710-10	0.27
110	240-700-35	0.13
111	240-700-36	0.13
112	240-700-37	0.13
113	240-700-38	0.13
114	240-700-39	0.13
115	240-700-40	0.17
116	240-700-41	0.20
117	240-700-42	0.16
118	240-700-43	0.17
119	240-700-44	0.16
120	240-700-45	0.21
121	240-700-46	0.20
122	240-700-47	0.15
123	240-700-48	0.14
124	240-700-49	0.14
125	240-700-50	0.14
126	240-700-51	0.14
127	240-700-52	0.14
128	240-700-53	0.15
129	240-710-42	0.15
130	240-710-41	0.13
131	240-710-40	0.13
132	240-710-39	0.13
133	240-710-38	0.13
134	240-710-37	0.13
135	240-710-36	0.13
136	240-710-35	0.13
137	240-710-34	0.13
138	240-710-33	0.13

139	240-710-32	0.13
140	240-710-31	0.13
141	240-710-30	0.13
142	240-710-29	0.13
143	240-710-28	0.15
144	240-710-57	0.16
145	240-710-56	0.14
146	240-710-55	0.15
147	240-710-54	0.15
148	240-710-53	0.15
149	240-710-52	0.15
150	240-710-51	0.15
151	240-710-50	0.15
152	240-710-49	0.15
153	240-710-48	0.15
154	240-710-47	0.15
155	240-710-46	0.14
156	240-710-45	0.14
157	240-710-44	0.14
158	240-710-43	0.16
159	240-710-23	0.15
160	240-710-22	0.16
161	240-710-21	0.14
162	240-710-27	0.19
163	240-710-26	0.18
164	240-710-25	0.18
165	240-710-24	0.19
166	240-700-13	0.19
167	240-700-14	0.29
168	240-700-10	0.23
173	240-140-34	2.85
174	240-140-35	5.91
175	240-140-36	23.36
176	240-140-37	42.25
177	240-140-38	29.67
178	240-140-39	2.36
179	240-140-40	0.87
Total		133.98

**IMPROVEMENT AREA NO. 1 OF THE
CITY OF TRACY
COMMUNITY FACILITIES DISTRICT NO. 2016-2
(ECFD)**

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES

Special Taxes applicable to each Assessor's Parcel in Improvement Area No. 1 of the City of Tracy Community Facilities District No. 2016-2 (ECFD) shall be levied and collected according to the tax liability determined by the City through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in Improvement Area No. 1, unless exempted by law or by the provisions of Section H below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed into Improvement Area No. 1.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Accessory Unit" means a second residential unit of limited size (e.g., granny cottage, second unit) that shares a Parcel with a single-family detached unit.

"Acquisition Agreement" means the Master Acquisition Agreement executed by the City and Surland Communities, LLC in connection with the CFD.

"Acre" or "Acreage" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map or other parcel map recorded at the County Recorder's Office.

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Part 1, Division 2 of Title 5 of the Government Code of the State of California.

"Administrative Expenses" means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City in carrying out its duties with respect to the CFD and the Bonds, including, but not limited to, the levy and collection of Special Taxes, the fees and expenses of its legal counsel, charges levied by the County in connection with the levy and collection of Special Taxes, costs related to property owner inquiries regarding the Special Taxes, costs associated with appeals or requests for interpretation associated with the Special Taxes and this RMA, costs of the dissemination agent for the City and any party that has undertaken to provide continuing disclosure, amounts needed to pay rebate to the federal government with respect to the Bonds, costs associated with complying with any continuing disclosure requirements with respect to the Bonds and the Special Taxes, costs associated with foreclosure and collection of delinquent

Special Taxes and all other costs and expenses of the City and County in any way related to the establishment or administration of the CFD.

“Administrator” means the person or firm designated by the City to administer the Special Taxes according to this RMA.

“Assessor’s Parcel” or **“Parcel”** means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel number.

“Assessor’s Parcel Map” means an official map of the County Assessor designating Parcels by Assessor’s Parcel number.

“Authorized Facilities” means the public facilities authorized to be financed, in whole or in part, by the CFD.

“Authorized Services” means the public services authorized to be funded, in whole or in part, by the CFD.

“Bonds” means bonds or other debt (as defined in the Act), whether in one or more series, secured by the Facilities Special Tax and issued or assumed by Improvement Area No. 1 to fund Authorized Facilities.

“Building Permit” means a single permit or set of permits required to construct a residential or non-residential structure. If a permit is issued for a foundation, parking, landscaping or other related facility or amenity, but a building permit has not yet been issued for the structure served by these facilities or amenities, such permit shall not be considered a “Building Permit” for purposes of application of the Special Taxes herein.

“Capitalized Interest” means funds in any capitalized interest account available to pay interest on Bonds.

“CFD” means the City of Tracy Community Facilities District No. 2016-2 (ECFD).

“CFD Formation” means the date on which the Resolution of Formation to form the CFD was adopted by the City Council.

“City” means the City of Tracy.

“City Council” means the City Council of the City of Tracy.

“County” means the County of San Joaquin.

“Developed Limited Use Property” means, in any Fiscal Year, all Parcels of Limited Use Property for which a Building Permit was issued prior to June 30 of the preceding Fiscal Year.

“Developed Property” means, in any Fiscal Year, all Parcels of Taxable Property that are not Developed Limited Use Property, Developed Village Center Property, Limited Use Property,

Village Center Property, Taxable Owners Association Property, or Taxable Public Property for which a Building Permit was issued prior to June 30 of the preceding Fiscal Year.

“Developed Village Center Property” means, in any Fiscal Year, all Parcels of Village Center Property for which a Building Permit was issued prior to June 30 of the preceding Fiscal Year.

“Development Class” means, individually, Developed Property, Developed Limited Use Property, Developed Village Center Property, Undeveloped Limited Use Property, Undeveloped Village Center Property, Undeveloped Property, Taxable Owners Association Property, and Taxable Public Property.

“Escalation Factor” means, in any Fiscal Year, the lesser of (i) the percentage increase from the prior Fiscal Year, if any, in the Index, or (ii) four percent (4%). The Index used shall be as determined by the Bureau of Labor Statistics from April to April beginning with the period from April 2016 to April 2017.

“Expected Land Uses” means the number of SFD Lots, the number of Residential Units within each Square Footage Category, and the acreage of the Other Property expected within Improvement Area No. 1 at the time of CFD Formation, as identified in Attachments 1 and 2 of this RMA. Pursuant to Sections D and E below, the Administrator shall update Attachment 2 each time there is a Land Use Change or property annexes into Improvement Area No. 1. For annexations, the Expected Land Uses will be identified in the Unanimous Approval Form.

“Expected Maximum Facilities Special Tax Revenues” means the amount of annual revenue that would be available in Improvement Area No. 1 if the Maximum Facilities Special Tax was levied on the Expected Land Uses. The Expected Maximum Facilities Special Tax Revenues as of CFD Formation are shown in Attachment 2 of this RMA, and such amount may be adjusted pursuant to Sections D and E of this RMA or if Parcels within Improvement Area No. 1 prepay a portion of the Facilities Special Tax obligation.

“Facilities Special Tax” means a special tax levied in any Fiscal Year to pay the Facilities Special Tax Requirement.

“Facilities Special Tax Requirement” means the amount necessary in any Fiscal Year (i) to pay principal and interest on Bonds which are due in the calendar year which begins in such Fiscal Year, (ii) to replenish reserve funds to the extent such replenishment has not been included in a computation of the Facilities Special Tax Requirement in a previous Fiscal Year, (iii) to cure any delinquencies in the payment of principal or interest on Bonds which have occurred in the prior Fiscal Year, (iv) to pay Administrative Expenses, and (v) to pay the costs of Authorized Facilities to be funded directly from Facilities Special Tax proceeds to the extent that paying directly for such costs does not increase the Facilities Special Taxes levied on Undeveloped Property. The amounts referred to in clauses (i) and (ii) of the preceding sentence may be reduced in any Fiscal Year by (i) interest earnings on or surplus balances in funds and accounts for Bonds to the extent that such earnings or balances are available to apply against debt service pursuant to the Indenture, (ii) proceeds from the collection of penalties associated with delinquent Facilities Special Taxes, and (iii) any other revenues available to pay debt service on the Bonds as determined by the Administrator.

“Final Bond Sale” means, at any point in time, the last series of Bonds issued for Improvement Area No. 1, which issuance uses up virtually all of the remaining capacity available from the Expected Maximum Facilities Special Tax Revenues that can be generated within Improvement Area No. 1, as determined by the City.

“Final Map” means a final map, or portion thereof, approved by the County pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq*) that creates SFD Lots. The term “Final Map” shall not include any large lot subdivision map, Assessor’s Parcel Map, or subdivision map or portion thereof, that does not create SFD Lots, including Assessor’s Parcels that are designated as remainder parcels.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“Future Annexation Area” means that geographic area that, at the time of CFD Formation, was considered potential annexation area for the CFD and which was, therefore, identified as “Future Annexation Area” on the recorded CFD boundary map. Such designation does not mean that any or all of the Future Annexation Area will annex into the CFD or Improvement Area No. 1, but should property designated as Future Annexation Area choose to annex, the annexation may be processed pursuant to the streamlined annexation procedures provided in the Act. Nothing shall prevent property identified as Future Annexation Area from annexing under the non-streamlined provisions of the Act.

“Improvement Area No 1” means Improvement Area No. 1 of the City of Tracy Community Facilities District No. 2016-2 (ECFD).

“Improvement Fund” means the account (regardless of its name) identified in the Indenture to hold funds which are available to acquire or construct Authorized Facilities.

“Indenture” means the bond indenture, fiscal agent agreement, trust agreement, resolution or other instrument pursuant to which Bonds are issued, as modified, amended, and/or supplemented from time to time, and any instrument replacing or supplementing the same.

“Index” means the Consumer Price Index of the San Francisco-Oakland-San Jose area for all urban consumers.

“Land Use Change” means a proposed or approved change to the Expected Land Uses within Improvement Area No. 1 after CFD Formation, which shall include approval of Final Maps that reflect a different number of SFD Lots than expected and issuance of Building Permits for more Residential Units than expected in a particular Square Footage Category.

“Limited Use Property” means the specific geographic area in Improvement Area No. 1 that (i) was identified in Fiscal Year 2016-17 by Assessor’s Parcel number 240-140-37, and (ii) is designated as “Limited Use” in Attachment 1 of this RMA. All Parcels created by future subdivision within this geographic area will be designated as Limited Use Property, unless a Building Permit is issued that qualifies a Parcel within the designated geographic area as Single Family Detached Residential Property, at which time such Parcel will be taxed based on

application of the appropriate Target Facilities Special Tax for Single Family Detached Residential Property, as set forth in Section C below. Based on the geographic area defined as Limited Use Property, it is expected that no more than 43 Acres of property in Improvement Area No. 1 will be designated as Limited Use Property. If, in any Fiscal Year, the Administrator determines that property with a Limited Use designation exceeds 43 Acres, such excess Acreage will be taxed as Other Property. Based on reference to Attachment 1, the Administrator shall determine which Acreage is excess and should be categorized as Other Property.

“Maximum Facilities Special Tax” means the greatest amount of Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year as determined in accordance with Sections C, D, and E below.

“Maximum Services Special Tax” means the greatest amount of Services Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year as determined in accordance with Sections C.2 and E below.

“Maximum Special Taxes” means, as the context requires, either or both of the Maximum Facilities Special Tax and Maximum Services Special Tax.

“Other Property” means, in any Fiscal Year, all Parcels of Developed Property within Improvement Area No. 1 that are not Single Family Detached Residential Property

“Owners Association” means a homeowners association or property owners association that provides services to, and collects assessments, fees, dues, or charges from, property within Improvement Area No. 1.

“Owners Association Property” means any property within the boundaries of Improvement Area No. 1 that is owned in fee or by easement by the Owners Association, not including any such property that is located directly under a residential structure.

“Proportionately” means (separately for the Facilities Special Tax and Services Special Tax), for Developed Property, Developed Limited Use Property, and Developed Village Center Property, that the ratio of the actual Special Taxes levied in any Fiscal Year to the Maximum Special Taxes authorized to be levied in that Fiscal Year is equal for all Parcels of Developed Property, Developed Limited Use Property, and Developed Village Center Property, respectively. For Undeveloped Property, Undeveloped Limited Use Property, and Undeveloped Village Center Property, “Proportionately” means that the ratio of the actual Special Taxes levied to the Maximum Special Taxes is equal for all Parcels of Undeveloped Property, Undeveloped Limited Use Property, and Undeveloped Village Center Property, respectively. For Taxable Owners Association Property and Taxable Public Property, “Proportionately” means that the ratio of the actual Special Taxes levied to the Maximum Special Taxes is equal for all Parcels of Taxable Owners Association Property and Taxable Public Property.

“Public Property” means any property within the boundaries of Improvement Area No. 1 that is owned by the federal government, State of California or other local governments or public agencies.

“Remainder Taxes” means, after September 1st and before December 31st of any Fiscal Year, any Facilities Special Tax revenues that were levied and collected in the prior Fiscal Year and were not needed to (1) pay debt service on the Bonds that was due in the calendar year in which the Remainder Taxes are being calculated, (ii) replenish Bond reserves, (iii) cure any delinquencies in the payment of principal or interest on Bonds which have occurred in the prior Fiscal Year, or (iv) pay Administrative Expenses that have been incurred, or are expected to be incurred, by the City prior to the receipt of additional Facilities Special Tax proceeds.

“Required Coverage” means the amount by which the Expected Maximum Facilities Special Tax Revenues must exceed the Bond debt service and required Administrative Expenses, as set forth in the Indenture, Certificate of Special Tax Consultant, or other formation or bond document that sets forth the minimum required debt service coverage.

“Residential Unit” means an individual single-family unit that does not share a common wall with another residential unit. An Accessory Unit that shares a Parcel with a single-family detached unit shall not be considered a separate Residential Unit for purposes of this RMA and shall not be taxed under this RMA.

“RMA” means this Rate and Method of Apportionment of Special Tax.

“Services Special Tax” means a special tax levied in any Fiscal Year to pay the Services Special Tax Requirement.

“Services Special Tax Requirement” means the amount of revenue needed in any Fiscal Year to pay for: (i) Authorized Services, (ii) Administrative Expenses, and (iii) amounts needed to cure any delinquencies in the payment of Services Special Taxes which have occurred in the prior Fiscal Year. In any Fiscal Year, the Services Special Tax Requirement shall be reduced by surplus amounts available (as determined by the City) from the levy of the Services Special Tax in prior Fiscal Years, including revenues from the collection of delinquent Services Special Taxes and associated penalties and interest.

“SFD Lot” means an individual residential lot, identified and numbered on a recorded Final Map, on which a Building Permit was or is permitted to be issued for construction of a single family detached unit without further subdivision of the lot and for which no further subdivision of the lot is anticipated pursuant to an approved tentative map.

“Single Family Detached Residential Property” means, in any Fiscal Year, all Parcels for which a Building Permit was issued for construction of a Residential Unit.

“Special Taxes” means, as the context requires, either or both of the Facilities Special Tax and the Services Special Tax.

“Square Foot” or **“Square Footage”** means the square footage of living area of a Residential Unit as reflected on a Building Permit.

“Square Footage Category” means one of the three different categories of Single Family Detached Property set forth in Table 1 in Section C below.

“Target Facilities Special Tax” means the Facilities Special Tax per Residential Unit for each Square Footage Category, as set forth in Table 1 below, that was used to determine the Expected Maximum Facilities Special Tax Revenues shown in Attachment 2.

“Taxable Owners Association Property” means, in any Fiscal Year after the first series of Bonds is issued, any Parcel of Owners Association Property that satisfies all three of the following conditions: (i) the Parcel had not been Owners Association Property on the date of issuance of the first series of Bonds, (ii) based on reference to Attachments 1 and 2 (as may be updated pursuant to Sections D and E below), the Parcel was not anticipated to be Owners Association Property based on the Expected Land Uses, as determined by the Administrator, and (iii) if the Parcel were to be exempt from the Facilities Special Tax because it had become Owners Association Property, the Expected Maximum Facilities Special Tax Revenues would be reduced to a point at which Required Coverage could not be maintained.

“Taxable Property” means all Parcels within the boundaries of Improvement Area No. 1 that are not exempt from the Special Taxes pursuant to law or Section H below.

“Taxable Public Property” means in any Fiscal Year after the first series of Bonds is issued, any Parcel of Public Property that satisfies all three of the following conditions: (i) the Parcel had not been Public Property on the date of issuance of the first series of Bonds, (ii) based on reference to Attachments 1 and 2 (as may be updated pursuant to Sections D and E below), the Parcel was not anticipated to be Public Property based on the Expected Land Uses, as determined by the Administrator, and (iii) if the Parcel were to be exempt from the Facilities Special Tax Revenues because it has become Public Property, the Expected Maximum Facilities Special Tax Revenues would be reduced to a point at which Required Coverage could not be maintained.

“Trigger Event” means that (i) all Bonds secured by the levy and collection of Facilities Special Taxes in Improvement Area No. 1 have been fully repaid, (ii) all Administrative Expenses from prior Fiscal Years have been paid, funded, and/or reimbursed to the City, and (iii) there are no other Authorized Facilities that the City intends to fund with Bonds and Facilities Special Taxes. In the first Fiscal Year in which the Administrator determines that the Trigger Event occurred in the prior Fiscal Year, and in each Fiscal Year thereafter, the Facilities Special Tax shall cease to be levied, and the Maximum Services Special Tax for each Parcel shall be adjusted pursuant to Section C.2 below.

“Unanimous Approval Form” means the form executed by the record owner of fee title to a Parcel or Parcels included within the Future Annexation Area and annexed into Improvement Area No. 1 that constitutes the property owner’s approval and unanimous vote in favor of annexing the property into Improvement Area No. 1 and authorized the levy of Special Taxes against his/her Parcel of Parcels pursuant to this RMA.

“Undeveloped Limited Use Property” means, in any Fiscal Year, all Parcels of Limited Use Property that are not yet Developed Limited Use Property.

“Undeveloped Property” means, in any Fiscal Year, all Parcels of Taxable Property that are not Developed Property, Developed Limited Use Property, Developed Village Center Property,

Undeveloped Limited Use Property, Undeveloped Village Center Property, Taxable Owners Association Property, or Taxable Public Property.

“Undeveloped Village Center Property” means, in any Fiscal Year, all Parcels of Village Center Property that are not yet Developed Village Center Property.

“Village Center Property” means the specific geographic areas in the CFD that: (i) were identified in Fiscal Year 2016-17 by Assessor’s Parcel numbers 240-140-35 and 240-140-36, and (ii) are designated as “Village Center” in Attachment 1 of this RMA. All Parcels created by future subdivision within this geographic area will be designated as Village Center Property, unless a Building Permit is issued that qualifies a Parcel as Single Family Detached Residential Property, at which time such Parcel will be taxed based on application of the appropriate Target Facilities Special Tax for Single Family Detached Residential Property, as set forth in Section C below. Based on this definition of Village Center Property, it is expected that no more than 30 Acres of property in Improvement Area No. 1 will be designated as Village Center Property. If, in any Fiscal Year, the Administrator determines that property with a Village Center designation exceeds 30 Acres, such excess Acreage will be taxed as Other Property. Based on reference to Attachment 1, the Administrator shall determine which Acreage is excess and should be categorized as Other Property.

B. DATA FOR ADMINISTRATION OF SPECIAL TAXES

Each Fiscal Year, the Administrator shall: (i) categorize each Parcel of Taxable Property as Developed Property, Developed Village Center Property, Developed Limited Use Property, Undeveloped Limited Use Property, Undeveloped Village Center Property, Undeveloped Property, Taxable Owners Association Property or Taxable Public Property, (ii) for Developed Property, categorize each Parcel as Single Family Detached Residential Property or Other Property, (iii) based on Square Footage reflected on Building Permits issued by June 30 of the prior Fiscal Year, assign each Residential Unit to the appropriate Square Footage Category, (iv) determine the Facilities Special Tax Requirement and Services Special Tax Requirement for the Fiscal Year, and (v) determine if the Trigger Event occurred in the prior Fiscal Year. In addition, the Administrator shall, *on an ongoing basis*, monitor Final Maps and track the Square Footage on all Building Permits that have been issued to determine if there are any proposed Land Use Changes that would change the Expected Maximum Facilities Special Tax Revenues. If the Expected Maximum Facilities Special Tax Revenues will be revised pursuant to a proposed Land Use Change, the Administrator shall apply the steps set forth in Section D below.

In any Fiscal Year, if it is determined that: (i) a parcel map for property in Improvement Area No. 1 was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the parcel map was recorded, the Assessor does not yet recognize the new Parcels created by the parcel map, and (iii) one or more of the newly-created Parcels is in a different Development Class than other Parcels created by the subdivision, the Administrator shall calculate the Special Taxes for the property affected by recordation of the parcel map by determining the Special Taxes that apply separately to the property within each Development Class, then applying the sum of the individual Special Taxes to the Parcel that was subdivided by recordation of the parcel map.

C. MAXIMUM SPECIAL TAXES

1. Facilities Special Tax

a. Single Family Detached Residential Property

The Maximum Facilities Special Tax for Parcels of Single Family Detached Residential Property shall be the greater of (i) the Target Facilities Special Taxes set forth in Table 1 below, or, (ii) if there are Land Use Changes that would reduce debt service coverage on outstanding Bonds below the Required Coverage, the Maximum Facilities Special Tax determined pursuant to Section D below.

**TABLE 1
IMPROVEMENT AREA NO. 1
TARGET FACILITIES SPECIAL TAX
SINGLE FAMILY DETACHED RESIDENTIAL PROPERTY**

<i>Square Footage Category</i>	<i>Target Facilities Special Tax Prior to Trigger Event (Fiscal Year 2016-17)*</i>	<i>Target Facilities Special Tax After Trigger Event (Fiscal Year 2016-17)</i>
Residential Units Greater than 4,000 Square Feet	\$2,928 per Residential Unit	\$0 per Residential Unit
Residential Units 2,000 – 4,000 Square Feet	\$2,840 per Residential Unit	\$0 per Residential Unit
Residential Units Less than 2,000 Square Feet	\$1,851 per Residential Unit	\$0 per Residential Unit

*** On July 1, 2017 and on each July 1 thereafter, all figures shown in Table 1 above shall be increased by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year.**

b. Other Property

The Maximum Facilities Special Tax for Other Property prior to the Trigger Event is \$30,020 per Acre for Fiscal Year 2016-17, which amount shall increase on July 1, 2017 and each July 1 thereafter by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year. After the Trigger Event the Maximum Facilities Special Tax for Other Property is \$0 per Acre. If Other Property is developed with condominium or townhome units, the Administrator shall apply the following steps to allocate the Maximum Facilities Special Tax to the Parcels within the condominium or townhome buildings:

- Step 1:** Determine the Acreage of the underlying land Parcel on which the building(s) is located.
- Step 2:** Multiply the Acreage from Step 1 by the Maximum Facilities Special Tax for Other Property in the current Fiscal Year.
- Step 3:** Divide the product from Step 2 by the total number of townhomes or condominium units built or expected to be built on the underlying land Parcel to determine the Maximum Facilities Special Tax for each condominium or townhome unit, which amount shall escalate by 2.0% in the next Fiscal Year and each following Fiscal Year.

Once a Facilities Special Tax has been levied on a Parcel of Developed Property, the Maximum Facilities Special Taxes applicable to that Parcel shall not be reduced in future Fiscal Years regardless of changes in land use on the Parcel, except (i) in the event of a partial prepayment pursuant to Section I, and (ii) pursuant to Section D. Notwithstanding the foregoing, (i) if Bonds have yet to be issued for Improvement Area No. 1, the Parcels can be assigned to the appropriate Square Footage Category, and the Administrator shall recalculate the Expected Maximum Facilities Special Tax Revenues based on the corresponding changes in revenues, and (ii) the actual Facilities Special Tax levied on the Parcel in any Fiscal Year may be less than the Maximum Facilities Special Tax if a lower Facilities Special Tax is calculated pursuant to Step 1 in Sections F.1 below.

c. Undeveloped Property, Taxable Owners Association Property, and Taxable Public Property

The Maximum Facilities Special Tax for Undeveloped Property, Taxable Owners Association Property, and Taxable Public Property prior to the Trigger Event is \$30,020 per Acre for Fiscal Year 2016-17, which amount shall increase on July 1, 2017 and each July 1 thereafter by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year. After the Trigger Event the Maximum Facilities Special Tax for Undeveloped Property, Taxable Owners Association Property, and Taxable Public Property is \$0 per Acre. In addition, any amount levied on a landowner's Parcel(s) of Undeveloped Property due to such landowner's failure to make a prepayment pursuant to Section D below shall be added to the amount determined in the prior sentence to calculate the total Maximum Facilities Special Tax for the landowner's Parcel(s).

2. *Services Special Tax*

Table 2 below identifies the Maximum Services Special Tax before and after the Trigger Event for Taxable Property in Improvement Area No. 1.

**TABLE 2
IMPROVEMENT AREA NO. 1
MAXIMUM SERVICES SPECIAL TAX**

<i>Type of Property</i>	<i>Maximum Services Special Tax Before Trigger Event (Fiscal Year 2016-17)*</i>	<i>Maximum Services Special Tax After Trigger Event (Fiscal Year 2016-17)*</i>
<u>Single Family Detached Residential Property</u>		
Residential Units Greater than 4,000 Square Feet	\$1,494 per Residential Unit	\$2,079 per Residential Unit
Residential Units 2,000 – 4,000 Square Feet	\$1,195 per Residential Unit	\$1,763 per Residential Unit
Residential Units Less than 2,000 Square Feet	\$896 per Residential Unit	\$1,266 per Residential Unit
Developed Limited Use Property Developed Village Center Property Other Property	\$896 per Acre \$3,585 per Acre \$3,585 per Acre	\$896 per Acre \$3,585 per Acre \$3,585 per Acre
Undeveloped Limited Use Property Undeveloped Village Center Property Undeveloped Property	\$448 per Acre \$1,793 per Acre \$3,585 per Acre	\$448 per Acre \$1,793 per Acre \$3,585 per Acre

*** On July 1, 2017 and on each July 1 thereafter, all figures shown in Table 2 above shall be increased by the Escalation Factor.**

a. Other Property

If Other Property is developed with condominium or townhome units, the Administrator shall apply the following steps to allocate the Maximum Services Special Tax to the Parcels within the condominium or townhome buildings:

- Step 1:** Determine the Acreage of the underlying land Parcel on which the building(s) is located.
- Step 2:** Multiply the Acreage from Step 1 by the Maximum Services Special Tax for Other Property in the current Fiscal Year.
- Step 3:** Divide the product from Step 2 by the total number of townhomes or condominium units built or expected to be built on the underlying land Parcel to

determine the Maximum Services Special Tax for each condominium or townhome unit, which amount shall be increased by the Escalation Factor in the next Fiscal Year and each following Fiscal Year.

D. CHANGES TO MAXIMUM FACILITIES SPECIAL TAX

The Expected Maximum Facilities Special Tax Revenues shown in Attachment 2 were calculated based on the Expected Land Uses at CFD Formation. As set forth in Section E herein, Attachment 2 shall be modified to reflect the Expected Land Uses and Expected Maximum Facilities Special Tax Revenues for Improvement Area No. 1 if property is annexed to Improvement Area No. 1. Attachment 2 is also subject to modification upon the occurrence of Land Use Changes, as described below. The Administrator shall review all Land Use Changes and compare the revised land uses to the Expected Land Uses to evaluate the impact on the Expected Maximum Facilities Special Tax Revenues.

If, prior to the issuance of the first series of Bonds, a Land Use Change is proposed or identified that will result in a change in the Expected Maximum Facilities Special Tax Revenues, no action will be needed pursuant to this Section D. Upon approval of the Land Use Change, the Administrator shall update Attachment 2 to show the revised Expected Maximum Facilities Special Tax Revenues.

If, *prior to Final Bond Sale*, a Land Use Change is proposed or identified that will result in a change in the Expected Maximum Facilities Special Tax Revenues, no action will be needed pursuant to this Section D as long as the change in Expected Maximum Facilities Special Tax Revenues does not reduce debt service coverage on outstanding Bonds below the Required Coverage. Upon approval or identification of the Land Use Change, the Administrator shall update Attachment 2 to show the revised Expected Maximum Facilities Special Tax Revenues, which shall then be the amount used to size future Bond sales.

If a Land Use Change would reduce debt service coverage on outstanding Bonds below the Required Coverage, either: (i) a prepayment of Facilities Special Taxes must be made by the landowner requesting the Land Use Change to retire Bonds in the amount necessary to maintain Required Coverage, or (ii) Step 3 below must be applied to maintain the Expected Maximum Facilities Special Tax Revenues.

If, *after the Final Bond Sale*, a Land Use Change is proposed or identified, Steps 1 through 3 must be applied:

- Step 1:** By reference to Attachment 2 (which shall be updated by the Administrator each time a Land Use Change has been processed according to this Section D), the Administrator shall identify the Expected Maximum Facilities Special Tax Revenues for Improvement Area No. 1.
- Step 2:** The Administrator shall calculate the Expected Maximum Facilities Special Tax Revenues that could be collected from Taxable Property in Improvement Area No. 1 if the Land Use Change occurs.

Step 3: If the amount calculated in Step 2 is higher than that determined in Step 1, no further action is needed, and the Administrator shall update Attachment 2 to show the revised Expected Maximum Facilities Special Tax Revenues.

If the revenues calculated in Step 2 are less than those calculated in Step 1, no action will be needed if the reduction in Expected Maximum Facilities Special Tax Revenues does not reduce debt service coverage on outstanding Bonds below the Required Coverage, and the Administrator shall update Attachment 2 to show the reduced Expected Maximum Facilities Special Tax Revenues.

If the revenues calculated in Step 2 are less than those calculated in Step 1, and the Administrator determines that the reduction in Expected Maximum Facilities Special Tax Revenues would reduce debt service coverage on outstanding Bonds below the Required Coverage, one of the following shall occur:

3.a. The landowner requesting the Land Use Change will have the option to prepay Facilities Special Taxes (pursuant to Section I) in an amount that will ensure that the reduced Expected Maximum Facilities Special Tax Revenues are sufficient to provide Required Coverage. If the landowner notifies the Administrator that he/she would like to remedy such reduction by making a prepayment, such prepayment must be made by the earlier of (i) 30 days from the date of delivery of the prepayment or (ii) prior to close of escrow on the first Residential Unit for which the Building Permit was issued that resulted in more Residential Units in a Square Footage Category than was anticipated in the Expected Land Uses. If any prepayment is not received by the City prior to the earlier of clauses (i) and (ii) of the preceding sentence, the Administrator shall levy the required prepayment amount on any Parcel(s) of Taxable Property still owned by the landowner within Improvement Area No. 1,

or, if there are no more Parcels of Taxable Property owned by the landowner who had been expected to prepay, or if a landowner opts not to make a prepayment to mitigate the reduction in the Expected Maximum Facilities Special Tax Revenues, the following Step 3.b shall apply:

3.b. The Maximum Facilities Special Taxes for Parcels owned by the landowner requesting the Land Use Change shall be determined by increasing the Target Facilities Special Taxes shown in Table 1 above proportionately until the amount that could be collected from all SFD Lots that are subject to the Land Use Change (as determined by the Administrator) will be sufficient to maintain Required Coverage. After the Administrator has prepared such calculation for a particular landowner, the Administrator shall closely monitor future Final Maps and Building Permits to determine if a similar increase in the Target Facilities Special Tax must be applied for subsequent Parcels of Single Family Detached Residential Property. On July 1 of each Fiscal Year, all Maximum Facilities

Special Taxes determined pursuant to this Section 3.b shall be increased by 2.0% of the amount in effect in the prior Fiscal Year.

The duties imposed on the Administrator to review Land Use Changes, Final Maps, and Building Permits and to make the calculations set forth above, are intended only to facilitate the administration of the Facilities Special Tax and to better assure the sufficiency of tax capacity to pay debt service on Bonds. Such duties are not intended to give any developer, subdivider or owner of property any right to receive notice of the potential impact of Land Use Changes on the Facilities Special Tax applicable to a Parcel; and **each developer, subdivider or owner of property in the CFD shall be responsible for understanding the impact thereof on the Facilities Special Tax applicable to such property.**

E. ANNEXATIONS

If, in any Fiscal Year, a property owner within the Future Annexation Area wants to annex property into Improvement Area No. 1, the Administrator shall apply the following steps as part of the annexation proceedings:

- Step 1:** Working with City staff and the landowner, the Administrator shall determine the Maximum Special Taxes that will apply to all Parcels that are expected to be within the area to be annexed. Once determined, the Maximum Special Taxes for the annexing area shall be identified on the Unanimous Approval Form which will be signed by the property owner as part of the annexation process.
- Step 2:** The Administrator shall ensure that a Notice of Special Tax Lien is recorded against all Parcels that are annexed to Improvement Area No. 1.
- Step 3:** The Administrator shall prepare and keep on file an updated Attachment 2 that adds the annexed property and identifies the Expected Land Uses and revised Expected Maximum Facilities Special Tax Revenues for Improvement Area No. 1. After the annexation is complete, the application of Sections D, F, and I of this RMA shall be based on the adjusted Expected Land Uses and Expected Maximum Facilities Special Tax Revenues including the newly annexed property.
- Step 4:** The Administrator shall recalculate the Public Facilities Requirement used in the prepayment calculation in Section I below to include the estimated net proceeds that can be generated to fund Authorized Facilities based on the Maximum Facilities Special Tax capacity from the annexed area. The adjusted Public Facilities Requirement shall be calculated by (i) dividing the increased Expected Maximum Facilities Special Tax Revenues that can be collected after the annexation by the Expected Maximum Facilities Special Tax Revenues that were in place prior to the annexation, and (ii) multiplying the quotient by the Public Facilities Requirement that was in place prior to the annexation.

If an owner of a Parcel or Parcels outside the Future Annexation Area wants to annex into the CFD and the City agrees to such annexation, the procedures set forth in Section 53339 *et seq.* of the Act shall be used to process the annexation. The Administrator shall apply the steps set forth above, using, for Step 1, the Maximum Special Taxes identified in the Rate and Method of Apportionment of Special Tax adopted as part of the annexing proceedings instead of the Unanimous Approval Form.

F. METHOD OF LEVY OF THE SPECIAL TAXES

1. Facilities Special Tax

Each Fiscal Year, the Administrator shall determine the Facilities Special Tax Requirement and levy the Facilities Special Tax on all Parcels of Taxable Property as follows:

Step 1: In the first fifteen (15) Fiscal Years in which a Facilities Special Tax is levied within Improvement Area No. 1, the Maximum Facilities Special Tax shall be levied on each Parcel of Single Family Detached Residential Property and Other Property, prior to applying any Capitalized Interest that is available in the CFD accounts. Any Facilities Special Tax proceeds collected that are determined by the Administrator to be Remainder Taxes shall be deposited into the Improvement Fund to pay costs associated with the acquisition of Authorized Facilities eligible to be financed by the Remainder Taxes under the Acquisition Agreement and that were not paid with Bond proceeds or Facilities Special Taxes levied in prior Fiscal Years.

Beginning in the sixteenth (16th) Fiscal Year in which a Facilities Special Tax is levied within Improvement Area No. 1 and continuing until the Trigger Event, the Facilities Special Tax shall be levied Proportionately on each Parcel of Single Family Detached Residential Property and Other Property up to 100% of the Maximum Facilities Special Tax for each Parcel for such Fiscal Year until the amount levied on Single Family Detached Residential Property and Other Property is equal to the Facilities Special Tax Requirement prior to applying any Capitalized Interest that is available in the CFD accounts.

Step 2: If additional revenue is needed after Step 1 and after applying Capitalized Interest to the Facilities Special Tax Requirement, the Facilities Special Tax shall be levied Proportionately on each Parcel of Undeveloped Property up to 100% of the Maximum Facilities Special Tax for Undeveloped Property for such Fiscal Year.

Step 3: If additional revenue is needed after Step 2, the Facilities Special Tax shall be levied Proportionately on each Parcel of Taxable Owners Association Property and Taxable Public Property, up to 100% of the Maximum Facilities Special Tax for each Parcel of Owners Association Property and Taxable Public Property, as applicable, for such Fiscal Year.

2. *Services Special Tax*

Each Fiscal Year, the Administrator shall determine the Services Special Tax Requirement and levy the Services Special Tax on all Parcels of Taxable Property as follows:

- Step 1:** The Services Special Tax shall be levied Proportionately on each Parcel of Developed Property, Developed Limited Use Property, and Developed Village Center Property up to 100% of the Maximum Services Special Tax for each Parcel for such Fiscal Year until the amount levied is equal to the Services Special Tax Requirement.
- Step 2:** If additional revenue is needed after Step 1, the Services Special Tax shall be levied Proportionately on each Parcel of Undeveloped Property, up to 100% of the Maximum Services Special Tax for Undeveloped Property for such Fiscal Year.
- Step 3:** If additional revenue is needed after Step 2, the Services Special Tax shall be levied Proportionately on each Parcel of Undeveloped Village Center Property, up to 100% of the Maximum Services Special Tax for Undeveloped Village Center Property for such Fiscal Year.
- Step 4:** If additional revenue is needed after Step 3, the Services Special Tax shall be levied Proportionately on each Parcel of Undeveloped Limited Use Property, up to 100% of the Maximum Services Special Tax for Undeveloped Limited Use Property for such Fiscal Year.

G. MANNER OF COLLECTION OF SPECIAL TAXES

Each of the Facilities Special Taxes and the Services Special Taxes shall be identified and collected separately. Facilities Special Taxes collected shall be used only to satisfy the Facilities Special Tax Requirement or to finance Authorized Facilities. Services Special Taxes collected shall be used only to satisfy the Services Special Tax Requirement.

Each of the Special Taxes shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that partial prepayments of the Facilities Special Tax are permitted as set forth in Section I below and provided further that the City may directly bill each of the Special Taxes, may collect each of the Special Taxes at a different time or in a different manner, and may collect delinquent Special Taxes through foreclosure or other available methods.

The Facilities Special Tax shall be levied and collected until the earlier of (i) the Trigger Event, or (ii) Fiscal Year 2056-57. Under no circumstances may the Facilities Special Tax on a Parcel in residential use be increased in any Fiscal Year as a consequence of delinquency or default in payment of the Facilities Special Tax levied on another Parcel or Parcels by more than ten percent (10%) above the amount that would have been levied in that Fiscal Year had there never been any

such delinquencies or defaults. The Services Special Tax may be levied and collected in perpetuity.

H. EXEMPTIONS

Notwithstanding any other provision of this RMA, no Facilities Special Tax may be levied on the following: (i) Developed Limited Use Property, (ii) Undeveloped Limited Use Property, (iii) Developed Village Center Property (iv) Undeveloped Village Center Property, (v) Public Property, except Taxable Public Property, and (vi) Owners Association Property, except Taxable Owners Association Property. No Services Special Tax shall be levied on the following: (i) Public Property, including Taxable Public Property, and (ii) Owners Association Property, including Taxable Owners Association Property. In addition, no Special Taxes shall be levied on: (i) Parcels that are designated as permanent open space or common space on which no structure is permitted to be constructed, (ii) Parcels owned by a public utility for an unmanned facility, and (iii) Parcels subject to an easement that precludes any use on the Parcel other than that permitted by the easement. Notwithstanding the foregoing, if a Facilities Special Tax has been levied on a Parcel in any Fiscal Year, and the entire Parcel subsequently becomes open space, an unmanned utility facility, or subject to an easement that precludes a residential or non-residential use, the Parcel shall remain subject to the Facilities Special Tax levy, unless: (i) the first series of Bonds has yet to be issued for Improvement Area No. 1, or (ii) the Administrator determines that, if such Parcel becomes exempt from the Facilities Special Tax, the corresponding reduction in the Expected Maximum Facilities Special Tax Revenues would not reduce debt service coverage on outstanding Bonds below the Required Coverage. In either case, such property shall be categorized as Public Property, and the Administrator shall recalculate the Expected Maximum Facilities Special Tax Revenues to reflect the corresponding loss in revenues.

I. PARTIAL PREPAYMENT OF FACILITIES SPECIAL TAX

The following definitions apply to this Section I:

“Outstanding Bonds” means all Previously Issued Bonds which remain outstanding, with the following exception: if a Facilities Special Tax has been levied against, or already paid by, an Assessor’s Parcel making a prepayment, and a portion of the Facilities Special Tax will be used to pay a portion of the next principal payment on the Bonds that remain outstanding (as determined by the Administrator), that next principal payment shall be subtracted from the total Bond principal that remains outstanding, and the difference shall be used as the amount of Outstanding Bonds for purposes of this prepayment formula.

“Previously Issued Bonds” means all Bonds that have been issued prior to the date of prepayment.

“Public Facilities Requirements” means: (i) \$12,400,000 in fiscal year 2016-17 dollars, which amount shall, on July 1, 2017 and on each July 1 thereafter, be increased by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year, or (ii) such lower number as shall be determined by the City to be an appropriate estimate of the net

construction proceeds that will be generated from all Bonds that have been or are expected to be issued on behalf of Improvement Area No. 1.

“Remaining Facilities Costs” means the Public Facilities Requirements (as defined above), minus public facility costs funded by Previously Issued Bonds (as defined above), Facilities Special Taxes, or prior prepayments.

A property owner may prepay up to 80% of the Facilities Special Tax obligation applicable to a Parcel in Improvement Area No. 1, thereby reducing the Maximum Facilities Special Tax applicable to the Parcel, provided that a prepayment may be made only if there are no delinquent Special Taxes with respect to such Parcel at the time of prepayment. An owner of a Parcel intending to prepay a portion of the Facilities Special Tax obligation shall provide the City with written notice of intent to prepay, which shall identify the percentage of the Maximum Facilities Special Tax that is to be prepaid. Within 30 days of receipt of such written notice, the City or its designee shall notify such owner of the prepayment amount for such Parcel. Prepayment must be made not less than 50 days prior to any redemption date for Bonds to be redeemed with the proceeds of such prepaid Facilities Special Taxes. Under no circumstance shall a prepayment be allowed that would reduce debt service coverage below the Required Coverage. The Prepayment Amount shall be calculated as follows (capitalized terms as defined above or below):

Bond Redemption Amount	
plus	Remaining Facilities Amount
plus	Redemption Premium
plus	Defeasance Requirement
plus	Administrative Fees and Expenses
<u>less</u>	<u>Reserve Fund Credit</u>
equals	Prepayment Amount

As of the proposed date of prepayment, the Prepayment Amount shall be determined by application of the following steps:

- Step 1.** Determine the Maximum Facilities Special Tax that could be levied on the Parcel based on Expected Land Uses at the time the prepayment is calculated.
- Step 2.** Divide the Maximum Facilities Special Tax computed pursuant to Step 1 by the Expected Maximum Facilities Special Tax Revenues for Improvement Area No. 1 in that Fiscal Year.
- Step 3.** Multiply the quotient computed in Step 2 by the percentage of the Maximum Facilities Special Tax that the property owner wants to prepay, which percentage shall not exceed 80%.
- Step 4.** Multiply the quotient computed pursuant to Step 3 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (*the “Bond Redemption Amount”*).

- Step 5.** Compute the current Remaining Facilities Costs (if any).
- Step 6.** Multiply the quotient computed pursuant to Step 2 by the amount determined pursuant to Step 5 to compute the amount of Remaining Facilities Costs to be prepaid (*the “Remaining Facilities Amount”*).
- Step 7.** Multiply the Bond Redemption Amount computed pursuant to Step 4 by the applicable redemption premium as shown in the Indenture, if any, on the Outstanding Bonds to be redeemed (*the “Redemption Premium”*).
- Step 8.** Compute the amount needed to pay interest on the Bond Redemption Amount starting with the last Bond interest payment date on which interest has been or will be paid by Facilities Special Taxes already levied until the earliest redemption date for the Outstanding Bonds. If Bonds are callable at, or prior to, the last Bond interest payment date on which interest has been or will be paid by Facilities Special Taxes already levied, Steps 8, 9 and 10 of this prepayment formula will not apply.
- Step 9.** Compute the amount of interest the City reasonably expects to derive from reinvestment of the Bond Redemption Amount plus the Redemption Premium from the first Bond interest payment date after which the prepayment has been received until the redemption date for the Outstanding Bonds.
- Step 10.** Subtract the amount computed pursuant to Step 9 from the amount computed pursuant to Step 8 (*the “Defeasance Requirement”*).
- Step 11.** The administrative fees and expenses associated with the prepayment will be determined by the Administrator and include the costs of computing the prepayment, redeeming Bonds and recording any notices to evidence the prepayment and the redemption (*the “Administrative Fees and Expenses”*).
- Step 12.** If, at the time the prepayment is calculated, the reserve fund is greater than or equal to the reserve requirement, and to the extent so provided in the Indenture, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (*the “Reserve Fund Credit”*).
- Step 13.** The Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 4, 6, 7, 10, and 11, less the amount computed pursuant to Step 12 (*the “Prepayment Amount”*).
- Step 14.** From the Prepayment Amount, the amounts computed pursuant to Steps 4, 7, and 10 shall be deposited into the appropriate fund as established under the Indenture and be used to retire Outstanding Bonds (including the payment of any accrued interest). The amount computed pursuant to Step 6 shall be deposited into the Improvement Fund. The amount computed pursuant to

Step 11 shall be retained in the account or fund that is established to pay Administrative Expenses of the CFD.

Once a partial prepayment has been received, an Amendment to Special Tax Lien shall be recorded against the Parcel to reflect the reduced Facilities Special Tax lien for the Parcel, which shall be equal to the portion of the Maximum Facilities Special Tax that was not prepaid, and the Administrator shall update Attachment 2 to show the revised Expected Maximum Facilities Special Tax Revenues. However, an Amendment to Special Tax Lien shall not be recorded until all Special Taxes levied on the Parcel in the current or prior Fiscal Years have been collected. The prepayment of a portion of the Facilities Special Tax shall not affect the perpetual obligation to pay the Services Special Tax.

J. INTERPRETATION OF SPECIAL TAX FORMULA

The City may interpret, clarify, and revise this RMA to correct any inconsistency, vagueness, or ambiguity, by resolution and/or ordinance, that does not create a material adverse effect on the levy and collection of the Special Taxes and any security for any Bonds.

ATTACHMENT 1

**Improvement Area No. 1 of the
City of Tracy
Community Facilities District No. 2016-2
(ECFD)**

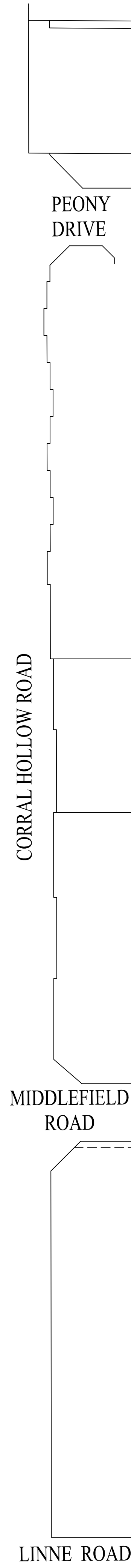
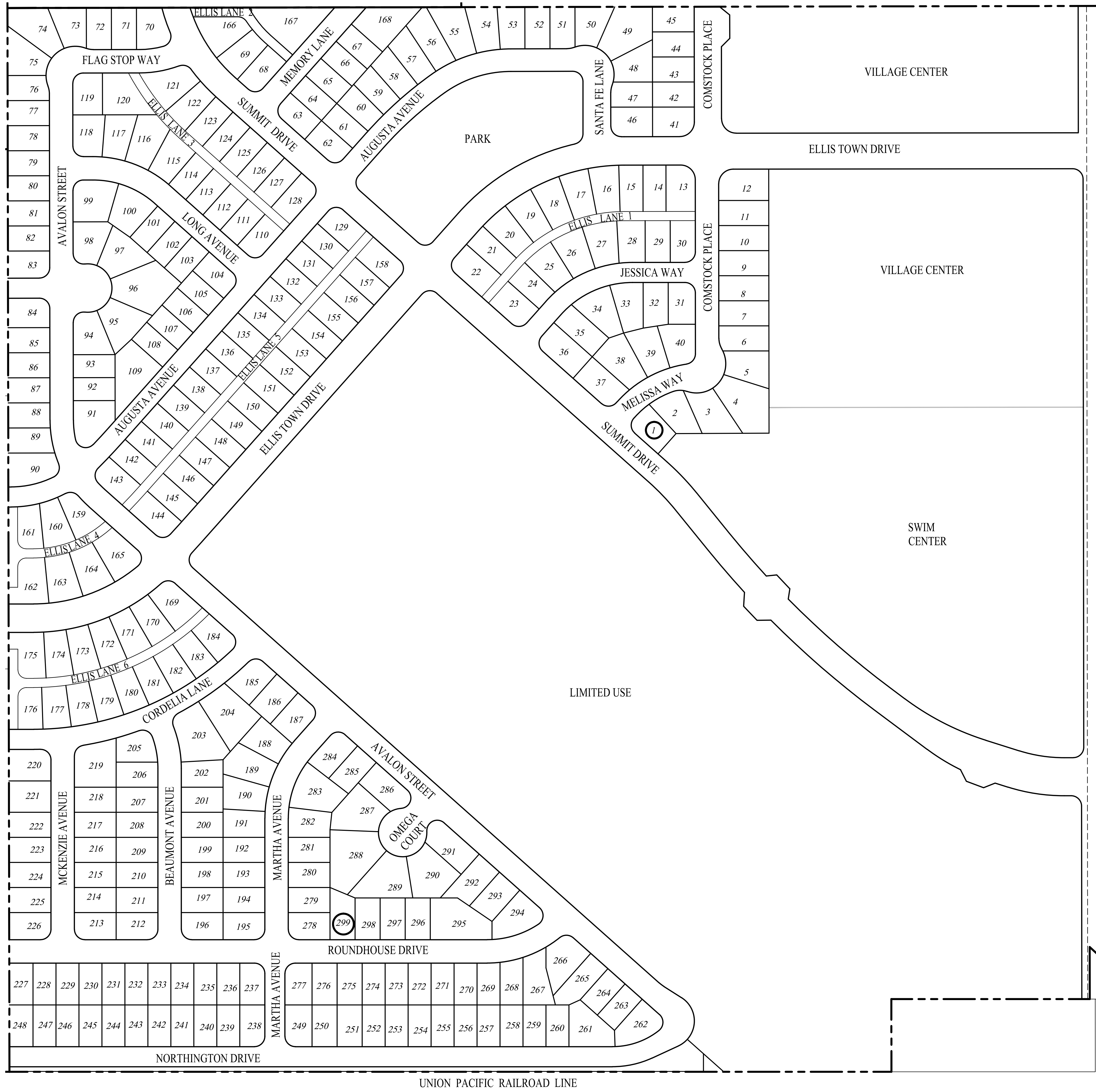
**Identification of SFD Lots and Other Property in
Improvement Area No. 1**

ATTACHMENT 1

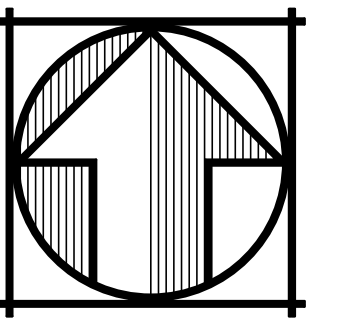
IMPROVEMENT AREA No. 1

CITY OF TRACY

COMMUNITY FACILITIES DISTRICT No. 2016-2 (ECFD)



THE VILLAGE	
SQUARE FOOTAGE CATEGORY	NO. OF RESIDENTIAL UNITS/ACRES
RESIDENTIAL UNITS >4,000 SQ. FEET	0 UNITS
RESIDENTIAL UNITS 2,000-4,000 SQ. FEET	299 UNITS
RESIDENTIAL UNITS <2,000 SQ. FEET	0 UNITS
ACRES OF LIMITED USE PROPERTY	41.87 ACRES
ACRES OF VILLAGE CENTER PROPERTY	15.76 ACRES



ATTACHMENT 2

**Improvement Area No. 1 of the
City of Tracy
Community Facilities District No. 2016-2
(ECFD)**

Expected Land Uses and Expected Maximum Facilities Special Tax Revenues

Square Footage Category	Number of Units	Target Facilities Special Tax (FY 2016-17) *	Expected Maximum Facilities Special Tax Revenues (FY 2016-17) *
Residential Units Greater than 4,000 Square Feet	0 units	\$2,928 per Residential Unit	\$0
Residential Units 2,000 – 4,000 Square Feet	299 units	\$2,840 per Residential Unit	\$849,160
Residential Units Less than 2,000 Square Feet	0 units	\$1,851 per Residential Unit	\$0
Total Expected Maximum Facilities Special Tax Revenues			\$849,160

*** On July 1, 2017 and on each July 1 thereafter, all figures shown above shall be increased by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year.**

RESOLUTION NO. _____

RESOLUTION OF INTENTION TO ESTABLISH
COMMUNITY FACILITIES DISTRICT

CITY OF TRACY
Community Facilities District No. 2016-2
(ECFD)

RESOLVED, by the City Council (the "Council") of the City of Tracy (the "City"), State of California that:

WHEREAS, under the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing at Section 53311, of the California Government Code, this Council is authorized to establish a community facilities district and to act as the legislative body for a community facilities district;

WHEREAS, this Council, having received a petition from the owners of not less than 10% of the area of land proposed to be included in the proposed community facilities district, now desires to proceed with the establishment of a community facilities district in order to finance costs of public infrastructure and certain public services necessary or incident to development within the proposed boundaries of the proposed community facilities district; and

WHEREAS, pursuant to Section 53339.2 of the Act, this Council further desires to undertake proceedings to provide for future annexation of territory to the proposed community facilities district.

NOW THEREFORE BE IT RESOLVED as follows:

1. Authority. This Council proposes to conduct proceedings to establish a community facilities district pursuant to the Act, and hereby determines that public convenience and necessity require that a future annexation area be established pursuant to the Act.

2. Name of CFD; Future Annexation Area. The name proposed for the community facilities district is City of Tracy Community Facilities District No. 2016-2 (ECFD) (the "CFD").

Pursuant to Section 53350 of the Act, the territory to be initially included in the CFD (as shown on the map described in Section 3 hereof) is hereby designated to include the following Improvement Area (the "Improvement Area"): "Improvement Area No. 1 of the City of Tracy Community Facilities District No. 2016-2 (ECFD)" ("Improvement Area No. 1").

The name proposed for the territory proposed to be annexed into the CFD in the future is "City of Tracy Community Facilities District No. 2016-2 (ECFD) (Future Annexation Area)" (the "Future Annexation Area").

3. Boundaries Described. The proposed boundaries of the CFD, Improvement Area No. 1 and the Future Annexation Area are as shown on the map of them on file with the City Clerk, which boundaries are hereby preliminarily approved and to which map reference is hereby made for further particulars. The City Clerk is hereby directed to record, or cause to be

recorded, the map of the boundaries of the CFD, Improvement Area No. 1 and the Future Annexation Area in the office of the Recorder of San Joaquin within 15 days of the date of adoption of this Resolution.

Parcels within the Future Annexation Area shall be annexed to the CFD only with the unanimous approval (each, a "Unanimous Approval") of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed, without any requirement for further public hearings or additional proceedings.

4. Facilities and Services. The type of public facilities proposed to be financed by the CFD, Improvement Area No. 1 and the Future Annexation Area (including any area therein designated to be annexed as a separate improvement area) and pursuant to the Act shall consist of those listed as facilities on Exhibit A hereto and hereby incorporated herein (the "Facilities"). The Council hereby determines that the Facilities are necessary to meet increased demands placed upon local agencies as the result of development occurring within the CFD, Improvement Area No. 1 and the Future Annexation Area. The Council hereby finds and determines that the public interest will not be served by allowing the property owners in the CFD to enter into a contract in accordance with Section 53329.5(a) of the Act. Notwithstanding the foregoing, the Council, on behalf of CFD, may enter into one or more contracts directly with any of the property owners with respect to the construction and/or acquisition of the any portion of the Facilities.

The type of services proposed to be financed by the CFD, Improvement Area No. 1 and the Future Annexation Area (including any area therein designated to be annexed as a separate improvement area) and pursuant to the Act shall consist of those listed in Exhibit A hereto and hereby incorporated herein (the "Services"). The Council hereby determines that the Services are necessary to meet increased demands for such services placed upon local agencies as the result of development occurring within the area of the CFD, Improvement Area No. 1 and the Future Annexation Area. The Services are in addition to those provided in the territory of the CFD and the Future Annexation Area as of the date hereof and will not supplant services already available within the territory of the CFD, Improvement Area No. 1 and the Future Annexation Area as of the date hereof. The City intends to provide the Services on an equal basis in the original territory of the CFD and Improvement Area No. 1 and, when it has been annexed to the CFD, the Future Annexation Area (including any area therein designated to be annexed as a separate improvement area).

5. Special Tax. Except to the extent that funds are otherwise available, the City will levy a special tax (the "Special Tax") to pay directly for the Facilities, to pay the principal and interest on bonds and other debt (as defined in the Act) of the City issued for Improvement Area No. 1 to finance the Facilities and to pay for the Services. The Special Tax will be secured by recordation of a continuing lien against all non-exempt real property in the CFD and Improvement Area No. 1, will be levied annually within the CFD and Improvement Area No. 1, and collected in the same manner as ordinary ad valorem property taxes, or in such other manner as this Council or its designee shall determine, including direct billing of the affected property owners. The proposed rate and method of apportionment of the Special Tax among the parcels of real property within Improvement Area No. 1 in sufficient detail to allow each landowner within Improvement Area No. 1 to estimate the maximum amount such owner will have to pay, are described in Exhibit B attached hereto and hereby incorporated herein (the "Rate and Method").

The Special Tax to finance Facilities to be levied in Improvement Area No. 1 (the "Improvement Area No. 1 Special Tax") shall not be levied in Improvement Area No. 1 after the fiscal year specified in the Rate and Method, except that an Improvement Area No. 1 Special Tax that was lawfully levied in or before the final tax year and that remains delinquent may be collected in subsequent years. Under no circumstances shall the Improvement Area No. 1 Special Tax levied against any parcel in Improvement Area No. 1 used for private residential purposes be increased as a consequence of delinquency or default by the owner of any other parcel or parcels within Improvement Area No. 1 by more than 10 percent.

A special tax to finance Facilities shall not be levied in one or more future improvement areas formed to include territory that annexes into the CFD from the Future Annexation Area (each, a "Future Improvement Area") after the fiscal year identified in the rate and method for the Future Improvement Area, except that a special tax that was lawfully levied in or before the final tax year and that remains delinquent may be collected in subsequent years. Under no circumstances shall the special tax levied against any parcel in the Future Improvement Area for private residential purposes be increased as a consequence of delinquency or default by the owner of any other parcel or parcels within the Future Improvement Area by more than 10 percent.

For Future Improvement Areas, a different rate and method may be adopted if the annexed territory is designated as a separate improvement area. No supplements to the Rate and Method for any of the Future Improvement Areas and no new rate and method will cause the maximum tax rate in the then-existing territory of the CFD (including Improvement Area No. 1) to increase. The designation as an improvement area of any territory annexing to the CFD, the maximum amount of bonded indebtedness and other debt for such improvement area, the rate and method of apportionment of special tax for such improvement area and the appropriations limit for such improvement area shall be identified and approved in the Unanimous Approval executed by property owners in connection with their annexation to the CFD. The annexation and related matters described in the Unanimous Approval shall be implemented and completed without the need for Council approval as long as the following conditions are met:

(i) The rate and method of apportionment of special tax for the new improvement area is prepared by a special tax consultant retained by the City and paid for by the developer of the improvement area or the applicable property owners submitting the Unanimous Approval.

(ii) The rate and method of apportionment of special tax for the new improvement area complies with the City's Goals and Policies in effect on the date of formation of the CFD, unless otherwise required by law.

(iii) The rate and method of apportionment of special tax for the new improvement area does not establish a maximum special tax amount for the initial fiscal year in which the special tax may be levied for any category of special tax that is greater than 120% of the maximum amount of the same category of special tax for the same fiscal year calculated pursuant to the rate and method of apportionment of special tax for Improvement Area No. 1.

(iv) The rate and method of apportionment of special tax for the new improvement area does not introduce a special tax that was not included in the rate and method of apportionment of special tax for Improvement Area No. 1 (e.g., a special tax

that is levied and must be paid in a single fiscal year or over a shorter time period than 30 years).

(v) The rate and method of apportionment of special tax for the new improvement area gives the City the discretion to convert Facilities Special Taxes to Services Special Taxes subject to a similar "Trigger Event" as the rate and method of apportionment of special tax for Improvement Area No 1 (modified, as applicable, to represent the timing of the new rate and method of apportionment of special tax for the new improvement area).

(vi) The rate and method of apportionment of special tax for the new improvement area is not inconsistent with the terms of the Development Agreement, as amended, whether or not it is still operative.

(vii) The rate and method of apportionment of special tax for the new improvement area includes a mechanism that protects against revenue loss as a result of land use changes.

This Council hereby finds that the provisions of Section 53313.6, 53313.7 and 53313.9 of the Act (relating to adjustments to *ad valorem* property taxes and schools financed by a community facilities district) are inapplicable to the proposed CFD and Improvement Area No. 1.

As required by Section 53339.3(d) of the Act, the Council hereby determines that the Special Tax proposed to pay for the Facilities to be supplied within the Future Annexation Area will be equal to the Special Taxes levied to pay for the same Facilities in previously-existing areas of the CFD and Improvement Area No. 1, except that (i) a higher Special Tax may be levied within the Future Annexation Area to pay for the same Facilities to compensate for the interest and principal previously paid from Special Taxes in the original area of the CFD and Improvement Area No. 1, less any depreciation allocable to the financed Facilities and (ii) a higher Special Tax may be levied in the Future Annexation Area to pay for new or additional Facilities, with or without bond financing. As required by Section 53339.3(d) of the Act, the Council hereby further determines that the Special Tax proposed to pay for Services to be supplied within the Future Annexation Area shall be equal to any Special Tax levied to pay for the same Services in the existing CFD and Improvement Area No. 1, except that a higher or lower tax may be levied within the Future Annexation Area to the extent that the actual cost of providing the Services in the Future Annexation Area is higher or lower than the cost of providing those Services in the existing CFD and Improvement Area No. 1. In so finding, the Council does not intend to limit its ability to levy a Special Tax within the Future Annexation Area to provide new or additional services beyond those supplied within the existing CFD and Improvement Area No. 1.

6. Exempt Property. Except as may otherwise be provided by law or by the Rate and Method, all lands owned by any public entity, including the United States, the State of California and/or the City, or any departments or political subdivisions thereof, shall be omitted from the levy of the Special Tax to be made to cover the costs and expenses of the Facilities, the Services, the CFD or Improvement Area No. 1. In the event that a portion of the property within Improvement Area No. 1 shall become for any reason exempt, wholly or in part, from the levy of the Special Tax, this Council will, on behalf of the CFD, increase the levy to the extent necessary upon the remaining property within Improvement Area No. 1 which is not exempt in order to yield the required debt service payments and other annual expenses of Improvement Area No. 1, if any, subject to the provisions of the Rate and Method.

Except as may otherwise be provided by law or by the rate and method of apportionment for a Future Improvement Area, all lands owned by any public entity, including the United States, the State of California and/or the City, or any departments or political subdivisions thereof, shall be omitted from the levy of the special tax to be made to cover the costs and expenses of the Facilities, the Services and the Future Improvement Area. In the event that a portion of the property within the Future Improvement Area shall become for any reason exempt, wholly or in part, from the levy of the special tax, this City Council will, on behalf of the CFD, increase the levy to the extent necessary upon the remaining property within the Future Improvement Area which is not exempt in order to yield the required debt service payments and other annual expenses of the Future Improvement Area, if any, subject to the provisions of the rate and method of apportionment of the special tax.

7. Election. The levy of the Improvement Area No. 1 Special Tax shall be subject to the approval of the qualified electors of Improvement Area No. 1 at a special election. The proposed voting procedure shall be by mailed or hand-delivered ballot among the landowners in the proposed Improvement Area No. 1, with each owner having one vote for each acre or portion of an acre such owner owns in Improvement Area No. 1 not exempt from the Improvement Area No. 1 Special Tax.

A special tax shall be levied in the Future Annexation Area only with the Unanimous Approval of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed, without any requirement for further public hearings or additional proceedings. The designation as an improvement area of any territory annexing to the CFD, the maximum amount of bonded indebtedness and other debt for such improvement area, the rate and method of apportionment of special tax for such improvement area and the appropriations limit for such improvement area shall be identified and approved in the Unanimous Approval executed by property owners in connection with their annexation to the CFD.

8. Special Tax Bonds and Other Debt. It is the intention of this City Council, acting as the legislative body of the CFD, to cause bonds of the City and other debt (as defined in the Act) to be issued for Improvement Area No. 1 pursuant to the Act to finance in whole or in part the construction and/or acquisition of the Facilities. The bonds and other debt shall be in the aggregate principal amount of not to exceed \$27,000,000 (the "Improvement Area No. 1 Indebtedness Limit"), shall be issued in such series and bear interest payable semi-annually or in such other manner as this City Council shall determine, at a rate not to exceed the maximum rate of interest as may be authorized by applicable law at the time of sale of each series of bonds and other debt, and shall mature not to exceed 40 years from the date of the issuance thereof.

It is the intention of this City Council, acting as the legislative body of the CFD, to cause bonds of the City and other debt (as defined in the Act) to be issued for that portion of the CFD that is not included in Improvement Area No. 1 to finance in whole or in part the construction and/or acquisition of the Facilities. The bonds and other debt shall be in the aggregate principal amount of not to exceed \$53,000,000 (the "Non-Improvement Area No. 1 Indebtedness Limit"), shall be issued in such series and bear interest payable semi-annually or in such other manner as this City Council shall determine, at a rate not to exceed the maximum rate of interest as may be authorized by applicable law at the time of sale of each series of bonds and other debt, and shall mature not to exceed 40 years from the date of the issuance thereof.

In the event all or a portion of the Future Annexation Area is annexed as one or more Future Improvement Areas, the designation as an improvement area of any territory annexing to the CFD, the maximum amount of bonded indebtedness and other debt for such improvement area, the rate and method of apportionment of special tax for such improvement area and the appropriations limit for such improvement area shall be identified and approved in the Unanimous Approval executed by property owners in connection with their annexation to the CFD. In that event, the amount of the maximum indebtedness for the Future Improvement Area shall be subtracted from the Non-Improvement Area No. 1 Indebtedness Limit.

It is the intention of this City Council, acting as the legislative body for the CFD, to cause bonds and other debt of the City to be issued for the Future Improvement Areas pursuant to the Act to finance in whole or in part the construction and/or acquisition of the Facilities. The bonds and other debt shall be in the aggregate principal amount designated at the time of annexation, shall be issued in such series and bear interest payable semi-annually or in such other manner as this City Council shall determine, at a rate not to exceed the maximum rate of interest as may be authorized by applicable law at the time of sale of each series of bonds and other debt, and shall mature not to exceed 40 years from the date of the issuance thereof.

9. CFD Report. The City Engineer, as the officer having charge and control of the Facilities and the Services in and for the CFD, Improvement Area No. 1 and the Future Annexation Area, or the designee of such officer, is hereby directed to study said proposed Facilities and Services and to make, or cause to be made, and file with the City Clerk a report in writing, (the "CFD Report") presenting the following:

(a) A description of the Facilities and the Services by type which will be required to adequately meet the needs of the CFD, Improvement Area No. 1 and the Future Annexation Area.

(b) An estimate of the fair and reasonable cost of the Facilities including the cost of acquisition of lands, rights-of-way and easements, any physical facilities required in conjunction therewith and incidental expenses in connection therewith, including the costs of the proposed bond financing and other debt and all other related costs as provided in Section 53345.3 of the Act.

(c) An estimate of the fair and reasonable cost of the Services and incidental expenses in connection therewith, and all other related costs.

The CFD Report shall be made a part of the record of the public hearing specified below.

10. Public Hearing. Tuesday, February 7, 2017 at 7:00 p.m. or as soon as possible thereafter, in the Council Chambers, 333 Civic Center Plaza, Tracy, California, be, and the same are hereby appointed and fixed as the time and place when and where this Council, as legislative body for the CFD, will conduct a public hearing on the establishment of the CFD, Improvement Area No. 1 and the Future Annexation Area and consider and finally determine whether the public interest, convenience and necessity require the formation of the CFD, Improvement Area No. 1, the Future Annexation Area and the levy of the Special Tax, including the Improvement Area No. 1 Special Tax.

11. Notice of Hearing. The City Clerk is hereby directed to cause notice of the public hearing to be given by publication one time in a newspaper published in the area of the CFD and the Future Annexation Area. The publication shall be completed at least seven days before

the date of the public hearing specified above. Each of the notices shall be substantially in the form specified in Section 53322 of the Act, with the form summarizing the provisions hereof hereby specifically approved.

12. Cost Recovery Agreement. Section 53314.9 of the Act provides that, either before or after formation of the CFD, the City may accept advances of funds and may provide, by resolution, for the use of those funds, including but not limited to pay any cost incurred by the local agency in creating the CFD, and may agree to reimburse the advances under all of the following conditions: (A) the proposal to repay the advances is included both in the resolution of intention and the resolution of formation to establish the CFD; and (B) any proposed special tax is approved by the qualified electors of the CFD and, if the qualified electors of the CFD do not approve the proposed special tax, the City shall return any funds which have not been committed for any authorized purpose by the time of the election.

This Council has previously approved a Cost Recovery Agreement (the "Cost Recovery Agreement") between the City and Surland Communities, LLC (the "Developer"), pursuant to which the Developer agreed to pay certain of the City's costs related to the CFD. The City Council hereby proposes to repay the Developer solely from the proceeds of special taxes, bonds and other debt issued by the City for the CFD for funds advanced by the Master Developer and used to pay City costs in forming the CFD, Improvement Area No. 1 and the Future Annexation)Area.

13. Acquisition Agreement. Section 53314.9 of the Act provides that, either before or after formation of the CFD, the City may accept work in-kind from any source, including, but not limited to, private persons or private entities, may provide, by resolution, for the use of that work in-kind for any authorized purpose and the City Council may enter into an agreement (an "Acquisition Agreement"), by resolution, with the person or entity advancing the work in-kind, to reimburse the person or entity for the value, or cost, whichever is less, of the work in-kind, as determined by the City Council, with or without interest, under the conditions specified in the Act. Any work in-kind must be performed or constructed as if the work had been performed or constructed under the direction and supervision, or under the authority of, the City. The City and Surland Communities, LLC intend to enter into an Acquisition Agreement.

14. Joint Community Facilities Agreement. Section 53316.2 of the Act provides that a community facilities district may finance facilities to be owned or operated by a public agency other than the agency that created the district, or services to be provided by a public agency other than the agency that created the district, or any combination, only pursuant to a joint community facilities agreement or a joint exercise of powers agreement adopted pursuant to this section.

The City Manager is hereby authorized and directed to enter into joint community facilities agreements with any entity that will own or operate any of the Facilities, as may be necessary to comply with the provisions of Section 53316.2(a) and (b) of the Act. The Council hereby declares that such joint agreements will be beneficial to owners of property in the area of the CFD.

15. Tender. The City Council reserves to itself the right and authority set forth in Section 53344.1 of the Act, subject to any limitations set forth in any bond resolution or trust indenture related to the issuance of bonds.

16. Approval of Underwriter. The firm of Piper Jaffray & Co. is hereby designated as underwriter to the City for any bonds to be issued for the CFD. Any and all compensation of such firm shall be contingent upon the issuance of bonds of the City for Improvement Area No. 1, and shall be payable from the proceeds of such bonds or by means of a discount upon the purchase of the bonds.

17. Approval of Trustee or Fiscal Agent; Appraiser; Absorption Consultant. An Authorized Representative is hereby authorized and directed to select a trustee or fiscal agent for the CFD and, if required by the underwriter, an Authorized Representative is hereby authorized and directed to select an appraiser and/or an absorption consultant, in each case, on such terms as are acceptable to an Authorized Representative; provided that all compensation to any firms so selected shall be payable solely from money advanced pursuant to the Cost Recovery Agreement or the proceeds of bonds issued by the City for the CFD. An Authorized Representative is hereby authorized and directed to execute an agreement with said firms in the form acceptable to the City Attorney.

18. Further Action. The Authorized Representatives, the City Clerk and all other officers and agents of the City are hereby authorized and directed to take all actions necessary or advisable to give effect to the transactions contemplated by this Resolution.

19. No Obligation. This Resolution shall in no way obligate the City Council of the City to form the CFD. The formation of the CFD shall be subject to the approval of this Council by resolution following the holding of the public hearing referred to above.

* * * * *

The foregoing Resolution _____ was adopted by the Tracy City Council the 20th day of December, 2016, by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

By: _____
Mayor

ATTEST:

City Clerk

EXHIBIT A

CITY OF TRACY Community Facilities District No. 2016-2 (ECFD)

DESCRIPTION OF FACILITIES AND SERVICES TO BE FINANCED BY THE CFD AND EACH IMPROVEMENT AREA THEREIN

AUTHORIZED FACILITIES

The City of Tracy Community Facilities District No. 2016-2 (ECFD) (the "CFD") (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with subsequent annexations of all or any part of the Future Annexation Area or any other property) shall be authorized to finance all or a portion of the costs of acquisition, construction, and improvement of facilities permitted under the Mello-Roos Community Facilities Act of 1982 and that are required as conditions of development of the property within the CFD, the Future Annexation Area and any other property annexed to the CFD, including, but not limited to, the following:

1. Public Buildings and Facilities (excluding Aquatic or Swim Center);
2. Wastewater Treatment Plant Improvements and Facilities;
3. Wastewater Collection Pipeline Improvements and Facilities;
4. Drainage Improvements and Facilities;
5. Water Improvements and Facilities;
6. Roadway Improvements and Facilities, including street lights, traffic signals, landscaped parkways, landscaped medians, curb, gutter, sidewalk, pavement;
7. Public Parks and Facilities (excluding Aquatic or Swim Center), including trails and bike paths;
8. Ancillary Improvements and Facilities such as, publicly-owned masonry walls and fences.

Any facility authorized to be financed by the CFD and each Improvement Area (as originally designated and as designated in the future in conjunction with subsequent annexations of all or any part of the Future Annexation Area or any other property) may be financed through the construction and acquisition of the facility or through the payment of fees for such facility.

The facilities authorized to be financed may be located within or outside the boundaries of the CFD or any Improvement Area (as originally designated and as designated in the future in conjunction with subsequent annexations of all or any part of the Future Annexation Area or any other property).

The facilities to be financed shall include all hard and soft costs associated with the facilities, including the costs of the acquisition of land and rights-of-way, the costs of design, engineering and planning, the costs of any environmental or traffic studies, surveys or other reports, costs related to landscaping and irrigation, soils testing, permits, plan check, and inspection fees, insurance, legal and related overhead costs, coordination and supervision and any other costs or appurtenances related to any of the foregoing as further defined in one or

more acquisition agreements with the developer of the property in the CFD (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with subsequent annexations of all or any part of the Future Annexation Area or any other property).

AUTHORIZED SERVICES

Special taxes collected in the CFD (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with subsequent annexations of all or any part of the Future Annexation Area or any other property) may finance, in whole or in part, the following services (“services” shall have the meaning given that term in the Mello-Roos Community Facilities Act of 1982):

1. Annual operation, maintenance and servicing, including repair and replacement of (i) the facilities authorized to be financed by the CFD and (ii) publicly-owned improvements, publicly-owned aquatic/swim centers within the CFD boundaries, and street cleaning for publicly-owned streets within the CFD boundaries. The term “publicly-owned improvements” means public improvements with an estimated useful life of five or more years, and includes but is not limited to the following improvements that are publicly-owned and located within the boundaries of the CFD: walls, special public amenities, ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems, masonry walls or other fencing, entryway monuments or other ornamental structures, furniture, recreation equipment, hardscape and any associated appurtenances within medians, parkways, dedicated easements, channel-ways, bike paths, trails, and parks,. The CFD is not authorized to finance any recreation program services as defined in Section 53313 of the California Government Code.

INCIDENTAL COSTS

Special taxes collected in the CFD and any Improvement Area (as originally designated and as designated in the future in conjunction with subsequent annexations of all or any part of the Future Annexation Area or any other property) will also fund, in whole or in part, the incidental costs associated with the facilities and services authorized to be financed. Incidental costs include, but are not limited to:

1. Administrative expenses and fees including, but not limited to, costs incurred to form the CFD and designate Improvement Areas, to annex territory to the CFD, to designate future Improvement Areas, to annually administer the CFD, to levy and collect special taxes for the CFD and each Improvement Area, and any other costs incurred in standard administration of the CFD by the City or their authorized consultants;
2. Any amounts needed to cure actual or estimated delinquencies in special taxes for the current or previous fiscal years;

3. Bond related expenses, including underwriters discount, reserve fund, capitalized interest, bond, disclosure, and underwriter counsel fees and all other incidental expenses; and
4. Reimbursement of costs related to the formation of the CFD (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with subsequent annexations of all or any part of the Future Annexation Area or any other property) advanced by the City and any landowner(s) in the CFD (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with subsequent annexations of all or any part of the Future Annexation Area or any other property), or any party related to any of the foregoing, as well as reimbursement of any costs advanced by the City or any landowner(s) in the CFD (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with subsequent annexations of all or any part of the Future Annexation Area or any other property) or any party related to any of the foregoing, for facilities, fees or other purposes or costs of the CFD (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with subsequent annexations of all or any part of the Future Annexation Area or any other property).

Special taxes may be collected and set-aside in designated funds and collected over several years, and used to fund facilities or services authorized to be financed by the CFD and each Improvement Area (as originally designated and as designated in the future in conjunction with subsequent annexations of all or any part of the Future Annexation Area or any other property).

EXHIBIT B

CITY OF TRACY
Community Facilities District No. 2016-2
(ECFD)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX FOR
IMPROVEMENT AREA NO. 1

**IMPROVEMENT AREA NO. 1 OF THE
CITY OF TRACY
COMMUNITY FACILITIES DISTRICT NO. 2016-2
(ECFD)**

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES

Special Taxes applicable to each Assessor's Parcel in Improvement Area No. 1 of the City of Tracy Community Facilities District No. 2016-2 (ECFD) shall be levied and collected according to the tax liability determined by the City through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in Improvement Area No. 1, unless exempted by law or by the provisions of Section H below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed into Improvement Area No. 1.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

“Accessory Unit” means a second residential unit of limited size (e.g., granny cottage, second unit) that shares a Parcel with a single-family detached unit.

“Acquisition Agreement” means the Master Acquisition Agreement executed by the City and Surland Communities, LLC in connection with the CFD.

“Acre” or **“Acreage”** means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map or other parcel map recorded at the County Recorder's Office.

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Part 1, Division 2 of Title 5 of the Government Code of the State of California.

“Administrative Expenses” means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City in carrying out its duties with respect to the CFD and the Bonds, including, but not limited to, the levy and collection of Special Taxes, the fees and expenses of its legal counsel, charges levied by the County in connection with the levy and collection of Special Taxes, costs related to property owner inquiries regarding the Special Taxes, costs associated with appeals or requests for interpretation associated with the Special Taxes and this RMA, costs of the dissemination agent for the City and any party that has undertaken to provide continuing disclosure, amounts needed to pay rebate to the federal government with respect to the Bonds, costs associated with complying with any continuing disclosure requirements with respect to the Bonds and the Special Taxes, costs associated with foreclosure and collection of delinquent

Special Taxes and all other costs and expenses of the City and County in any way related to the establishment or administration of the CFD.

“Administrator” means the person or firm designated by the City to administer the Special Taxes according to this RMA.

“Assessor’s Parcel” or **“Parcel”** means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel number.

“Assessor’s Parcel Map” means an official map of the County Assessor designating Parcels by Assessor’s Parcel number.

“Authorized Facilities” means the public facilities authorized to be financed, in whole or in part, by the CFD.

“Authorized Services” means the public services authorized to be funded, in whole or in part, by the CFD.

“Bonds” means bonds or other debt (as defined in the Act), whether in one or more series, secured by the Facilities Special Tax and issued or assumed by Improvement Area No. 1 to fund Authorized Facilities.

“Building Permit” means a single permit or set of permits required to construct a residential or non-residential structure. If a permit is issued for a foundation, parking, landscaping or other related facility or amenity, but a building permit has not yet been issued for the structure served by these facilities or amenities, such permit shall not be considered a “Building Permit” for purposes of application of the Special Taxes herein.

“Capitalized Interest” means funds in any capitalized interest account available to pay interest on Bonds.

“CFD” means the City of Tracy Community Facilities District No. 2016-2 (ECFD).

“CFD Formation” means the date on which the Resolution of Formation to form the CFD was adopted by the City Council.

“City” means the City of Tracy.

“City Council” means the City Council of the City of Tracy.

“County” means the County of San Joaquin.

“Developed Limited Use Property” means, in any Fiscal Year, all Parcels of Limited Use Property for which a Building Permit was issued prior to June 30 of the preceding Fiscal Year.

“Developed Property” means, in any Fiscal Year, all Parcels of Taxable Property that are not Developed Limited Use Property, Developed Village Center Property, Limited Use Property,

Village Center Property, Taxable Owners Association Property, or Taxable Public Property for which a Building Permit was issued prior to June 30 of the preceding Fiscal Year.

“Developed Village Center Property” means, in any Fiscal Year, all Parcels of Village Center Property for which a Building Permit was issued prior to June 30 of the preceding Fiscal Year.

“Development Class” means, individually, Developed Property, Developed Limited Use Property, Developed Village Center Property, Undeveloped Limited Use Property, Undeveloped Village Center Property, Undeveloped Property, Taxable Owners Association Property, and Taxable Public Property.

“Escalation Factor” means, in any Fiscal Year, the lesser of (i) the percentage increase from the prior Fiscal Year, if any, in the Index, or (ii) four percent (4%). The Index used shall be as determined by the Bureau of Labor Statistics from April to April beginning with the period from April 2016 to April 2017.

“Expected Land Uses” means the number of SFD Lots, the number of Residential Units within each Square Footage Category, and the acreage of the Other Property expected within Improvement Area No. 1 at the time of CFD Formation, as identified in Attachments 1 and 2 of this RMA. Pursuant to Sections D and E below, the Administrator shall update Attachment 2 each time there is a Land Use Change or property annexes into Improvement Area No. 1. For annexations, the Expected Land Uses will be identified in the Unanimous Approval Form.

“Expected Maximum Facilities Special Tax Revenues” means the amount of annual revenue that would be available in Improvement Area No. 1 if the Maximum Facilities Special Tax was levied on the Expected Land Uses. The Expected Maximum Facilities Special Tax Revenues as of CFD Formation are shown in Attachment 2 of this RMA, and such amount may be adjusted pursuant to Sections D and E of this RMA or if Parcels within Improvement Area No. 1 prepay a portion of the Facilities Special Tax obligation.

“Facilities Special Tax” means a special tax levied in any Fiscal Year to pay the Facilities Special Tax Requirement.

“Facilities Special Tax Requirement” means the amount necessary in any Fiscal Year (i) to pay principal and interest on Bonds which are due in the calendar year which begins in such Fiscal Year, (ii) to replenish reserve funds to the extent such replenishment has not been included in a computation of the Facilities Special Tax Requirement in a previous Fiscal Year, (iii) to cure any delinquencies in the payment of principal or interest on Bonds which have occurred in the prior Fiscal Year, (iv) to pay Administrative Expenses, and (v) to pay the costs of Authorized Facilities to be funded directly from Facilities Special Tax proceeds to the extent that paying directly for such costs does not increase the Facilities Special Taxes levied on Undeveloped Property. The amounts referred to in clauses (i) and (ii) of the preceding sentence may be reduced in any Fiscal Year by (i) interest earnings on or surplus balances in funds and accounts for Bonds to the extent that such earnings or balances are available to apply against debt service pursuant to the Indenture, (ii) proceeds from the collection of penalties associated with delinquent Facilities Special Taxes, and (iii) any other revenues available to pay debt service on the Bonds as determined by the Administrator.

“Final Bond Sale” means, at any point in time, the last series of Bonds issued for Improvement Area No. 1, which issuance uses up virtually all of the remaining capacity available from the Expected Maximum Facilities Special Tax Revenues that can be generated within Improvement Area No. 1, as determined by the City.

“Final Map” means a final map, or portion thereof, approved by the County pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq*) that creates SFD Lots. The term “Final Map” shall not include any large lot subdivision map, Assessor’s Parcel Map, or subdivision map or portion thereof, that does not create SFD Lots, including Assessor’s Parcels that are designated as remainder parcels.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“Future Annexation Area” means that geographic area that, at the time of CFD Formation, was considered potential annexation area for the CFD and which was, therefore, identified as “Future Annexation Area” on the recorded CFD boundary map. Such designation does not mean that any or all of the Future Annexation Area will annex into the CFD or Improvement Area No. 1, but should property designated as Future Annexation Area choose to annex, the annexation may be processed pursuant to the streamlined annexation procedures provided in the Act. Nothing shall prevent property identified as Future Annexation Area from annexing under the non-streamlined provisions of the Act.

“Improvement Area No 1” means Improvement Area No. 1 of the City of Tracy Community Facilities District No. 2016-2 (ECFD).

“Improvement Fund” means the account (regardless of its name) identified in the Indenture to hold funds which are available to acquire or construct Authorized Facilities.

“Indenture” means the bond indenture, fiscal agent agreement, trust agreement, resolution or other instrument pursuant to which Bonds are issued, as modified, amended, and/or supplemented from time to time, and any instrument replacing or supplementing the same.

“Index” means the Consumer Price Index of the San Francisco-Oakland-San Jose area for all urban consumers.

“Land Use Change” means a proposed or approved change to the Expected Land Uses within Improvement Area No. 1 after CFD Formation, which shall include approval of Final Maps that reflect a different number of SFD Lots than expected and issuance of Building Permits for more Residential Units than expected in a particular Square Footage Category.

“Limited Use Property” means the specific geographic area in Improvement Area No. 1 that (i) was identified in Fiscal Year 2016-17 by Assessor’s Parcel number 240-140-37, and (ii) is designated as “Limited Use” in Attachment 1 of this RMA. All Parcels created by future subdivision within this geographic area will be designated as Limited Use Property, unless a Building Permit is issued that qualifies a Parcel within the designated geographic area as Single Family Detached Residential Property, at which time such Parcel will be taxed based on

application of the appropriate Target Facilities Special Tax for Single Family Detached Residential Property, as set forth in Section C below. Based on the geographic area defined as Limited Use Property, it is expected that no more than 43 Acres of property in Improvement Area No. 1 will be designated as Limited Use Property. If, in any Fiscal Year, the Administrator determines that property with a Limited Use designation exceeds 43 Acres, such excess Acreage will be taxed as Other Property. Based on reference to Attachment 1, the Administrator shall determine which Acreage is excess and should be categorized as Other Property.

“Maximum Facilities Special Tax” means the greatest amount of Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year as determined in accordance with Sections C, D, and E below.

“Maximum Services Special Tax” means the greatest amount of Services Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year as determined in accordance with Sections C.2 and E below.

“Maximum Special Taxes” means, as the context requires, either or both of the Maximum Facilities Special Tax and Maximum Services Special Tax.

“Other Property” means, in any Fiscal Year, all Parcels of Developed Property within Improvement Area No. 1 that are not Single Family Detached Residential Property

“Owners Association” means a homeowners association or property owners association that provides services to, and collects assessments, fees, dues, or charges from, property within Improvement Area No. 1.

“Owners Association Property” means any property within the boundaries of Improvement Area No. 1 that is owned in fee or by easement by the Owners Association, not including any such property that is located directly under a residential structure.

“Proportionately” means (separately for the Facilities Special Tax and Services Special Tax), for Developed Property, Developed Limited Use Property, and Developed Village Center Property, that the ratio of the actual Special Taxes levied in any Fiscal Year to the Maximum Special Taxes authorized to be levied in that Fiscal Year is equal for all Parcels of Developed Property, Developed Limited Use Property, and Developed Village Center Property, respectively. For Undeveloped Property, Undeveloped Limited Use Property, and Undeveloped Village Center Property, “Proportionately” means that the ratio of the actual Special Taxes levied to the Maximum Special Taxes is equal for all Parcels of Undeveloped Property, Undeveloped Limited Use Property, and Undeveloped Village Center Property, respectively. For Taxable Owners Association Property and Taxable Public Property, “Proportionately” means that the ratio of the actual Special Taxes levied to the Maximum Special Taxes is equal for all Parcels of Taxable Owners Association Property and Taxable Public Property.

“Public Property” means any property within the boundaries of Improvement Area No. 1 that is owned by the federal government, State of California or other local governments or public agencies.

“Remainder Taxes” means, after September 1st and before December 31st of any Fiscal Year, any Facilities Special Tax revenues that were levied and collected in the prior Fiscal Year and were not needed to (1) pay debt service on the Bonds that was due in the calendar year in which the Remainder Taxes are being calculated, (ii) replenish Bond reserves, (iii) cure any delinquencies in the payment of principal or interest on Bonds which have occurred in the prior Fiscal Year, or (iv) pay Administrative Expenses that have been incurred, or are expected to be incurred, by the City prior to the receipt of additional Facilities Special Tax proceeds.

“Required Coverage” means the amount by which the Expected Maximum Facilities Special Tax Revenues must exceed the Bond debt service and required Administrative Expenses, as set forth in the Indenture, Certificate of Special Tax Consultant, or other formation or bond document that sets forth the minimum required debt service coverage.

“Residential Unit” means an individual single-family unit that does not share a common wall with another residential unit. An Accessory Unit that shares a Parcel with a single-family detached unit shall not be considered a separate Residential Unit for purposes of this RMA and shall not be taxed under this RMA.

“RMA” means this Rate and Method of Apportionment of Special Tax.

“Services Special Tax” means a special tax levied in any Fiscal Year to pay the Services Special Tax Requirement.

“Services Special Tax Requirement” means the amount of revenue needed in any Fiscal Year to pay for: (i) Authorized Services, (ii) Administrative Expenses, and (iii) amounts needed to cure any delinquencies in the payment of Services Special Taxes which have occurred in the prior Fiscal Year. In any Fiscal Year, the Services Special Tax Requirement shall be reduced by surplus amounts available (as determined by the City) from the levy of the Services Special Tax in prior Fiscal Years, including revenues from the collection of delinquent Services Special Taxes and associated penalties and interest.

“SFD Lot” means an individual residential lot, identified and numbered on a recorded Final Map, on which a Building Permit was or is permitted to be issued for construction of a single family detached unit without further subdivision of the lot and for which no further subdivision of the lot is anticipated pursuant to an approved tentative map.

“Single Family Detached Residential Property” means, in any Fiscal Year, all Parcels for which a Building Permit was issued for construction of a Residential Unit.

“Special Taxes” means, as the context requires, either or both of the Facilities Special Tax and the Services Special Tax.

“Square Foot” or **“Square Footage”** means the square footage of living area of a Residential Unit as reflected on a Building Permit.

“Square Footage Category” means one of the three different categories of Single Family Detached Property set forth in Table 1 in Section C below.

“Target Facilities Special Tax” means the Facilities Special Tax per Residential Unit for each Square Footage Category, as set forth in Table 1 below, that was used to determine the Expected Maximum Facilities Special Tax Revenues shown in Attachment 2.

“Taxable Owners Association Property” means, in any Fiscal Year after the first series of Bonds is issued, any Parcel of Owners Association Property that satisfies all three of the following conditions: (i) the Parcel had not been Owners Association Property on the date of issuance of the first series of Bonds, (ii) based on reference to Attachments 1 and 2 (as may be updated pursuant to Sections D and E below), the Parcel was not anticipated to be Owners Association Property based on the Expected Land Uses, as determined by the Administrator, and (iii) if the Parcel were to be exempt from the Facilities Special Tax because it had become Owners Association Property, the Expected Maximum Facilities Special Tax Revenues would be reduced to a point at which Required Coverage could not be maintained.

“Taxable Property” means all Parcels within the boundaries of Improvement Area No. 1 that are not exempt from the Special Taxes pursuant to law or Section H below.

“Taxable Public Property” means in any Fiscal Year after the first series of Bonds is issued, any Parcel of Public Property that satisfies all three of the following conditions: (i) the Parcel had not been Public Property on the date of issuance of the first series of Bonds, (ii) based on reference to Attachments 1 and 2 (as may be updated pursuant to Sections D and E below), the Parcel was not anticipated to be Public Property based on the Expected Land Uses, as determined by the Administrator, and (iii) if the Parcel were to be exempt from the Facilities Special Tax Revenues because it has become Public Property, the Expected Maximum Facilities Special Tax Revenues would be reduced to a point at which Required Coverage could not be maintained.

“Trigger Event” means that (i) all Bonds secured by the levy and collection of Facilities Special Taxes in Improvement Area No. 1 have been fully repaid, (ii) all Administrative Expenses from prior Fiscal Years have been paid, funded, and/or reimbursed to the City, and (iii) there are no other Authorized Facilities that the City intends to fund with Bonds and Facilities Special Taxes. In the first Fiscal Year in which the Administrator determines that the Trigger Event occurred in the prior Fiscal Year, and in each Fiscal Year thereafter, the Facilities Special Tax shall cease to be levied, and the Maximum Services Special Tax for each Parcel shall be adjusted pursuant to Section C.2 below.

“Unanimous Approval Form” means the form executed by the record owner of fee title to a Parcel or Parcels included within the Future Annexation Area and annexed into Improvement Area No. 1 that constitutes the property owner’s approval and unanimous vote in favor of annexing the property into Improvement Area No. 1 and authorized the levy of Special Taxes against his/her Parcel of Parcels pursuant to this RMA.

“Undeveloped Limited Use Property” means, in any Fiscal Year, all Parcels of Limited Use Property that are not yet Developed Limited Use Property.

“Undeveloped Property” means, in any Fiscal Year, all Parcels of Taxable Property that are not Developed Property, Developed Limited Use Property, Developed Village Center Property,

Undeveloped Limited Use Property, Undeveloped Village Center Property, Taxable Owners Association Property, or Taxable Public Property.

“Undeveloped Village Center Property” means, in any Fiscal Year, all Parcels of Village Center Property that are not yet Developed Village Center Property.

“Village Center Property” means the specific geographic areas in the CFD that: (i) were identified in Fiscal Year 2016-17 by Assessor’s Parcel numbers 240-140-35 and 240-140-36, and (ii) are designated as “Village Center” in Attachment 1 of this RMA. All Parcels created by future subdivision within this geographic area will be designated as Village Center Property, unless a Building Permit is issued that qualifies a Parcel as Single Family Detached Residential Property, at which time such Parcel will be taxed based on application of the appropriate Target Facilities Special Tax for Single Family Detached Residential Property, as set forth in Section C below. Based on this definition of Village Center Property, it is expected that no more than 30 Acres of property in Improvement Area No. 1 will be designated as Village Center Property. If, in any Fiscal Year, the Administrator determines that property with a Village Center designation exceeds 30 Acres, such excess Acreage will be taxed as Other Property. Based on reference to Attachment 1, the Administrator shall determine which Acreage is excess and should be categorized as Other Property.

B. DATA FOR ADMINISTRATION OF SPECIAL TAXES

Each Fiscal Year, the Administrator shall: (i) categorize each Parcel of Taxable Property as Developed Property, Developed Village Center Property, Developed Limited Use Property, Undeveloped Limited Use Property, Undeveloped Village Center Property, Undeveloped Property, Taxable Owners Association Property or Taxable Public Property, (ii) for Developed Property, categorize each Parcel as Single Family Detached Residential Property or Other Property, (iii) based on Square Footage reflected on Building Permits issued by June 30 of the prior Fiscal Year, assign each Residential Unit to the appropriate Square Footage Category, (iv) determine the Facilities Special Tax Requirement and Services Special Tax Requirement for the Fiscal Year, and (v) determine if the Trigger Event occurred in the prior Fiscal Year. In addition, the Administrator shall, *on an ongoing basis*, monitor Final Maps and track the Square Footage on all Building Permits that have been issued to determine if there are any proposed Land Use Changes that would change the Expected Maximum Facilities Special Tax Revenues. If the Expected Maximum Facilities Special Tax Revenues will be revised pursuant to a proposed Land Use Change, the Administrator shall apply the steps set forth in Section D below.

In any Fiscal Year, if it is determined that: (i) a parcel map for property in Improvement Area No. 1 was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the parcel map was recorded, the Assessor does not yet recognize the new Parcels created by the parcel map, and (iii) one or more of the newly-created Parcels is in a different Development Class than other Parcels created by the subdivision, the Administrator shall calculate the Special Taxes for the property affected by recordation of the parcel map by determining the Special Taxes that apply separately to the property within each Development Class, then applying the sum of the individual Special Taxes to the Parcel that was subdivided by recordation of the parcel map.

C. MAXIMUM SPECIAL TAXES

1. Facilities Special Tax

a. Single Family Detached Residential Property

The Maximum Facilities Special Tax for Parcels of Single Family Detached Residential Property shall be the greater of (i) the Target Facilities Special Taxes set forth in Table 1 below, or, (ii) if there are Land Use Changes that would reduce debt service coverage on outstanding Bonds below the Required Coverage, the Maximum Facilities Special Tax determined pursuant to Section D below.

**TABLE 1
IMPROVEMENT AREA NO. 1
TARGET FACILITIES SPECIAL TAX
SINGLE FAMILY DETACHED RESIDENTIAL PROPERTY**

<i>Square Footage Category</i>	<i>Target Facilities Special Tax Prior to Trigger Event (Fiscal Year 2016-17)*</i>	<i>Target Facilities Special Tax After Trigger Event (Fiscal Year 2016-17)</i>
Residential Units Greater than 4,000 Square Feet	\$2,928 per Residential Unit	\$0 per Residential Unit
Residential Units 2,000 – 4,000 Square Feet	\$2,840 per Residential Unit	\$0 per Residential Unit
Residential Units Less than 2,000 Square Feet	\$1,851 per Residential Unit	\$0 per Residential Unit

*** On July 1, 2017 and on each July 1 thereafter, all figures shown in Table 1 above shall be increased by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year.**

b. Other Property

The Maximum Facilities Special Tax for Other Property prior to the Trigger Event is \$30,020 per Acre for Fiscal Year 2016-17, which amount shall increase on July 1, 2017 and each July 1 thereafter by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year. After the Trigger Event the Maximum Facilities Special Tax for Other Property is \$0 per Acre. If Other Property is developed with condominium or townhome units, the Administrator shall apply the following steps to allocate the Maximum Facilities Special Tax to the Parcels within the condominium or townhome buildings:

- Step 1:** Determine the Acreage of the underlying land Parcel on which the building(s) is located.
- Step 2:** Multiply the Acreage from Step 1 by the Maximum Facilities Special Tax for Other Property in the current Fiscal Year.
- Step 3:** Divide the product from Step 2 by the total number of townhomes or condominium units built or expected to be built on the underlying land Parcel to determine the Maximum Facilities Special Tax for each condominium or townhome unit, which amount shall escalate by 2.0% in the next Fiscal Year and each following Fiscal Year.

Once a Facilities Special Tax has been levied on a Parcel of Developed Property, the Maximum Facilities Special Taxes applicable to that Parcel shall not be reduced in future Fiscal Years regardless of changes in land use on the Parcel, except (i) in the event of a partial prepayment pursuant to Section I, and (ii) pursuant to Section D. Notwithstanding the foregoing, (i) if Bonds have yet to be issued for Improvement Area No. 1, the Parcels can be assigned to the appropriate Square Footage Category, and the Administrator shall recalculate the Expected Maximum Facilities Special Tax Revenues based on the corresponding changes in revenues, and (ii) the actual Facilities Special Tax levied on the Parcel in any Fiscal Year may be less than the Maximum Facilities Special Tax if a lower Facilities Special Tax is calculated pursuant to Step 1 in Sections F.1 below.

c. Undeveloped Property, Taxable Owners Association Property, and Taxable Public Property

The Maximum Facilities Special Tax for Undeveloped Property, Taxable Owners Association Property, and Taxable Public Property prior to the Trigger Event is \$30,020 per Acre for Fiscal Year 2016-17, which amount shall increase on July 1, 2017 and each July 1 thereafter by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year. After the Trigger Event the Maximum Facilities Special Tax for Undeveloped Property, Taxable Owners Association Property, and Taxable Public Property is \$0 per Acre. In addition, any amount levied on a landowner's Parcel(s) of Undeveloped Property due to such landowner's failure to make a prepayment pursuant to Section D below shall be added to the amount determined in the prior sentence to calculate the total Maximum Facilities Special Tax for the landowner's Parcel(s).

2. *Services Special Tax*

Table 2 below identifies the Maximum Services Special Tax before and after the Trigger Event for Taxable Property in Improvement Area No. 1.

**TABLE 2
IMPROVEMENT AREA NO. 1
MAXIMUM SERVICES SPECIAL TAX**

<i>Type of Property</i>	<i>Maximum Services Special Tax Before Trigger Event (Fiscal Year 2016-17)*</i>	<i>Maximum Services Special Tax After Trigger Event (Fiscal Year 2016-17)*</i>
<u>Single Family Detached Residential Property</u>		
Residential Units Greater than 4,000 Square Feet	\$1,494 per Residential Unit	\$2,079 per Residential Unit
Residential Units 2,000 – 4,000 Square Feet	\$1,195 per Residential Unit	\$1,763 per Residential Unit
Residential Units Less than 2,000 Square Feet	\$896 per Residential Unit	\$1,266 per Residential Unit
Developed Limited Use Property Developed Village Center Property Other Property	\$896 per Acre \$3,585 per Acre \$3,585 per Acre	\$896 per Acre \$3,585 per Acre \$3,585 per Acre
Undeveloped Limited Use Property Undeveloped Village Center Property Undeveloped Property	\$448 per Acre \$1,793 per Acre \$3,585 per Acre	\$448 per Acre \$1,793 per Acre \$3,585 per Acre

*** On July 1, 2017 and on each July 1 thereafter, all figures shown in Table 2 above shall be increased by the Escalation Factor.**

a. Other Property

If Other Property is developed with condominium or townhome units, the Administrator shall apply the following steps to allocate the Maximum Services Special Tax to the Parcels within the condominium or townhome buildings:

- Step 1:** Determine the Acreage of the underlying land Parcel on which the building(s) is located.
- Step 2:** Multiply the Acreage from Step 1 by the Maximum Services Special Tax for Other Property in the current Fiscal Year.
- Step 3:** Divide the product from Step 2 by the total number of townhomes or condominium units built or expected to be built on the underlying land Parcel to

determine the Maximum Services Special Tax for each condominium or townhome unit, which amount shall be increased by the Escalation Factor in the next Fiscal Year and each following Fiscal Year.

D. CHANGES TO MAXIMUM FACILITIES SPECIAL TAX

The Expected Maximum Facilities Special Tax Revenues shown in Attachment 2 were calculated based on the Expected Land Uses at CFD Formation. As set forth in Section E herein, Attachment 2 shall be modified to reflect the Expected Land Uses and Expected Maximum Facilities Special Tax Revenues for Improvement Area No. 1 if property is annexed to Improvement Area No. 1. Attachment 2 is also subject to modification upon the occurrence of Land Use Changes, as described below. The Administrator shall review all Land Use Changes and compare the revised land uses to the Expected Land Uses to evaluate the impact on the Expected Maximum Facilities Special Tax Revenues.

If, prior to the issuance of the first series of Bonds, a Land Use Change is proposed or identified that will result in a change in the Expected Maximum Facilities Special Tax Revenues, no action will be needed pursuant to this Section D. Upon approval of the Land Use Change, the Administrator shall update Attachment 2 to show the revised Expected Maximum Facilities Special Tax Revenues.

If, *prior to Final Bond Sale*, a Land Use Change is proposed or identified that will result in a change in the Expected Maximum Facilities Special Tax Revenues, no action will be needed pursuant to this Section D as long as the change in Expected Maximum Facilities Special Tax Revenues does not reduce debt service coverage on outstanding Bonds below the Required Coverage. Upon approval or identification of the Land Use Change, the Administrator shall update Attachment 2 to show the revised Expected Maximum Facilities Special Tax Revenues, which shall then be the amount used to size future Bond sales.

If a Land Use Change would reduce debt service coverage on outstanding Bonds below the Required Coverage, either: (i) a prepayment of Facilities Special Taxes must be made by the landowner requesting the Land Use Change to retire Bonds in the amount necessary to maintain Required Coverage, or (ii) Step 3 below must be applied to maintain the Expected Maximum Facilities Special Tax Revenues.

If, *after the Final Bond Sale*, a Land Use Change is proposed or identified, Steps 1 through 3 must be applied:

- Step 1:** By reference to Attachment 2 (which shall be updated by the Administrator each time a Land Use Change has been processed according to this Section D), the Administrator shall identify the Expected Maximum Facilities Special Tax Revenues for Improvement Area No. 1.
- Step 2:** The Administrator shall calculate the Expected Maximum Facilities Special Tax Revenues that could be collected from Taxable Property in Improvement Area No. 1 if the Land Use Change occurs.

Step 3: If the amount calculated in Step 2 is higher than that determined in Step 1, no further action is needed, and the Administrator shall update Attachment 2 to show the revised Expected Maximum Facilities Special Tax Revenues.

If the revenues calculated in Step 2 are less than those calculated in Step 1, no action will be needed if the reduction in Expected Maximum Facilities Special Tax Revenues does not reduce debt service coverage on outstanding Bonds below the Required Coverage, and the Administrator shall update Attachment 2 to show the reduced Expected Maximum Facilities Special Tax Revenues.

If the revenues calculated in Step 2 are less than those calculated in Step 1, and the Administrator determines that the reduction in Expected Maximum Facilities Special Tax Revenues would reduce debt service coverage on outstanding Bonds below the Required Coverage, one of the following shall occur:

3.a. The landowner requesting the Land Use Change will have the option to prepay Facilities Special Taxes (pursuant to Section I) in an amount that will ensure that the reduced Expected Maximum Facilities Special Tax Revenues are sufficient to provide Required Coverage. If the landowner notifies the Administrator that he/she would like to remedy such reduction by making a prepayment, such prepayment must be made by the earlier of (i) 30 days from the date of delivery of the prepayment or (ii) prior to close of escrow on the first Residential Unit for which the Building Permit was issued that resulted in more Residential Units in a Square Footage Category than was anticipated in the Expected Land Uses. If any prepayment is not received by the City prior to the earlier of clauses (i) and (ii) of the preceding sentence, the Administrator shall levy the required prepayment amount on any Parcel(s) of Taxable Property still owned by the landowner within Improvement Area No. 1,

or, if there are no more Parcels of Taxable Property owned by the landowner who had been expected to prepay, or if a landowner opts not to make a prepayment to mitigate the reduction in the Expected Maximum Facilities Special Tax Revenues, the following Step 3.b shall apply:

3.b. The Maximum Facilities Special Taxes for Parcels owned by the landowner requesting the Land Use Change shall be determined by increasing the Target Facilities Special Taxes shown in Table 1 above proportionately until the amount that could be collected from all SFD Lots that are subject to the Land Use Change (as determined by the Administrator) will be sufficient to maintain Required Coverage. After the Administrator has prepared such calculation for a particular landowner, the Administrator shall closely monitor future Final Maps and Building Permits to determine if a similar increase in the Target Facilities Special Tax must be applied for subsequent Parcels of Single Family Detached Residential Property. On July 1 of each Fiscal Year, all Maximum Facilities

Special Taxes determined pursuant to this Section 3.b shall be increased by 2.0% of the amount in effect in the prior Fiscal Year.

The duties imposed on the Administrator to review Land Use Changes, Final Maps, and Building Permits and to make the calculations set forth above, are intended only to facilitate the administration of the Facilities Special Tax and to better assure the sufficiency of tax capacity to pay debt service on Bonds. Such duties are not intended to give any developer, subdivider or owner of property any right to receive notice of the potential impact of Land Use Changes on the Facilities Special Tax applicable to a Parcel; and **each developer, subdivider or owner of property in the CFD shall be responsible for understanding the impact thereof on the Facilities Special Tax applicable to such property.**

E. ANNEXATIONS

If, in any Fiscal Year, a property owner within the Future Annexation Area wants to annex property into Improvement Area No. 1, the Administrator shall apply the following steps as part of the annexation proceedings:

- Step 1:** Working with City staff and the landowner, the Administrator shall determine the Maximum Special Taxes that will apply to all Parcels that are expected to be within the area to be annexed. Once determined, the Maximum Special Taxes for the annexing area shall be identified on the Unanimous Approval Form which will be signed by the property owner as part of the annexation process.
- Step 2:** The Administrator shall ensure that a Notice of Special Tax Lien is recorded against all Parcels that are annexed to Improvement Area No. 1.
- Step 3:** The Administrator shall prepare and keep on file an updated Attachment 2 that adds the annexed property and identifies the Expected Land Uses and revised Expected Maximum Facilities Special Tax Revenues for Improvement Area No. 1. After the annexation is complete, the application of Sections D, F, and I of this RMA shall be based on the adjusted Expected Land Uses and Expected Maximum Facilities Special Tax Revenues including the newly annexed property.
- Step 4:** The Administrator shall recalculate the Public Facilities Requirement used in the prepayment calculation in Section I below to include the estimated net proceeds that can be generated to fund Authorized Facilities based on the Maximum Facilities Special Tax capacity from the annexed area. The adjusted Public Facilities Requirement shall be calculated by (i) dividing the increased Expected Maximum Facilities Special Tax Revenues that can be collected after the annexation by the Expected Maximum Facilities Special Tax Revenues that were in place prior to the annexation, and (ii) multiplying the quotient by the Public Facilities Requirement that was in place prior to the annexation.

If an owner of a Parcel or Parcels outside the Future Annexation Area wants to annex into the CFD and the City agrees to such annexation, the procedures set forth in Section 53339 *et seq.* of the Act shall be used to process the annexation. The Administrator shall apply the steps set forth above, using, for Step 1, the Maximum Special Taxes identified in the Rate and Method of Apportionment of Special Tax adopted as part of the annexing proceedings instead of the Unanimous Approval Form.

F. METHOD OF LEVY OF THE SPECIAL TAXES

1. Facilities Special Tax

Each Fiscal Year, the Administrator shall determine the Facilities Special Tax Requirement and levy the Facilities Special Tax on all Parcels of Taxable Property as follows:

Step 1: In the first fifteen (15) Fiscal Years in which a Facilities Special Tax is levied within Improvement Area No. 1, the Maximum Facilities Special Tax shall be levied on each Parcel of Single Family Detached Residential Property and Other Property, prior to applying any Capitalized Interest that is available in the CFD accounts. Any Facilities Special Tax proceeds collected that are determined by the Administrator to be Remainder Taxes shall be deposited into the Improvement Fund to pay costs associated with the acquisition of Authorized Facilities eligible to be financed by the Remainder Taxes under the Acquisition Agreement and that were not paid with Bond proceeds or Facilities Special Taxes levied in prior Fiscal Years.

Beginning in the sixteenth (16th) Fiscal Year in which a Facilities Special Tax is levied within Improvement Area No. 1 and continuing until the Trigger Event, the Facilities Special Tax shall be levied Proportionately on each Parcel of Single Family Detached Residential Property and Other Property up to 100% of the Maximum Facilities Special Tax for each Parcel for such Fiscal Year until the amount levied on Single Family Detached Residential Property and Other Property is equal to the Facilities Special Tax Requirement prior to applying any Capitalized Interest that is available in the CFD accounts.

Step 2: If additional revenue is needed after Step 1 and after applying Capitalized Interest to the Facilities Special Tax Requirement, the Facilities Special Tax shall be levied Proportionately on each Parcel of Undeveloped Property up to 100% of the Maximum Facilities Special Tax for Undeveloped Property for such Fiscal Year.

Step 3: If additional revenue is needed after Step 2, the Facilities Special Tax shall be levied Proportionately on each Parcel of Taxable Owners Association Property and Taxable Public Property, up to 100% of the Maximum Facilities Special Tax for each Parcel of Owners Association Property and Taxable Public Property, as applicable, for such Fiscal Year.

2. *Services Special Tax*

Each Fiscal Year, the Administrator shall determine the Services Special Tax Requirement and levy the Services Special Tax on all Parcels of Taxable Property as follows:

- Step 1:** The Services Special Tax shall be levied Proportionately on each Parcel of Developed Property, Developed Limited Use Property, and Developed Village Center Property up to 100% of the Maximum Services Special Tax for each Parcel for such Fiscal Year until the amount levied is equal to the Services Special Tax Requirement.
- Step 2:** If additional revenue is needed after Step 1, the Services Special Tax shall be levied Proportionately on each Parcel of Undeveloped Property, up to 100% of the Maximum Services Special Tax for Undeveloped Property for such Fiscal Year.
- Step 3:** If additional revenue is needed after Step 2, the Services Special Tax shall be levied Proportionately on each Parcel of Undeveloped Village Center Property, up to 100% of the Maximum Services Special Tax for Undeveloped Village Center Property for such Fiscal Year.
- Step 4:** If additional revenue is needed after Step 3, the Services Special Tax shall be levied Proportionately on each Parcel of Undeveloped Limited Use Property, up to 100% of the Maximum Services Special Tax for Undeveloped Limited Use Property for such Fiscal Year.

G. MANNER OF COLLECTION OF SPECIAL TAXES

Each of the Facilities Special Taxes and the Services Special Taxes shall be identified and collected separately. Facilities Special Taxes collected shall be used only to satisfy the Facilities Special Tax Requirement or to finance Authorized Facilities. Services Special Taxes collected shall be used only to satisfy the Services Special Tax Requirement.

Each of the Special Taxes shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that partial prepayments of the Facilities Special Tax are permitted as set forth in Section I below and provided further that the City may directly bill each of the Special Taxes, may collect each of the Special Taxes at a different time or in a different manner, and may collect delinquent Special Taxes through foreclosure or other available methods.

The Facilities Special Tax shall be levied and collected until the earlier of (i) the Trigger Event, or (ii) Fiscal Year 2056-57. Under no circumstances may the Facilities Special Tax on a Parcel in residential use be increased in any Fiscal Year as a consequence of delinquency or default in payment of the Facilities Special Tax levied on another Parcel or Parcels by more than ten percent (10%) above the amount that would have been levied in that Fiscal Year had there never been any

such delinquencies or defaults. The Services Special Tax may be levied and collected in perpetuity.

H. EXEMPTIONS

Notwithstanding any other provision of this RMA, no Facilities Special Tax may be levied on the following: (i) Developed Limited Use Property, (ii) Undeveloped Limited Use Property, (iii) Developed Village Center Property (iv) Undeveloped Village Center Property, (v) Public Property, except Taxable Public Property, and (vi) Owners Association Property, except Taxable Owners Association Property. No Services Special Tax shall be levied on the following: (i) Public Property, including Taxable Public Property, and (ii) Owners Association Property, including Taxable Owners Association Property. In addition, no Special Taxes shall be levied on: (i) Parcels that are designated as permanent open space or common space on which no structure is permitted to be constructed, (ii) Parcels owned by a public utility for an unmanned facility, and (iii) Parcels subject to an easement that precludes any use on the Parcel other than that permitted by the easement. Notwithstanding the foregoing, if a Facilities Special Tax has been levied on a Parcel in any Fiscal Year, and the entire Parcel subsequently becomes open space, an unmanned utility facility, or subject to an easement that precludes a residential or non-residential use, the Parcel shall remain subject to the Facilities Special Tax levy, unless: (i) the first series of Bonds has yet to be issued for Improvement Area No. 1, or (ii) the Administrator determines that, if such Parcel becomes exempt from the Facilities Special Tax, the corresponding reduction in the Expected Maximum Facilities Special Tax Revenues would not reduce debt service coverage on outstanding Bonds below the Required Coverage. In either case, such property shall be categorized as Public Property, and the Administrator shall recalculate the Expected Maximum Facilities Special Tax Revenues to reflect the corresponding loss in revenues.

I. PARTIAL PREPAYMENT OF FACILITIES SPECIAL TAX

The following definitions apply to this Section I:

“Outstanding Bonds” means all Previously Issued Bonds which remain outstanding, with the following exception: if a Facilities Special Tax has been levied against, or already paid by, an Assessor’s Parcel making a prepayment, and a portion of the Facilities Special Tax will be used to pay a portion of the next principal payment on the Bonds that remain outstanding (as determined by the Administrator), that next principal payment shall be subtracted from the total Bond principal that remains outstanding, and the difference shall be used as the amount of Outstanding Bonds for purposes of this prepayment formula.

“Previously Issued Bonds” means all Bonds that have been issued prior to the date of prepayment.

“Public Facilities Requirements” means: (i) \$12,400,000 in fiscal year 2016-17 dollars, which amount shall, on July 1, 2017 and on each July 1 thereafter, be increased by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year, or (ii) such lower number as shall be determined by the City to be an appropriate estimate of the net

construction proceeds that will be generated from all Bonds that have been or are expected to be issued on behalf of Improvement Area No. 1.

“Remaining Facilities Costs” means the Public Facilities Requirements (as defined above), minus public facility costs funded by Previously Issued Bonds (as defined above), Facilities Special Taxes, or prior prepayments.

A property owner may prepay up to 80% of the Facilities Special Tax obligation applicable to a Parcel in Improvement Area No. 1, thereby reducing the Maximum Facilities Special Tax applicable to the Parcel, provided that a prepayment may be made only if there are no delinquent Special Taxes with respect to such Parcel at the time of prepayment. An owner of a Parcel intending to prepay a portion of the Facilities Special Tax obligation shall provide the City with written notice of intent to prepay, which shall identify the percentage of the Maximum Facilities Special Tax that is to be prepaid. Within 30 days of receipt of such written notice, the City or its designee shall notify such owner of the prepayment amount for such Parcel. Prepayment must be made not less than 50 days prior to any redemption date for Bonds to be redeemed with the proceeds of such prepaid Facilities Special Taxes. Under no circumstance shall a prepayment be allowed that would reduce debt service coverage below the Required Coverage. The Prepayment Amount shall be calculated as follows (capitalized terms as defined above or below):

	Bond Redemption Amount
plus	Remaining Facilities Amount
plus	Redemption Premium
plus	Defeasance Requirement
plus	Administrative Fees and Expenses
<u>less</u>	<u>Reserve Fund Credit</u>
equals	Prepayment Amount

As of the proposed date of prepayment, the Prepayment Amount shall be determined by application of the following steps:

- Step 1.** Determine the Maximum Facilities Special Tax that could be levied on the Parcel based on Expected Land Uses at the time the prepayment is calculated.
- Step 2.** Divide the Maximum Facilities Special Tax computed pursuant to Step 1 by the Expected Maximum Facilities Special Tax Revenues for Improvement Area No. 1 in that Fiscal Year.
- Step 3.** Multiply the quotient computed in Step 2 by the percentage of the Maximum Facilities Special Tax that the property owner wants to prepay, which percentage shall not exceed 80%.
- Step 4.** Multiply the quotient computed pursuant to Step 3 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (*the “Bond Redemption Amount”*).

- Step 5.** Compute the current Remaining Facilities Costs (if any).
- Step 6.** Multiply the quotient computed pursuant to Step 2 by the amount determined pursuant to Step 5 to compute the amount of Remaining Facilities Costs to be prepaid (*the “Remaining Facilities Amount”*).
- Step 7.** Multiply the Bond Redemption Amount computed pursuant to Step 4 by the applicable redemption premium as shown in the Indenture, if any, on the Outstanding Bonds to be redeemed (*the “Redemption Premium”*).
- Step 8.** Compute the amount needed to pay interest on the Bond Redemption Amount starting with the last Bond interest payment date on which interest has been or will be paid by Facilities Special Taxes already levied until the earliest redemption date for the Outstanding Bonds. If Bonds are callable at, or prior to, the last Bond interest payment date on which interest has been or will be paid by Facilities Special Taxes already levied, Steps 8, 9 and 10 of this prepayment formula will not apply.
- Step 9.** Compute the amount of interest the City reasonably expects to derive from reinvestment of the Bond Redemption Amount plus the Redemption Premium from the first Bond interest payment date after which the prepayment has been received until the redemption date for the Outstanding Bonds.
- Step 10.** Subtract the amount computed pursuant to Step 9 from the amount computed pursuant to Step 8 (*the “Defeasance Requirement”*).
- Step 11.** The administrative fees and expenses associated with the prepayment will be determined by the Administrator and include the costs of computing the prepayment, redeeming Bonds and recording any notices to evidence the prepayment and the redemption (*the “Administrative Fees and Expenses”*).
- Step 12.** If, at the time the prepayment is calculated, the reserve fund is greater than or equal to the reserve requirement, and to the extent so provided in the Indenture, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (*the “Reserve Fund Credit”*).
- Step 13.** The Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 4, 6, 7, 10, and 11, less the amount computed pursuant to Step 12 (*the “Prepayment Amount”*).
- Step 14.** From the Prepayment Amount, the amounts computed pursuant to Steps 4, 7, and 10 shall be deposited into the appropriate fund as established under the Indenture and be used to retire Outstanding Bonds (including the payment of any accrued interest). The amount computed pursuant to Step 6 shall be deposited into the Improvement Fund. The amount computed pursuant to

Step 11 shall be retained in the account or fund that is established to pay Administrative Expenses of the CFD.

Once a partial prepayment has been received, an Amendment to Special Tax Lien shall be recorded against the Parcel to reflect the reduced Facilities Special Tax lien for the Parcel, which shall be equal to the portion of the Maximum Facilities Special Tax that was not prepaid, and the Administrator shall update Attachment 2 to show the revised Expected Maximum Facilities Special Tax Revenues. However, an Amendment to Special Tax Lien shall not be recorded until all Special Taxes levied on the Parcel in the current or prior Fiscal Years have been collected. The prepayment of a portion of the Facilities Special Tax shall not affect the perpetual obligation to pay the Services Special Tax.

J. INTERPRETATION OF SPECIAL TAX FORMULA

The City may interpret, clarify, and revise this RMA to correct any inconsistency, vagueness, or ambiguity, by resolution and/or ordinance, that does not create a material adverse effect on the levy and collection of the Special Taxes and any security for any Bonds.

ATTACHMENT 1

**Improvement Area No. 1 of the
City of Tracy
Community Facilities District No. 2016-2
(ECFD)**

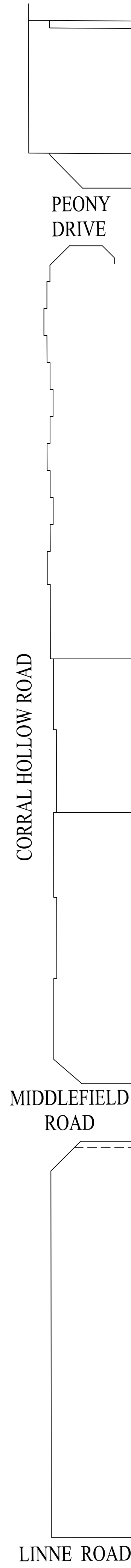
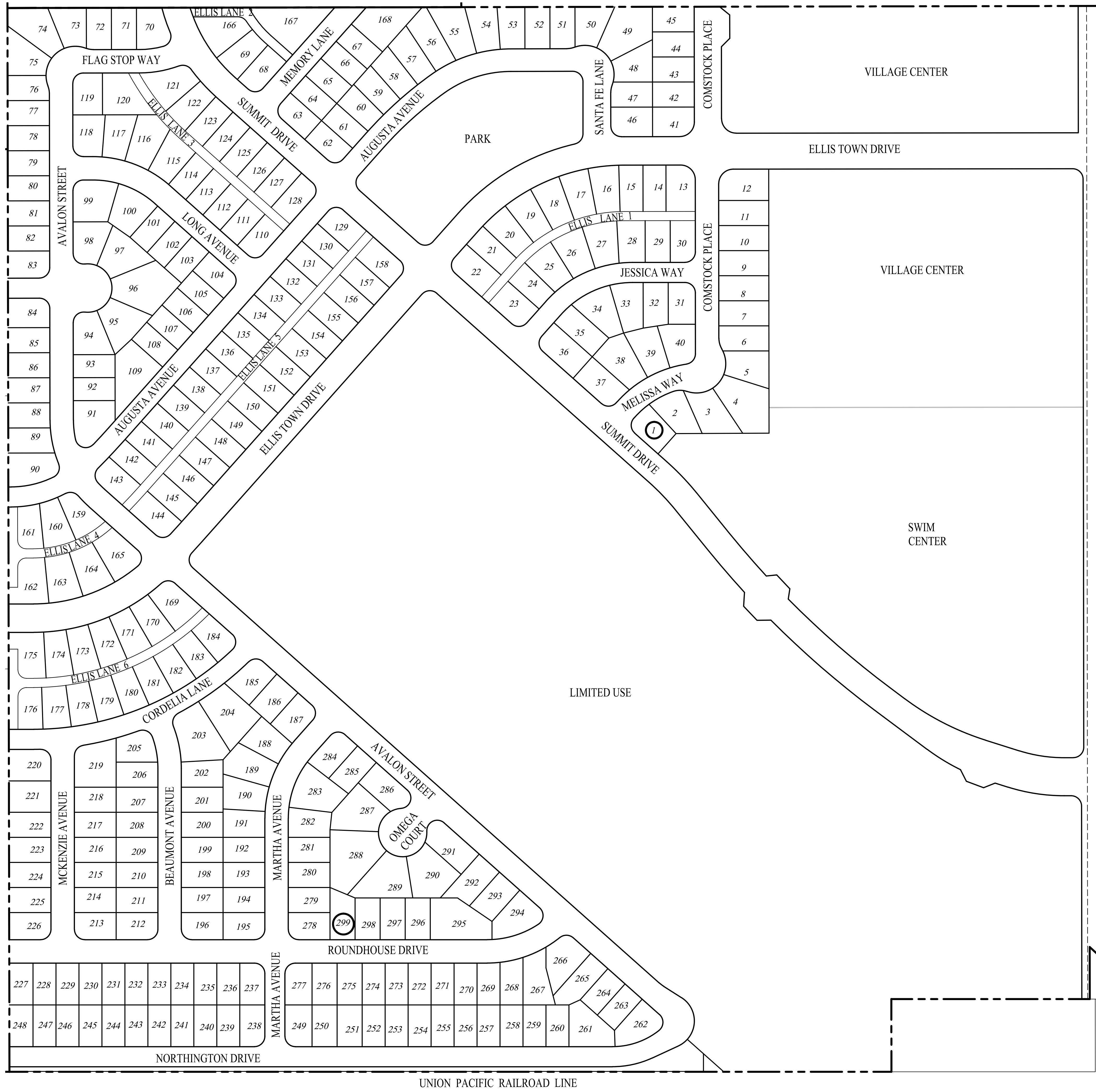
**Identification of SFD Lots and Other Property in
Improvement Area No. 1**

ATTACHMENT 1

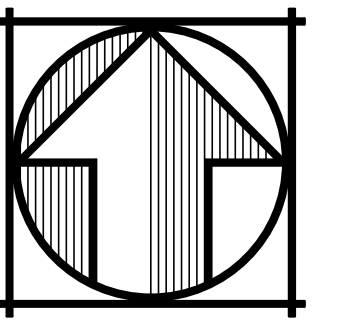
IMPROVEMENT AREA No. 1

CITY OF TRACY

COMMUNITY FACILITIES DISTRICT No. 2016-2 (ECFD)



THE VILLAGE	
SQUARE FOOTAGE CATEGORY	NO. OF RESIDENTIAL UNITS/ACRES
RESIDENTIAL UNITS >4,000 SQ. FEET	0 UNITS
RESIDENTIAL UNITS 2,000-4,000 SQ. FEET	299 UNITS
RESIDENTIAL UNITS <2,000 SQ. FEET	0 UNITS
ACRES OF LIMITED USE PROPERTY	41.87 ACRES
ACRES OF VILLAGE CENTER PROPERTY	15.76 ACRES



ATTACHMENT 2

**Improvement Area No. 1 of the
City of Tracy
Community Facilities District No. 2016-2
(ECFD)**

Expected Land Uses and Expected Maximum Facilities Special Tax Revenues

Square Footage Category	Number of Units	Target Facilities Special Tax (FY 2016-17) *	Expected Maximum Facilities Special Tax Revenues (FY 2016-17) *
Residential Units Greater than 4,000 Square Feet	0 units	\$2,928 per Residential Unit	\$0
Residential Units 2,000 – 4,000 Square Feet	299 units	\$2,840 per Residential Unit	\$849,160
Residential Units Less than 2,000 Square Feet	0 units	\$1,851 per Residential Unit	\$0
Total Expected Maximum Facilities Special Tax Revenues			\$849,160

*** On July 1, 2017 and on each July 1 thereafter, all figures shown above shall be increased by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year.**

RESOLUTION NO. _____

RESOLUTION OF INTENTION
TO INCUR BONDED INDEBTEDNESS AND OTHER DEBT

CITY OF TRACY
Community Facilities District No. 2016-2
(ECFD)

RESOLVED, by the City Council (the "Council") of the City of Tracy (the "City"), County of San Joaquin (the "County"), State of California, that:

WHEREAS, pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5 of the California Government Code (the "Act"), this Council has this date adopted its "Resolution of Intention to Establish Community Facilities District" (the "Resolution of Intention to Establish"), stating its intention to form (i) "City of Tracy Community Facilities District No. 2016-2 (ECFD)" (the "CFD"), (ii) "Improvement Area No. 1 of the City of Tracy Community Facilities District No. 2016-2 (ECFD)" ("Improvement Area No. 1") and (iii) a future annexation area for the CFD (the "Future Annexation Area") for the purpose of financing certain public improvements (the "Facilities") and certain public services, as further provided in that Resolution; and

WHEREAS, in the Resolution of Intention to Establish, this City Council determined that it may be necessary to designate additional improvement areas when territory in the Future Annexation Area annexes into the CFD (each, a "Future Improvement Area"); and

WHEREAS, this Council estimates the amount required for the financing of the costs of the Facilities in the territory of the CFD and the Future Annexation Area to be the sum of not to exceed \$80,000,000 and

WHEREAS, in order to finance the costs of the Facilities it is necessary to incur bonded indebtedness and other debt (as defined in the Act) in one or more series in the aggregate amount of not to exceed \$80,000,000 on behalf of the CFD and all improvement areas therein; and

WHEREAS, it is in the public interest and for the public benefit that the City declares its official intent to reimburse the expenditures referenced herein.

NOW THEREFORE BE IT RESOLVED, as follows:

1. Bonded Debt and Other Debt. In order to finance the costs of the Facilities, it is necessary for the City to incur bonded indebtedness and other debt (as defined in the Act) in the following amounts:

(i) For Improvement Area No. 1, an aggregate amount not to exceed \$27,000,000 (the "Improvement Area No. 1 Indebtedness Limit").

(ii) For the portion of the CFD that is not in Improvement Area No. 1, an amount not to exceed \$53,000,000 (the "Non-Improvement Area No. 1 Indebtedness Limit").

However, in the event all or a portion of the Future Annexation Area is annexed as one or more Future Improvement Areas, the maximum indebtedness of each such Future Improvement Area shall be identified in the unanimous approval of the property owners of the property to be annexed at the time of the annexation, subject to review and approval by the City Engineer, and the amount of the maximum indebtedness for the Future Improvement Area shall be subtracted from the Non-Improvement Area No. 1 Indebtedness Limit.

2. Purposes of Bonded Debt and Other Debt. The bonded indebtedness and other debt is proposed to be incurred for the purpose of financing the costs of the Facilities, including acquisition and improvement costs and all costs incidental to or connected with the accomplishment of said purposes and of the financing thereof, as permitted by Section 53345.3 of the Act.

3. Terms of Bonds and other Debt. This Council, acting as legislative body for the CFD, intends to authorize the issuance and sale of bonds and other debt in one or more series in the maximum aggregate principal amount of not to exceed the sum of the Improvement Area No. 1 Bonded Indebtedness Limit bearing interest payable semi-annually or in such other manner as this Council shall determine, at a rate not to exceed the maximum rate of interest as may be authorized by applicable law at the time of sale of such bonds and other debt, and maturing not to exceed 40 years from the date of the issuance of the bonds and other debt.

This City Council, acting as legislative body for the CFD, intends to authorize the issuance and sale of bonds and other debt in one or more series in the maximum aggregate principal amount with respect to the Future Improvement Areas to be determined at the time of annexation (not to exceed the Non-Improvement Area No. 1 Indebtedness Limit in the aggregate), bearing interest payable semi-annually or in such other manner as this City Council shall determine, at a rate not to exceed the maximum rate of interest as may be authorized by applicable law at the time of sale of each series of bonds and other debt, and maturing not to exceed 40 years from the date of the issuance of the respective series of bonds and other debt.

4. Public Hearing. Tuesday, February 7, 2017, at 7:00 p.m. or as soon as possible thereafter, in the City Council Chambers, 333 Civic Center Plaza, Tracy, California, be, and the same are hereby appointed and fixed as the time and place when and where this Council, as legislative body for the CFD, will conduct a public hearing on the proposed debt issue and consider and finally determine whether the public interest, convenience and necessity require the issuance of bonds and other debt of the of the City on behalf of Improvement Area No. 1 and the Future Improvement Areas.

5. Notices of Hearing. The City Clerk is hereby directed to cause notice of the public hearing to be given by publication one time in a newspaper of general circulation circulated within the CFD. The publication of the notice shall be completed at least 7 days before the date specified above for the public hearing. The notice shall be substantially in the form specified in Section 53346 of the Act, with the form summarizing the provisions hereof hereby specifically approved.

6. No Obligation. This Resolution shall in no way obligate the City Council of the City to form the CFD or to issue bonds or other debt for the CFD. Issuance of the bonds and

other debt shall be subject to the approval of this City Council by resolution following the holding of the public hearing referred to above.

* * * * *

The foregoing Resolution _____ was adopted by the Tracy City Council the 20th day of December, 2016, by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

By: _____
Mayor

ATTEST:

City Clerk



Think Inside the Triangle™

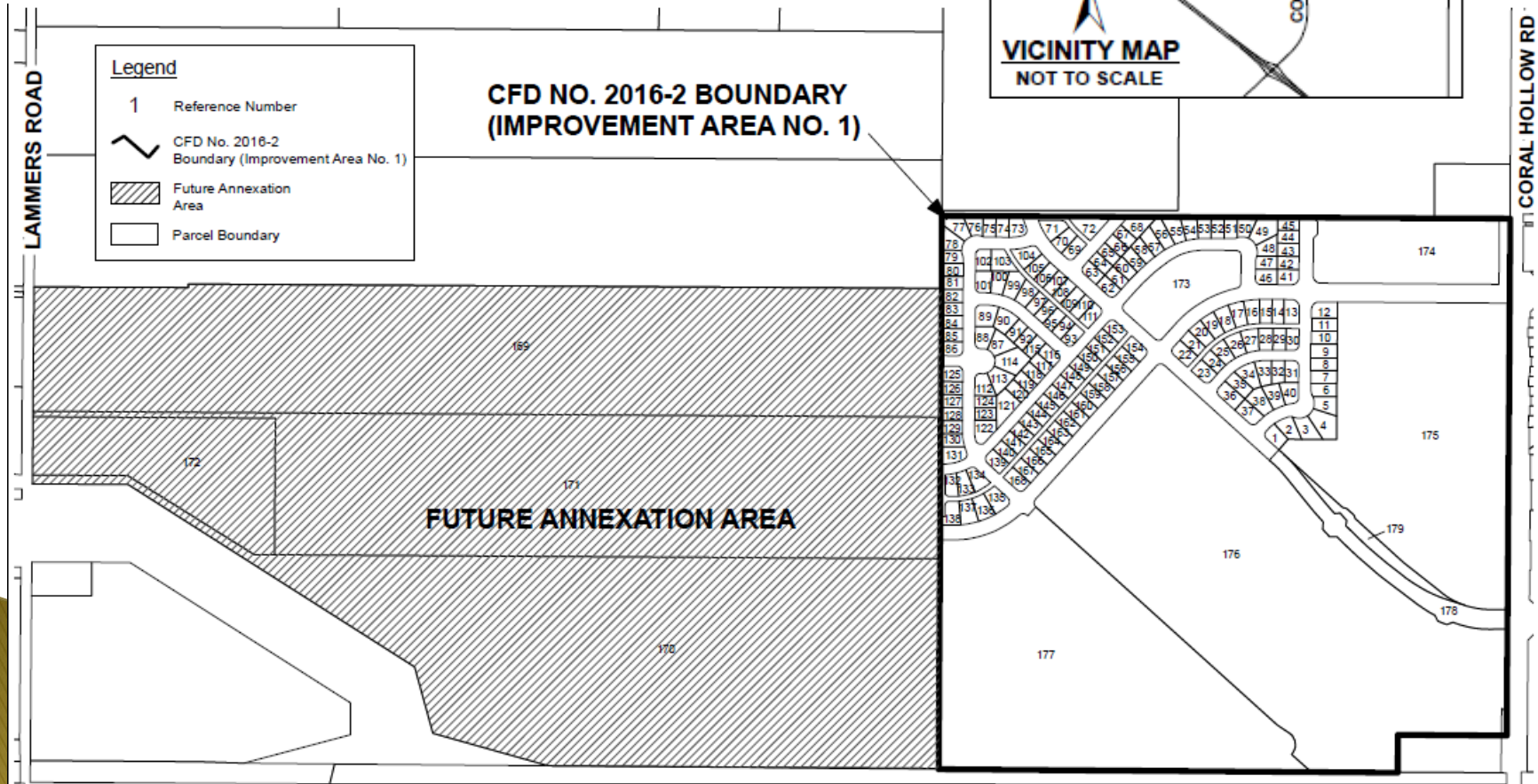
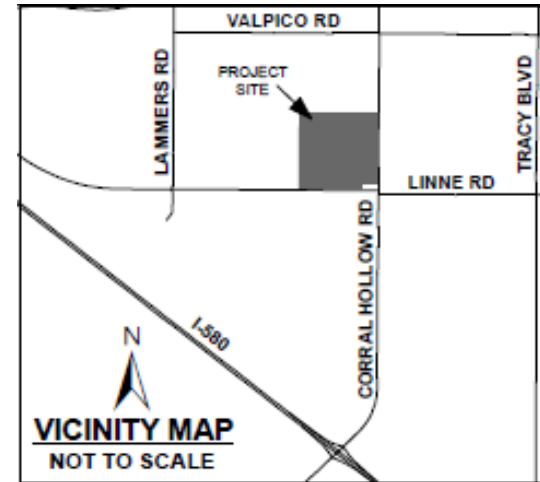
CFD No. 2016-2 (ECFD)

December 20, 2016 City Council Meeting
Intention to Form Community Facilities District in
Ellis Project

SUMMARY

Ellis, Phase One:

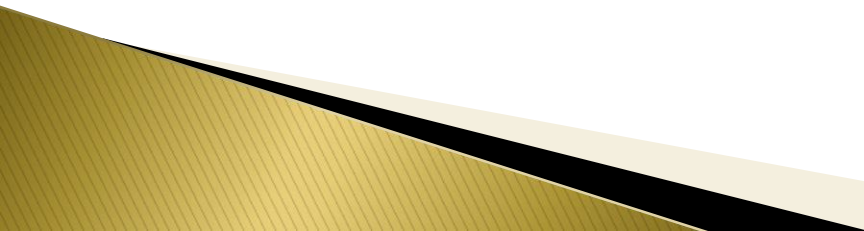
- 299 Residential Units
- Public Park
- Related Infrastructure



IMPROVEMENTS FUNDED BY FACILITIES SPECIAL TAX/BONDS

- ▶ Public buildings and facilities;
- ▶ Wastewater Treatment Plant improvements and facilities;
- ▶ Wastewater collection pipeline improvements and facilities;
- ▶ Drainage improvements and facilities;
- ▶ Water improvements and facilities;
- ▶ Roadway improvements and facilities, including street lights, traffic signals, landscaped parkways, landscaped medians, curb, gutter, sidewalk, pavement;
- ▶ Public parks and facilities, including trails and bike paths;
- ▶ Ancillary improvements and facilities such as, publicly-owned masonry walls and fences.

SERVICES FUNDED BY SERVICES SPECIAL TAX

- ▶ Annual operation, maintenance and servicing of City-owned project infrastructure
 - ▶ Annual maintenance of public landscaping and related appurtenances
 - ▶ CFD administrative expenses
- 

TARGET FACILITIES SPECIAL TAX (IMPROVEMENT AREA No.1)

SINGLE FAMILY DETACHED RESIDENTIAL PROPERTY

<i>Square Footage Category</i>	<i>Target Facilities Special Tax Prior to Trigger Event (Fiscal Year 2016-17)*</i>	<i>Target Facilities Special Tax After Trigger Event (Fiscal Year 2016-17)</i>
Residential Units Greater than 4,000 Square Feet	\$2,928 per Residential Unit	\$0 per Residential Unit
Residential Units 2,000 – 4,000 Square Feet	\$2,840 per Residential Unit	\$0 per Residential Unit
Residential Units Less than 2,000 Square Feet	\$1,851 per Residential Unit	\$0 per Residential Unit

*** On July 1, 2017 and on each July 1 thereafter, all figures shown in Table 1 above shall be increased by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year.**

MAXIMUM SERVICES SPECIAL TAX (IMPROVEMENT AREA NO.1)

Single Family Detached Residential Property

Type of Property	Maximum Services Special Tax Prior to Trigger Event (FY 2016-2017) ⁵	Maximum Services Special Tax After Trigger Event (FY 2016-2017)
<p style="text-align: center;"><u>Single Family Detached Residential Property</u></p> <p>Residential Units (RU) Greater than 4,000 Square Feet</p> <p>RU 2,000 - 4,000 Square Feet</p> <p>RU Less than 2,000 Square Feet</p>	<p style="text-align: center;">\$1,494 per RU</p> <p style="text-align: center;">\$1,195 per RU</p> <p style="text-align: center;">\$ 896 per RU</p>	<p style="text-align: center;">\$2,079 per RU</p> <p style="text-align: center;">\$1,763 per RU</p> <p style="text-align: center;">\$1,266 per RU</p>
<p>Developed Limited Use Property</p> <p>Developed Village Center Property</p> <p>Other Property</p>	<p style="text-align: center;">\$ 896 per Acre</p> <p style="text-align: center;">\$3,585 per Acre</p> <p style="text-align: center;">\$3,585 per Acre</p>	<p style="text-align: center;">\$448 per Acre</p> <p style="text-align: center;">\$3,585 per Acre</p> <p style="text-align: center;">\$3,585 per Acre</p>
<p>Undeveloped Limited Use Property</p> <p>Undeveloped Village Center Property</p> <p>Undeveloped Property</p>	<p style="text-align: center;">\$ 448 per Acre</p> <p style="text-align: center;">\$1,793 per Acre</p> <p style="text-align: center;">\$3,585 per Acre</p>	<p style="text-align: center;">\$ 448 per Acre</p> <p style="text-align: center;">\$1,793 per Acre</p> <p style="text-align: center;">\$3,585 per Acre</p>

NEXT STEPS

► Legislative Actions – December 20, 2016

- Council adoption of a Resolution of Intent to establish the CFD and future annexation area;
- Council adoption of a Resolution of Intent to Incur Bonded Indebtedness and Other Debt
- Public hearing and election is set for February 7, 2017
- Council direction to prepare a CFD Report.

NEXT STEPS

▶ Legislative Actions – February 7, 2017

- Public Hearings
- Council adoption of Resolutions of Formation, of Necessity to Incur Bonded Indebtedness, calling Special Election
- Following a successful election
Council adoption of Resolution Confirming Results and Directing Recording of Notice of Special Tax Lien and introduction of Ordinance Ordering the Levy of Special Taxes

NEXT STEPS

- ▶ **Council Meeting on February 21, 2017 -**
 - Adoption of the Ordinance Ordering the Levy of Special Taxes

AGENDA ITEM 6

REQUEST

APPROVE A SERVICE AGREEMENT BETWEEN THE CITY OF TRACY AND TRACY MATERIAL RECOVERY AND SOLID WASTE TRANSFER, INC., AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT, AND AUTHORIZE THE CITY MANAGER TO EXECUTE MINOR AMENDMENTS FOR THE SAKE OF ADMINISTRATIVE EFFICIENCY; OR, IN THE ALTERNATIVE, APPROVE AMENDMENT NUMBER 4 TO THE CURRENT SERVICE AGREEMENT BETWEEN THE CITY OF TRACY AND TRACY MATERIAL RECOVERY AND SOLID WASTE TRANSFER, INC., EXTENDING THE CURRENT AGREEMENT THROUGH MARCH 31, 2017

EXECUTIVE SUMMARY

Negotiations have been completed on a new 20-year Service Agreement (Agreement) with Tracy Material Recovery and Solid Waste Transfer, Inc. (TMRF) for the operation of the Tracy Material Recovery Facility (MRF).

The new Agreement is a traditional agreement in which the Contractor assumes reasonable risks that are comparable to industry standards.

The proposed budget for the first year of the new Agreement (January 1, 2017 – December 31, 2017) is \$8,618,332. No service rate increase is required to implement and fund this Agreement.

DISCUSSION

History

The Tracy Material Recovery Facility (MRF) accepts and processes the City's curbside collection of recyclable materials, green waste, and Mixed Municipal Waste (MMW), as well as materials from commercial accounts and materials from other curbside collection programs. The recyclable materials are sorted by type and then further processed to separate any residual waste. The green waste is composted onsite and the MMW is transferred to larger vehicles and hauled to the San Joaquin County landfill. The operation of the MRF helps the City to meet the diversion standards established by the California Integrated Waste Management Act of 1989 (AB939).

The current Service Agreement with Tracy Material Recovery and Solid Waste Transfer, Inc. (TMRF) was executed in 1994. The parties extended this Agreement twice through December 31, 2016. Additional time was required due to staff transitions, both in the City and within TMRF, and to evaluate the Agreement's terms so staff could assure Council that the new Agreement was in the best economic interest of the rate payers. The Agreement being considered has changed considerably from the prior Agreement in that it is more similar to agreements negotiated in other cities in the region and in the State and contains terms assuring that best practices in the industry are followed, including provisions ensuring that the

Contractor assumes reasonable risks, pursuant to industry standards.

When the City entered into the expiring Service Agreement over 20 years ago, TMRF was a new company formed separately from the collection service company, Tracy Delta Solid Waste Management (although owned largely by the same principals). The City provided TMRF with the opportunity to be the owner and operator of the planned MRF instead of contracting with the County, or owning the facility and contracting for its operation. TMRF was offered this opportunity because Tracy Delta Solid Waste Management was the City's hauler for over 50 years and contracting with essentially one company for all services made sense operationally and offered the best customer service.

The Agreement resulted in the City being involved in key areas of financing for the new MRF. The bond indebtedness for the MRF has been fully satisfied and the annual payments of approximately \$800,000 have ceased. The City's payments to the MRF were previously based on approving the annual operating budget of the facility and paying MRF 1/12th of that budget.

The new Agreement with the City recognizes that TMRF has the experience to enter into a traditional agreement that is based on industry standards in which they assume reasonable risks and the Gate Rates and fees paid to them will now be based on per tonnage calculations rather than simply 1/12th of their budget. Also as part of the new Agreement, the City is no longer responsible for paying the disposal fee directly to the county landfill. This fee will be built into the Gate Rate calculations.

Negotiation Points

Over the past six months, staff met frequently and worked closely with consultants and TMRF to ensure that this significant and complex Agreement represents the best value for Tracy residents. Recent negotiations reviewed and built upon the progress previously made on marketing of materials, customer service, auditing requirements, and other technical points.

The negotiating team discussed and incorporated a number of provisions, such as:

- Term – 20-year.
- Assignment – Contractor shall not enter into negotiations to assign its rights or transfer any Contractor Obligations under the Agreement for a period of three years and after that not without the prior written consent of the City Council.
- First Right of Refusal – The City retains the first right of refusal to purchase the facility if TMRF chooses to sell the site.
- Built-in Annual Rate Adjustment Method – Beginning in Agreement year two, the annual adjustment to the Gate Rates (the per-ton fee charged for materials delivered to and processed by the MRF) shall be based on the Rate Adjustment Method described in Exhibit 2 of the Agreement and shall be reviewed by the Public Works Director and approved by the City Manager.
- Most Favored Rate – The City of Tracy's Franchise hauler, which hauls MMW for the City of Tracy and its residents and businesses, and City of Tracy staff while hauling MMW on behalf of the City, are the "City of Tracy Collection Franchisee." The Agreement provides that the City of Tracy Collection Franchisee is "the most favored customer" and the Contractor may not charge

- other franchised users less than the City of Tracy Collection Franchisee.
- Tonnage Incentive Fee – A fee will be paid to the City (in accordance with the process described in Section 3.2 of the Agreement) if the total annual tonnage of Mixed Municipal Waste delivered to the Facility exceeds the baseline of 104,000 tons.
 - Recyclable Materials Revenue Sharing – If the total revenues from the sale of Recyclable Materials significantly exceed those received as of the execution of the Agreement, the City will share in the benefit (in accordance with the process described in Section 3.3 of the Agreement).
 - Extraordinary Adjustments – Includes provisions that establish procedures for either the City or the Contractor to seek special review of the Gate Rates if specific events such as unforeseen regulatory changes or the collapse of the Recoverable/Recyclable Materials markets.
 - Updated Reporting Requirements – Requires regular Reports on Facility Tonnage and Recovery Information that will allow the City to monitor Contractor compliance with the Facility Diversion Standard and have all of the information required to submit regulatory compliance reports to the State (CalRecycle).
 - Waste Generation/Characterization Studies – Requires studies to more accurately determine the makeup of the materials handled at the site to assure accurate reporting and adherence to diversion requirements.
 - Performance Standards and Evaluation – Establishes a Facility Diversion Standard and a City Curbside Program Recyclables (CCPR) Diversion Standard. Compliance with the Diversion Standards shall be determined by the results of the CCPR Characterization Studies and the Processing Diversion Studies (as described in Section 4.6 of the Agreement).
 - Compost Giveaway Program – Requires Contractor to provide compost and to participate with the City in a compost giveaway program event held three times per Agreement year.

Cost Projections

Based on current conditions, no service rate increases are anticipated to be required at the present time. The projections for the annual budget are built from historic tonnage rates and the Initial Gate Rates (Exhibit 1 to the Agreement). The Agreement does include an Annual Rate Adjustment Method (Exhibit 2 to the Agreement), to account for changed conditions. If rates increase more than anticipated due to increased tonnage processed, external economic pressures, or other extraordinary occurrences, the staff will recommend that the City Council utilize the Solid Waste Fund or other funds that might be set up for this purpose, to provide rate stability to Tracy customers (A more detailed review of the Solid Waste Fund will be included with the Solid Waste Update Report to be provided to City Council in the Spring / Summer of 2017).

In the future, each year's final annual cost will be based on actual tons delivered to and processed by the MRF.

Update on Solid Waste Fund, Programs, Operations and Rates

Staff will prepare a report for consideration by Council in the Spring / Summer of 2017

that provides a summary of the City's Recycling and Solid Waste Programs. The Report will include a review of City compliance with state recycling mandates, new programs being added, and proposed improvements to existing programs. The Report will provide an analysis of the Solid Waste Fund (SWF) that includes a review of the rates and a legal review of potential Prop 218 rate payer notification requirements.

Based on this new structure, we will be able to create a rate stabilization fund to account for future potential fluctuations. Included with the review of the SWF may be a proposal for the hiring of new City Staff to ensure that the City meets with existing and proposed environmental regulations.

STRATEGIC PLAN

This item is in accordance with Council Governance Strategy:

Goal 2: Ensure continued fiscal sustainability through Financial and budgetary stewardship.

Goal 3: Identify technological resources to promote communication and civic engagement, enhance City services, and promote organizational productivity.

FISCAL IMPACT

The proposed action will not impact the General Fund nor will it require an increase in the residential or commercial solid waste collection and disposal rates. In calendar year 2016, the net cost for service was estimated at \$8,207,891 which included MRF service fees and revenue received by the City less landfill disposal and property tax costs paid directly to County by City (\$7.1M + \$4.4M - \$3.3M= \$8.2M). In calendar year 2017, the new Agreement's services fees are estimated at \$8,618,332. This estimate is based on tonnage cost that includes MRF's direct payment to County for landfill disposal and property tax. The net increase in cost is related to an increase in operating expenses including salary increases, employee benefit costs, fuel, an increase in the County landfill rates, and other miscellaneous items. Costs related to this agenda item are expensed using Fund 531, Solid Waste.

RECOMMENDATION

It is recommended that the City Council approve a Service Agreement between the City of Tracy and Tracy Material Recovery and Solid Waste Transfer Inc., authorize the Mayor to execute the Agreement, and authorize the City Manager to execute minor amendments as needed for the sake of administrative efficiency. In the alternative, staff requests that Council approve a three month extension of the current Agreement to March 31, 2017, to allow additional time to address any additional issues the Council may identify.

Prepared by: Andrew Clough, Project Specialist
Connie Vieira, Management Analyst

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

Agenda Item 6
December 20, 2016
Page 5

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment A – Agreement between the City of Tracy and Tracy Material Recovery and Solid Waste Transfer Inc., for Material Acceptance, Processing and Transfer Services

AGREEMENT
BETWEEN THE
CITY OF TRACY

AND

TRACY MATERIAL RECOVERY & SOLID WASTE
TRANSFER, INC.

FOR

MATERIAL ACCEPTANCE, PROCESSING AND
TRANSFER SERVICES

* * * *

DATED: DECEMBER 21, 2016

This page intentionally left blank

AGREEMENT
 BETWEEN THE
 CITY OF TRACY
 AND
 TRACY MATERIAL RECOVERY & SOLID WASTE TRANSFER, INC.
 FOR
 MATERIAL ACCEPTANCE, PROCESSING AND
 TRANSFER SERVICES

TABLE OF CONTENTS

RECITALS	1
ARTICLE 1 DEFINITIONS	2
1.1.	AB 341	2
1.2.	AB 939	2
1.3.	Agreement	2
1.4.	Applicable Law	2
1.5.	Approved Disposal Site(s).....	4
1.6.	Approved Organics Processing Site(s)	4
1.7.	Approved Recyclables Processing Site(s)	4
1.8.	Average Recyclable Per Ton Revenue	4
1.9.	Baseline MMW Tonnage.....	4
1.10.	Baseline Recyclable Per Ton Revenue	4
1.11.	Change in Law	4
1.12	Change of Control	5
1.13	City	6
1.14	City Curbside Program Recyclables.....	6
1.15	City Curbside Program Recyclables (CCPR) Diversion Standard	6
1.16	City Hauler	6
1.17	Collection Agreement.....	6
1.18	Collection Franchisee.....	6
1.19	Commencement Date	6
1.20	Construction and Demolition Debris.....	6
1.21	Contract Year	7
1.22	Contractor	7
1.23	Contractor’s Obligations	7
1.24	County Agreement	7
1.25	Covered Material	7
1.26	CPI-U	7
1.27	Customer	7
1.28	Disposal, Dispose	8
1.29	Diversion Standards.....	8
1.30	Divert, Diversion.....	8
1.31	E-Waste	8
1.32	Facility	8
1.33	Facility Diversion Standard	8

1.34	Facility Holiday(s).....	8
1.35	Federally Approved Holiday(s).....	8
1.36	Food Scraps.....	9
1.37	Gate Rates.....	9
1.38	Gross Rate Revenues.....	9
1.39	Hazardous Waste.....	9
1.40	Household Hazardous Waste.....	10
1.41	Maximum Incentive Tonnage.....	10
1.42	Mixed Municipal Waste.....	10
1.43	Non-Resident Self-Haulers.....	10
1.44	Notice.....	10
1.45	Organic Materials.....	10
1.46	Other Franchised Users.....	10
1.47	Other Users.....	10
1.48	Party(ies).....	11
1.49	Per Item Rates.....	11
1.50	Permit(s).....	11
1.51	Person.....	11
1.52	Process/Processing.....	11
1.53	Reasonable Business Efforts.....	11
1.54	Recovered Materials.....	11
1.55	Recovery.....	11
1.56	Recyclable Household Hazardous Waste.....	12
1.57	Recyclable Materials.....	12
1.58	Recyclable Material Incentive Fee.....	12
1.59	Resident Self-Haulers.....	12
1.60	Residue.....	12
1.61	State.....	12
1.62	Subcontractor(s).....	12
1.63	Ton or Tonnage.....	12
1.64	Tonnage Incentive Fee.....	13
1.65	Uncontrollable Circumstance(s).....	13
1.66	Unpermitted Waste.....	13
1.67	Yard Trimmings.....	14
ARTICLE 2 TERMS OF AGREEMENT		14
2.1	Term of Agreement.....	14
2.2	Option to Extend Term.....	15
2.3	Survival of Certain Provisions.....	15
2.4	Representations and Warranties of Contractor.....	15
2.5	Conditions to Effectiveness of Agreement.....	16
ARTICLE 3 FEES AND PAYMENTS DUE TO CITY		17
3.1	General.....	17
3.2	Tonnage Incentive Fee.....	17
3.3	Recyclable Material Revenue Sharing.....	18



ARTICLE 4 GENERAL FACILITY OPERATIONS.....	18
4.1 General	18
4.2 Receiving and Operating Hours	19
4.3 Weighing	19
4.4 Contractor Commitment to Deliver and Accept Covered Materials	20
4.5 Right to Enter and Inspect Facility	21
4.6 Diversion Standards	22
4.7 Facility Ownership and Contractor Operating Responsibilities	24
4.8 General Emergency Conditions and Response Plan	25
4.9 Nuisances	25
4.10 Contractor Management	25
4.11 Customer and Visitor Education	25
4.12 Waste Generation/Characterization Studies	26
4.13 Equipment and Vehicles	26
4.14 Services and Performance Review	27
4.15 City Right of Purchase	27
4.16 City and Contractor’s Right to Request Changes	28
4.17 Compost Giveaway Program	30
ARTICLE 5 TRANSFER STATION.....	30
5.1 General	30
5.2 Transfer Station Receiving Hours	30
5.3 Acceptance of Covered Material	30
5.4 Customer Comments	32
5.5 Vehicle Turnaround	32
5.6 Transfer of Covered Material and Residue	32
ARTICLE 6 MRF OPERATIONS	32
6.1 Acceptance of Recovered Materials	32
6.2 Approved Recyclables Processing Site(s)	33
6.3 Processing and Marketing of Recovered Materials	33
6.4 Disposal of Recyclable and Organic Materials Prohibited	33
ARTICLE 7 MARKETING	33
7.1 Marketing Obligations	33
ARTICLE 8 DISPOSAL AND ORGANICS PROCESSING.....	34
8.1 Disposal of Mixed Municipal Waste and Residue	34
8.2 Processing of Organic Materials	35
ARTICLE 9 PERSONNEL	36
9.1 Personnel Requirements	36
9.2 Subcontractors	36
9.3 Fees and Gratuities	37
9.4 Non-Discrimination	37



ARTICLE 10 BILLING AND CUSTOMER SERVICE.....	37
10.1 Customer Billing	37
10.2 Customer Service and Contractor Availability	37
ARTICLE 11 CONTRACTOR COMPENSATION AND GATE RATES	38
11.1 General	38
11.2 Gate Rates for Contract Year One	39
11.3 Annual Gate Rate Adjustment Method and Schedule of Adjustments ...	39
11.4 Per Item Rate Adjustments	39
11.5 Extraordinary Adjustments	39
11.6 City Users are Most Favored Customers	43
11.7 City Payment to Contractor	44
ARTICLE 12 RECORDS, REPORTS & INFORMATION REQUIREMENTS	45
12.1 General	45
12.2 Record Keeping Requirements	45
12.3 Reporting Requirements	47
12.4 Review of Tonnage and Payment of Fees	48
12.5 Reporting Adverse Information.....	49
12.6 Failure to Report	49
ARTICLE 13 INDEMNIFICATION AND INSURANCE.....	49
13.1 Indemnification	49
13.2 Consequential Fines	51
13.3 Insurance	51
ARTICLE 14 DEFAULT, REMEDIES AND LIQUIDATED DAMAGES.....	55
14.1 Events of Default by Contractor	55
14.2 Criminal Activity of Contractor	56
14.3 Remedies for Contractor Default.....	57
14.4 Waiver	57
14.5 Contractor’s Payment of Damages	58
14.6 Liquidated Damages	58
14.7 Default by the City.....	59
14.8 Remedies Upon Default by the City	60
14.9 Excuse from Performance.....	60
ARTICLE 15 OTHER AGREEMENTS OF THE PARTIES	61
15.1 Relationship of Parties	61
15.2 Compliance with Law	61
15.3 Governing Law	61
15.4 Jurisdiction	61
15.5 Assignment	61
15.6 Binding on Assigns.....	64
15.7 Cooperation in Unforeseen Circumstances.....	64
15.8 Cooperation Upon Termination or Expiration of Agreement.....	64
15.9 Parties in Interest	65



15.10	Waiver	65
15.11	Contractor's Investigation	65
15.12	Notice	65
15.13	Delegation of Authority	66
15.14	Contractor's Representative	66
15.15	Compliance with Municipal Code	66
15.16	Exercise of Options	66
15.17	Cooperation and Disputes with Approved Site Operators	66
15.18	Payment of Taxes	66
15.19	Amendments	66
15.20	Dispute Resolution	67

ARTICLE 16 MISCELLANEOUS PROVISIONS 67

16.1	Entire Agreement	67
16.2	Section Headings	68
16.3	References to Laws and Other Agreements	68
16.4	Interpretation	68
16.5	Agreement	68
16.6	Severability	68
16.7	Exhibits	68

EXHIBITS

Exhibit 1	Initial Gate Rates	70
Exhibit 2	Gate Rate Adjustment Method.....	71
Exhibit 3	Sample Calculation of Facility And CCPR Diversion Standards.....	81
Exhibit 4	Approved Subcontractors and Affiliates	82
Exhibit 5	Liquidated Damages.....	83
Exhibit 6	Per Item Rate Materials	85

This page intentionally left blank

AGREEMENT

This Agreement for provision of material acceptance, Processing and transfer services (“Agreement”) is entered into this 21st day of December, 2016, by and between the City of Tracy (“City”) and Tracy Material Recovery & Solid Waste Transfer, Inc. a California corporation, organized and existing under the laws of the State of California (“Contractor”). This Agreement is entered into with reference to the following facts, circumstances, determinations and findings made by the City.

RECITALS

WHEREAS, the State of California has found and declared that the amount of Mixed Municipal Waste generated in California, coupled with diminishing landfill space and potential adverse environmental impacts from landfill Disposal, have created an urgent need for State and local agencies to enact and implement an aggressive integrated waste management program; and

WHEREAS, through enactment of the California Integrated Waste Management Act of 1989 (“AB 939”) the State has directed the responsible State agency, and all local agencies, to promote recycling and to maximize the use of feasible source reduction, recycling and composting options in order to reduce the amount of Mixed Municipal Waste that must be Disposed of by land Disposal; and

WHEREAS, the City is now required by Applicable Law to Divert at least fifty percent (50%) of the City’s waste, and can reasonably anticipate that additional Diversion requirements will increase during the term of this Agreement; and

WHEREAS, the City is now required by Applicable Law to make available recycling services to occupants of commercial and multifamily premises; and

WHEREAS, the City and Tracy Delta Solid Waste Management Inc. (“TDSWM”) an affiliate of Contractor) have previously entered into that certain agreement for the collection, transportation and Disposal of refuse and garbage, including the collection of Recyclable Materials, in the City of Tracy, dated as of March 9, 1993 and amended from time to time; and

WHEREAS, the City and Contractor are Parties to the prior Service Agreement dated August 1, 1994 to site, construct and operate a material recovery facility and transfer station for the City and the unincorporated area of the southern portion of San Joaquin County; and,

WHEREAS, the Parties have entered a new agreement for use of the Tracy Material Recovery Facility and Transfer Station, entered into between the County of San Joaquin, City of Tracy and Tracy Material Recovery & Solid Waste Transfer, Inc., dated August 9, 2014 (the “County Agreement”).

WHEREAS, the California Pollution Control Financing Authority Bonds to acquire and construct the facility will have been retired by August 1, 2014 and the existing Service Agreement as extended will terminate December 31, 2016; and

WHEREAS, the City wishes to enter a new Agreement with Contractor, superseding the August 1, 1994 Agreement between the City and Contractor, to: receive, transfer and transport Mixed Municipal Waste and Residue from Processing of Recyclable Materials to a City-approved Disposal site; receive, Process and sell Organic Materials to a City-approved composting site; and receive, Process and sell Recyclable

Materials, all in accordance with the terms and conditions of this Agreement; and

WHEREAS, the City intends that this Agreement will contribute to providing the most effective and efficient, municipal waste management services to its citizens.

WHEREAS, The City is authorized to grant an exclusive Agreement for solid waste handling. Under the proposed Agreement, City grants the exclusive right to Contractor to handle all post-collection waste generated within the City by: (1) receiving, transferring and transporting Mixed Municipal Waste and Residue resulting from the Processing of Recyclable Materials; (2) receiving, Processing and selling Organic Materials; and (3) receiving Processing and selling Recyclable Materials. The granting of this exclusive Agreement does not affect the rates paid by ratepayers under the current Collection Agreement with Tracy Delta Solid Waste Management, Inc. as of the Commencement Date.

NOW, THEREFORE, in consideration of the mutual promises, covenants, guaranties and conditions contained in this Agreement and for other good and valuable consideration, the City and Contractor agree as follows:

ARTICLE 1

DEFINITIONS

The terms used in this Agreement shall have the meaning set forth in this Article 1, and as defined elsewhere in this Agreement. In the event a term is not defined in this Agreement, then it shall have the meaning set forth in the Tracy Municipal Code or in Division 30, Part 1, Chapter 2 of the California Public Resources Code (with precedence given to definitions in the Tracy Municipal Code over conflicting definitions contained in the Public Resources Code). Words beginning with lower case letters are being used with their common ordinary meanings, not as defined terms.

1.1. AB 341

“AB 341” means the California Jobs and Recycling Act of 2011 (Chapter 476, Statutes of 2011 [Chesbro, AB 341]), also commonly referred to as “AB 341”, as amended, supplemented, superseded, and replaced from time to time.

1.2. AB 939

“AB 939” means the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code), also commonly referred to as “AB 939,” as amended, supplemented, superseded, and replaced from time to time

1.3. Agreement

“Agreement” means this written document, including all exhibits and attachments which are incorporated herein by reference, as this document may be amended and supplemented between the City and the Contractor, governing the handling of all post-collection waste as provided herein.

1.4. Applicable Law

“Applicable Law” means all laws, statutes, rules, regulations, guidelines, Permit conditions, Permits, actions, determinations, orders, approvals or requirements of the United States, State, regional or local

government authorities, agencies, boards, commissions, courts or other bodies having applicable jurisdiction, as amended from time to time, that from time to time apply to or govern Services or the performance of the Parties' respective obligations under this Agreement, including any of the foregoing which concern health, safety, fire, environmental protection, labor relations, mitigation conditions and monitoring plans in accordance with environmental impact statements, conditional use permits; building codes, zoning, non-discrimination; and the transfer or Disposition of solid waste, Organic Materials, and Recyclable Materials, and including but not limited to:

- (1) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, (42 U.S.C. Section 9601 *et seq.*);
- (2) the Resource Conservation and Recovery Act, (42 U.S.C. Section 6901 *et seq.*);
- (3) the Clean Air Act, (42 U.S.C. Section 1351 *et seq.*, 42 U.S.C. Section 7401-7642); and the California Clean Air Act (Health & Safety Code Sections 1251 *et seq.* and Health and Safety Code Sections 39000 *et seq.*);
- (4) the Emergency Planning and Community Right to Know Act, (42 U.S.C. Section 11001 *et seq.*)
- (5) the Occupational Safety and Health Act, (29 U.S.C. Section 651 *et seq.*), including the Solid Waste Disposal Facility Criteria promulgated by the U.S. EPA on October 9, 1991 (40 C.F.R., Parts 257 and 258); and the California Occupational Safety and Health Act (California Labor Code, Division 5, Parts 1-10, Section 6300 *et seq.*);
- (6) the California Hazardous Waste Control Act, (California Health & Safety Code, Section 25100 *et seq.*);
- (7) California Hazardous Materials Release Response Plan and Inventory Act (California Health & Safety Code, Division 20, Chapter 6.95, Section 25500 *et seq.*);
- (8) the Carpenter-Presley-Tanner Hazardous Substance Account Act, (California Health & Safety Code Section 25300 *et seq.*);
- (9) California Underground Storage Tank Act, (California Health & Safety Code, Section 25280 *et seq.*);
- (10) the Porter-Cologne Water Quality Control Act, (California Water Code Section 13000 *et seq.*);
- (11) the Safe Drinking Water and Toxic Enforcement Act, (California Health and Safety Code Section 25249.5 *et seq.*);
- (12) "Proposition 65" (California Health & Safety Code, Section 25249.5 *et seq.*, and Health & Safety Code Section 25192);
- (13) "Calderon Legislation" (former California Government Code, Sections 66796.53 and 66796.54, now California Public Resources Code Sections 45300-04, 45700, California Health & Safety Code Sections 40511, 41805.5, and 42311.5, and California Water Code Section 13273);
- (14) Title 14 California Code of Regulations;

- (15) Title 22 California Code of Regulations;
- (16) Title 27 California Code of Regulation; and
- (17) "Subchapter 15" (Title 23 California Code of Regulations, Sections 2510-2610).

Any other government required rules, guidelines, laws, statutes, etc. which are imposed upon Contractor and not discretionary, governing the provision of the services outlined within this Agreement.

1.5. Approved Disposal Site(s)

"Approved Disposal Site(s)" means the Disposal site(s) approved by the City for Contractor's Disposal of Mixed Municipal Waste and Residue from the Facility. As of the Commencement Date the Approved Disposal Site is the Foothill Landfill, owned and operated by San Joaquin County.

1.6. Approved Organics Processing Site(s)

"Approved Organics Processing Site(s)" means the Processing site(s) approved by the City for Contractor's Processing of Organic Materials. As of the Commencement Date the Approved Organics Processing Site is the Tracy Material Recovery Facility and Transfer Station, owned and operated by Contractor.

1.7. Approved Recyclables Processing Site(s)

"Approved Recyclables Processing Site(s)" means the Recyclable Materials Processing site(s) approved by the City for Contractor's Processing of Recyclable Materials. As of the Commencement Date the Approved Recyclables Processing Site is the Tracy Material Recovery Facility and Transfer Station, owned and operated by Contractor.

1.8. Average Recyclable Per Ton Revenue

"Average Recyclable Per Ton Revenue" means the average revenue per Ton received over a Contract Year by Contractor from the sale of Recyclable Materials, net of shipping costs, except for scrap metal which shall not be included in this calculation.

1.9. Baseline MMW Tonnage

"Baseline MMW Tonnage" means one hundred four thousand (104,000) Tons of Mixed Municipal Waste.

1.10. Baseline Recyclable Per Ton Revenue

"Baseline Recyclable Per Ton Revenue" means one hundred fifty five dollars (\$155.00) per Ton and such adjustments to that amount as may be made in accordance with Section 3.3 (C) herein.

1.11. Change in Law

"Change in Law" means the occurrence of any event or change in Applicable Law as follows:

- (A) the adoption, promulgation, modification, or change in judicial or administrative interpretation occurring after the date hereof which adoption, promulgation, codification, or change in judicial

or administrative interpretation relates to any Applicable Law, other than laws with respect to taxes based on or measured by net income, or any unincorporated business, payroll, taxes levied by any tax board or employment taxes; or

- (B) any order or judgment of any federal, State or local court, administrative agency or governmental body issued after the date hereof issued specifically to a Party if:
 - (i) such order or judgment is not also the result of the willful misconduct or negligent action or inaction of the Party relying thereon or of any third party for whom the Party relying thereon is directly responsible; and
 - (ii) the Party relying thereon, unless excused in writing from so doing by the other Party, shall make or have made, or shall cause or have caused to be made, Reasonable Business Efforts in good faith to contest such order or judgment (it being understood that the contesting in good faith of such an order or judgment shall not constitute or be construed as a willful misconduct or negligent action of such Party); or
- (C) the imposition by a governmental authority or agency of any new or different material conditions in connection with the issuance, renewal, or modification of any Permit after the date hereof; or
- (D) the failure of a governmental authority or agency to issue or renew, or delay in the issuance or renewal of, or the suspension, interruption or termination of, any Permit after the date hereof, provided such failure to issue or the suspension or termination of any Permit is not the result of the willful misconduct or negligent action or inaction of the Party relying thereon or any third party for whom the Party relying thereon is directly responsible; or,
- (E) a Change in Law promulgated by the City shall not be a Change in Law excusing the performance of its obligations hereunder unless such City Change in Law was required in response to a Change in Law promulgated by another governmental body.

1.12 Change of Control

“Change of Control” means a sale or transfer which would result in less than sixty five percent (65%) of the aggregate of the stock of Contractor being beneficially owned by the Persons who were shareholders at the time of execution of this Agreement (“Shareholders”), as set forth below, or siblings, children, parents or heirs of the Shareholders (collectively, the “Related Persons”) or any company, trust or other entity in which the Shareholders or Related Persons have at least a sixty five percent (65%) interest (each a “Related Entity” and collectively, “Related Entities”) or any combinations thereof.

The ownership and ownership shares as of the execution of this Agreement are:

1. Geri Rosaia, Trustee of the David Rosaia and Norma Rosaia Revocable Living Trust dated April 20, 1990, 1,200 shares.
2. Michael K. Repetto, Trustee of the Michael K. Repetto Irrevocable Trust dated December 29, 2011, 400 shares.
3. Michael K. Repetto, Trustee of the Michael K. Repetto Revocable Trust dated November 4, 2009, 800 shares.
4. Curtis M. Repetto, Trustee of the Curtis M. Repetto Irrevocable Trust dated December 29, 2011, 400 shares.

5. Curtis M. Repetto, Trustee of the Curtis M. Repetto Revocable Trust dated September 10, 2008, 800 shares.

1.13 City

"City" means the City of Tracy, a municipal corporation, and all the territory lying within the municipal boundaries of the City as presently existing or as such boundaries may be modified during the term of this Agreement.

1.14 City Curbside Program Recyclables

"City Curbside Program Recyclables" means Recyclable Materials collected within the City by the Collection Franchisee pursuant to the curbside collection program under its current Collection Agreement or any future program by which the City arranges or mandates collection of such material.

1.15 City Curbside Program Recyclables (CCPR) Diversion Standard

"City Curbside Program Recyclables (CCPR) Diversion Standard" means Contractor's Obligation to conduct its Recovery and Processing activities in such a manner that Contractor Diverts at least eighty eight percent (88%) of the Recyclable Materials from the City curbside collection program delivered to the Facility in the manner set forth in Section 4.6.2 and Exhibit 3 of this Agreement.

1.16 City Hauler

"City Hauler" means City staff that may deliver Covered Materials directly to the Facility on behalf of the City.

1.17 Collection Agreement

"Collection Agreement" means the document between City and Collection Franchisee entitled "Franchise Agreement for the Collection, Transportation, and Disposal of Refuse and Garbage, Including the Collection of Recyclable Material, in the City of Tracy", as in force on the Commencement Date and as subsequently amended or any future document or documents for a substantially similar purpose between the City and a Collection Franchisee.

1.18 Collection Franchisee

"Collection Franchisee" means Tracy Delta Solid Waste Management, Inc. an affiliate of Contractor or any future Person with whom the City Contracts to collect Covered Materials.

1.19 Commencement Date

"Commencement Date" means January 1, 2017.

1.20 Construction and Demolition Debris

"Construction and Demolition Debris" means used or discarded construction materials removed from a premise during the construction or renovation of a structure resulting from construction, remodeling, repair, or demolitions operations on any pavement, house, commercial building, or other structure including, but not limited to, concrete, brick, wood, dirt, rock, cardboard, packaging materials, etc.

1.21 Contract Year

“Contract Year” means each year commencing January 1 and ending December 31.

1.22 Contractor

"Contractor" means Tracy Material Recovery & Solid Waste Transfer, Inc., a California corporation organized and operating under the laws of the State of California and its officers, directors, employees, agents, companies and Subcontractors or any successor thereto or assignee thereof but only if such successor or assignee is qualified as such pursuant to this Agreement.

1.23 Contractor’s Obligations

“Contractor’s Obligations” means all obligations of the Contractor, under this Agreement, whether express or implied.

1.24 County Agreement

“County Agreement” means the agreement for use of the Tracy Material Recovery Facility and Transfer Station, entered into between the County of San Joaquin, City of Tracy and Tracy Material Recovery & Solid Waste Transfer, Inc., dated August 9, 2014.

1.25 Covered Material

“Covered Material” means material that the Facility may receive under its Permits and Applicable Law, including, but not limited to:

- Mixed Municipal Waste,
- Recyclable Materials,
- Food Scraps,
- Organic Materials,
- Construction and Demolition Debris,
- Appliances and such other items as are listed in Exhibit 6 to this Agreement, as it may be adjusted by Contractor,
- Recyclable Household Hazardous Waste, and,
- E-Waste.

The Parties shall promptly revise this definition of “Covered Material” to reflect any changes in Permits and Permit requirements.

1.26 CPI-U

“CPI-U” means the Consumer Price Index, All Urban Consumers (All Items), for the San Francisco/Oakland Metropolitan Area as published by the U.S. Department of Labor, Bureau of Labor Statistics ("Index"). Series ID: CUURA422SA0 or such index as may in the future replace it.

1.27 Customer

“Customer” means any Person using the services of the Facility as provided by Contractor.

1.28 Disposal, Dispose

"Disposal" or "Dispose" means the final disposition of Mixed Municipal Waste that is not intended for Processing and Residue from the Facility by the Contractor at an Approved Disposal Site. Disposal does not include the use of Organic Materials as alternative landfill cover so long as the City and State regulations consider alternative landfill cover use of Organic Materials as Diversion under AB 939.

1.29 Diversion Standards

"Diversion Standards" means the CCPR Diversion Standard and the Facility Diversion Standard.

1.30 Divert, Diversion

"Divert" or "Diversion" means to prevent Recyclable Materials from Disposal at Disposal sites through source reduction, reuse, recycling, composting, conversion and/or transformation, as provided in Section 41780-41786 of AB 939 as it may hereafter be amended or superseded. Diversion is a broad concept that is to be inclusive of new technology and material handling and Processing changes that may occur over the term of this Agreement, including, but not limited to, implementation of innovative techniques or technology, transformation or conversion, that may reduce Disposal, decrease costs and/or are for other reasons deemed desirable by Contractor and the City.

1.31 E-Waste

"E-Waste" means discarded electronic equipment including, but not limited to, televisions, computer monitors, central processing units (CPUs), laptop computers, computer peripherals (including external hard drives, keyboards, scanners, and mice), printers, copiers, facsimile machines, radios, stereos, stereo speakers, VCRs, DVDs, camcorders, microwaves, telephones, cellular telephones, and other electronic devices. Some E-Waste or components thereof may be Hazardous Waste, Unpermitted Waste, or include hazardous substances and thus require special handling, Processing, or Disposal.

1.32 Facility

"Facility" means the Tracy Material Recovery Facility and Transfer Station at 30703 South MacArthur Drive, Tracy, California.

1.33 Facility Diversion Standard

"Facility Diversion Standard" means Contractor's Obligation to conduct its Recovery and Processing activities in such a manner that Contractor Diverts a percentage of the Covered Materials, except Mixed Municipal Waste delivered to the Facility in the manner set forth in Section 4.6.1 of this Agreement.

1.34 Facility Holiday(s)

"Facility Holiday(s)" means New Years Day, Thanksgiving, Christmas, and any day Monday through Saturday that the Approved Disposal Site is closed.

1.35 Federally Approved Holiday(s)

"Federally Approved Holiday(s)" means New Years Day, Presidents Day, Labor Day, Memorial Day, July 4th, Thanksgiving, and Christmas.

1.36 Food Scraps

"Food Scraps" means those discarded materials that will decompose and/or putrefy including (i) all kitchen and table food waste, (ii) animal or vegetable waste that is generated during or results from the storage, preparation, cooking, or handling of food stuffs, (iii) discarded paper that is contaminated with food waste and materials; (iv) fruit waste, grain waste, dairy waste, meat and fish waste; and, (v) non-recyclable paper or contaminated paper. Food Scraps are a subset of Organic Materials.

1.37 Gate Rates

"Gate Rate(s)" means the per Ton fees that are approved by the City and required to be charged by Contractor to the Collection Franchisee delivering Covered Materials collected from within the City for acceptance of such materials at the Facility under this Agreement. Gate Rates are provided in Exhibit 1 and adjusted in accordance with Article 11.

1.38 Gross Rate Revenues

"Gross Rate Revenues" means the total amount of revenues received by the Contractor from Customers of the Facility, not including income from the sale of Recyclable Materials.

1.39 Hazardous Waste

"Hazardous Waste" is any waste which is defined or regulated as a hazardous waste, toxic waste, hazardous chemical substance or mixture, or asbestos under Applicable Law, including:

- (A) "Hazardous Waste" pursuant to Section 40141 of the California Public Resources Code; all substances defined as acutely hazardous waste, extremely hazardous waste or hazardous waste by Sections 25110.02, 25115, and 25117 of the California Health and Safety Code (the California Hazardous Waste Control Act), and future amendments to or recodification of such statutes or regulations promulgated there under;
- (B) "Hazardous Substances" as defined under Chapter 6.8 of the California Health and Safety Code, Division 20, Sections 25316 and 25317;
- (C) Materials regulated under the Toxic Substance Control Act, 15 U.S.C. Section 2601 et seq., as amended, and related federal, State of California, and local laws and regulations, including the California Toxic Substances Account Act, California Health and Safety Code Section 25300 et seq.;
- (D) Materials regulated under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601, et seq., as amended, and regulations promulgated there under;
- (E) Materials regulated under The Resource Conservation and Recovery Act and the regulations contained in 40 CFR Parts 260-281; and,
- (F) Materials regulated under any future additional or substitute federal, State or local laws and regulations pertaining to the identification, transportation, treatment, storage or Disposal of toxic substances or Hazardous Waste.

If two (2) or more governmental agencies having concurrent or overlapping jurisdiction over Hazardous Waste adopt conflicting definitions of "hazardous waste", for purposes of collection, transportation, Processing and/or Disposal, the broader, more restrictive definition shall be employed for purposes of

this Agreement.

1.40 Household Hazardous Waste

“Household Hazardous Waste” means those wastes resulting from products used by the general public for household purposes which, because of their quantity, concentration, or physical or chemical characteristics, may pose a substantial known or potential hazard to human health or the environment when improperly treated, Disposed, or otherwise managed.

1.41 Maximum Incentive Tonnage

“Maximum Incentive Tonnage” means one hundred nineteen thousand (119,000) Tons of Mixed Municipal Waste.

1.42 Mixed Municipal Waste

“Mixed Municipal Waste” means residential, commercial and industrial garbage and/or rubbish. Mixed Municipal Waste may include materials that would have been defined as Organic Materials, Recyclable Materials, Recyclable HHW, E-Waste, and Construction and Demolition Debris if such materials had been source separated from the Mixed Material Waste prior to delivery to the Facility.

1.43 Non-Resident Self-Haulers

“Non-Resident Self-Haulers” means Persons that do not reside in the City that deliver Covered Materials directly to the Facility on their own behalf, and not as a licensed, commercial hauling enterprise collecting Covered Material for third parties or on behalf of a municipality.

1.44 Notice

“Notice” or “Notify” (or other variation thereof) means notification given in accordance with Section 15.12.

1.45 Organic Materials

“Organic Materials” means those discarded materials that will decompose and/or putrefy and that the City’s Municipal Code permits, directs, and/or requires generators to separate from solid waste and Recyclable Materials for collection in specially designated containers for Organic Materials collection. Organic Materials include Yard Trimmings, Food Scraps and such other items as, but not limited to, wood waste, polylactide (PLA) products, and pieces of unpainted and untreated wallboard. No discarded material shall be considered to be Organic Materials, however, unless such material is source separated from other Covered Materials prior to delivery to the Facility or Recovered from other Covered Materials at the Facility.

1.46 Other Franchised Users

“Other Franchised Users” means all Persons delivering Covered Material to the Facility that hold an exclusive franchise, contract or similar right to collect such Covered Material.

1.47 Other Users

“Other Users” means all Persons delivering Covered Material to the Facility other than the Collection Franchisee or City Hauler.

1.48 Party(ies)

“Party(ies)” means the City and the Contractor, individually and together.

1.49 Per Item Rates

“Per Item Rates” means those specific rates charged by Contractor to Customers for the acceptance and Processing of the types of materials listed in Exhibit 6 to this Agreement.

1.50 Permit(s)

“Permit(s)” means all federal, State, City, other local and any other governmental unit permits, orders, licenses, approvals, authorizations, consents and entitlements of whatever kind and however described which are required under Applicable Law to be obtained or maintained by any Person with respect to the Facility or the performance of any obligation under this Agreement, as renewed or amended from time to time.

1.51 Person

“Person” means any individual, firm, association, organization, partnership, corporation, trust, joint venture, the United States, the State, a county, a municipality or special purpose district or any other entity whatsoever.

1.52 Process/Processing

“Process,” or “Processing” (or any other variation thereof), means baling, crushing, shredding, chipping, grinding, extracting, hand picking and any other operation or series of operations, whether involving equipment, manual labor, or mechanical or biological processes that sorts, enhances, upgrades, concentrates, decontaminates, packages or otherwise prepares Covered Materials and returns marketable elements thereof to the economic mainstream in the form of raw material for new, reused or reconstituted product.

1.53 Reasonable Business Efforts

“Reasonable Business Efforts” means those efforts a reasonably prudent business Person would expend under the same or similar circumstances in the exercise of such Person's business judgment, intending in good faith to take steps calculated to satisfy the obligation which such Person has undertaken to satisfy; provided that such Person and/or any enterprise by which such Person is employed would not incur a financial loss (other than time expended or otherwise compensated for such efforts herein) by reason of having expended or expending such efforts.

1.54 Recovered Materials

“Recovered Materials” means Recyclable Materials and Organic Materials Recovered from Covered Materials.

1.55 Recovery

“Recovery,” or “Recover” or “Recovered” (or other variations thereof), means the Processing of Recyclable Materials and Organic Materials from Covered Material, whether by manual or mechanical means, by the Contractor at the Facility.

1.56 Recyclable Household Hazardous Waste

“Recyclable Household Hazardous Waste” means automobile batteries, motor oils, anti-freeze, oil filters and water-based paint resulting from products used by the general public for household purposes.

1.57 Recyclable Materials

“Recyclable Materials” means those materials designated in this Agreement which are segregated from Mixed Municipal Waste by the service recipient at the source of generation. Recyclable Materials include newspaper, mixed paper (including white and colored paper, magazines, telephone books, chipboard, junk mail and high grade paper), glass containers, metal containers (ferrous, non-ferrous and bi-metal containers including empty aerosol containers), aluminum foil and trays, milk and juice cartons, soup and juice boxes, all narrow neck rigid plastic containers, non-bottle rigid plastics, and corrugated cardboard. City and Contractor may mutually agree to include additional materials or remove materials from this list of Recyclable Materials.

1.58 Recyclable Material Incentive Fee

“Recyclable Material Incentive Fee” means an amount equal to forty percent (40%) of the amount by which the Average Recyclable Per Ton Revenue for that Contract Year exceeds one hundred twenty five percent (125%) of the Baseline Recyclable Per Ton Revenue for that Contract Year multiplied by the number of Tons of Recyclable Material sold by the Contractor in such Contract Year that are allocated to the City.

1.59 Resident Self-Haulers

“Resident Self-Haulers” means Persons that reside in the City that deliver Covered Materials directly to the Facility on their own behalf, and not as a licensed, commercial hauling enterprise collecting Covered Material for third parties or on behalf of a municipality.

1.60 Residue

“Residue” or “Residual” (or other variations thereof), means remaining Covered Material following Recovery and Processing thereof, if any, that require Disposal.

1.61 State

“State” means the State of California.

1.62 Subcontractor(s)

“Subcontractor” means a Person who has entered into a contract, express or implied, with the Contractor for the performance of an act on Contractor’s behalf (i) that involves accepting, Processing, Diverting, marketing, or transporting solid waste, and/or other handling of Covered Materials (excluding transporting Recyclable Materials), and (ii) that is necessary for the Contractor’s fulfillment of Contractor’s Obligations. Vendors providing materials, supplies and equipment maintenance services to Contractor shall not be considered Subcontractors.

1.63 Ton or Tonnage

“Ton” or “Tonnage” means a short Ton of 2,000 pounds.

1.64 Tonnage Incentive Fee

“Tonnage Incentive Fee” means four dollars (\$4.00) per Ton and such adjustments to that amount as may be made in accordance with Section 3.2 (C) herein.

1.65 Uncontrollable Circumstance(s)

“Uncontrollable Circumstance(s)” means an act of nature, landslide, lightning, earthquake, fire, flood, (other than reasonably anticipated weather conditions for the geographic area of the Facility), explosion, sabotage, acts of a public enemy, war, blockade or insurrection, riot or civil disturbance or any other act, event or condition, whether affecting the Facility or either Party beyond the reasonable control of such Party and not the result of willful or negligent action or inaction of such Party (other than the contesting in good faith or the failure in good faith to contest such action or inaction), which materially and adversely affects the ability of either Party to perform any obligation hereunder, but excluding:

- (A) Either Party's own breach of its obligations hereunder;
- (B) Adverse changes in the financial condition of either Party or any Change in Law with respect to any taxes based on or measured by net income, or any unincorporated business, payroll, or employment taxes;
- (C) The consequences of errors in performing Contractor Obligations on the part of the Contractor, its employees, agents, Subcontractor or affiliates,, including failure to comply with the operations and maintenance manual and Contractor’s failure to adequately update the manual;
- (D) Labor unrest including, but not limited to, strikes, work stoppages or slowdowns, sick-outs, picketing, or other labor disputes or disturbances conducted by Contractor’s employees or directed at Contractor or by any Subcontractor performing services related to Contractor Obligations;
- (E) The failure of the Contractor to secure patents, licenses, trademarks, and the like necessary for Contractor Obligations; and,
- (F) As to the Contractor, the failure of any Facility technology to perform in accordance with industry standards, unless caused by Uncontrollable Circumstances.

1.66 Unpermitted Waste

“Unpermitted Waste” means wastes that the Facility may not receive under its Permits, including:

- (A) Agricultural wastes comprised of animal manures;
- (B) Asbestos, including friable materials that can be crumbled with pressure and are therefore likely to emit fibers, being a naturally occurring family of carcinogenic fibrous mineral substances, which may be a Hazardous Waste if it contains more than one percent (1%) asbestos;
- (C) Ash residue from the incineration of Mixed Municipal Waste, including infectious waste described in item (H) below, wood waste, sludge, and agricultural wastes described in item (A) above;
- (D) Auto shredder "fluff" consisting of upholstery, paint, plastics, and other non-metallic substances which remains after the shredding of automobiles;
- (E) Large dead animals;

- (F) Hazardous Wastes, explosives, ordnance, highly flammable substances and noxious materials;
- (G) Industrial solid or semi-solid wastes resulting from industrial processes and manufacturing operations, including cement kiln dust, ore process residues and grit or screenings removed from waste water treatment facility;
- (H) Infectious wastes which have disease transmission potential and are classified as Hazardous Wastes by the State Department of Health Services, including pathological and surgical wastes, medical clinic wastes, wastes from biological laboratories, blades, tubing, bottles, drugs, patient care items such as linen or personal or food service items from contaminated areas, chemicals, personal hygiene wastes, and carcasses used for medical purposes or with known infectious diseases;
- (I) Liquid wastes which are not spadeable, usually containing less than fifty (50%) percent solids, including cannery and food processing wastes, landfill leachate and gas condensate, boiler blowdown water, grease trap pumpings, geothermal field wastes, septic tank pumpings, rendering plant byproducts, sewage sludge, and those liquid wastes which may be Hazardous Wastes;
- (J) Radioactive wastes as defined in Section 114710 of the California Health and Safety Code and any waste that contains a radioactive material, the storage or Disposal of which is subject to any other State or federal regulation;
- (K) Sewage sludge comprised of human (not industrial) residue, excluding grit or screenings, removed from a waste water treatment facility or septic tank, whether in a dry or semidry form;
- (L) Special wastes designated from time to time by the California Integrated Waste Management Board, including contaminated soil; and
- (M) Bulky items that cannot fit within standard roll-off containers or Mixed Municipal Waste collection vehicles unless otherwise approved by Contractor.

Parties shall promptly revise this definition of "Unpermitted Waste" to the extent necessary to comply with Applicable Law, should a Change in Law or in Permits and Permit requirements necessitate.

1.67 Yard Trimmings

"Yard Trimmings" means those discarded materials that will decompose and/or putrefy, including, but not limited to, green trimmings, grass, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees, small pieces of unpainted and untreated wood, and other types of organic waste. Yard Trimmings are a subset of Organic Materials.

ARTICLE TERMS OF AGREEMENT

2

2.1 Term of Agreement

The term of this Agreement shall be for a twenty (20) year period commencing on January 1, 2017, and expiring on December 31, 2037 subject to extension as provided herein and the provisions of Section 15.5.2 (A) unless terminated earlier by the City pursuant to Article 14 of this Agreement.

2.2 Option to Extend Term

The City shall have the sole right to approve or deny any extensions of the term of this Agreement beyond the initial term for up to five (5) years for a maximum term of approximately twenty five (25) years including the initial term and any extensions thereof. No less than three hundred sixty five (365) calendar days prior to the expiration of the initial term of this Agreement or any extensions thereof, the City or the Contractor may request an extension of the then current term by providing Notice of such request to the other Party.

If either Party requests such extension, the City or Contractor may request a meeting to discuss modifications to the Agreement. City reserves the right to negotiate modifications to the Agreement as a condition to the extension of the term, subject to approval by both Parties. In the event the Parties have not agreed to proposed revisions to this Agreement no later than one hundred eighty (180) calendar days prior to the end of the term or then current extension, the Agreement shall terminate at the end of the term or then current extension.

The City has no obligation to renegotiate, renew, or otherwise extend the rights granted to Contractor beyond the initial term of the Agreement.

2.3 Survival of Certain Provisions

All representations and warranties of the Parties herein, and all indemnifications provided for herein, and any other rights and obligations of the Parties expressly stated to survive the expiration or early termination of this Agreement, shall survive such expiration or early termination, including payment of any amounts due and owing by either Party to the other Party at the time of expiration or early termination.

2.4 Representations and Warranties of Contractor

Contractor hereby covenants, represents, and warrants the following to the City for the purpose of inducing the City to enter into this Agreement and to consummate the transaction contemplated hereby, all of which shall be true as of the date of this Agreement and as of the Commencement Date:

- (A) Contractor Status. Contractor represents and warrants that it is a corporation duly organized, validly existing and in good standing under Applicable Laws. It is qualified to transact business in the State of California and has the power to own its properties and to carry on its business as now owned and operated and as required by this Agreement.
- (B) Authority and Authorization. Contractor represents and warrants that it has the authority to enter into and perform Contractor's Obligations under this Agreement. The Board of Directors or partners of Contractor (or the shareholders, if necessary) have taken all actions required by law, its articles of incorporation, its bylaws, or otherwise to authorize the execution of this Agreement. The Persons signing this Agreement on behalf of Contractor have authority to do so. Contractor shall authorize one (1) employee and one (1) backup employee for the Contractor as a single point of contact for issues arising under this Agreement, and Contractor acknowledges and agrees that City may expect and assume that this employee's actions are taken on behalf of and with the full approval of the Contractor. If the Contractor chooses to replace its designated representative, or the designated backup employee, the new employee contact information must be provided to the City in writing within one (1) work day of the replacement.
- (C) No Conflicts. Neither the execution or delivery by the Contractor of this Agreement, the

performance by the Contractor of Contractor's Obligations required by this Agreement, nor the fulfillment by the Contractor of the terms and conditions hereof: (1) conflicts with, violates or results in a breach of any Applicable Law; (2) conflicts with, violates or results in a breach of any term or condition of any judgment, order or decree of any court, administrative agency or other governmental authority, or any agreement or instrument to which the Contractor is a party or by which the Contractor or any of its properties or assets are bound, or constitutes a default there under; or (3) will result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets of the Contractor.

- (D) No Litigation. There is no action, suit or other proceeding as of the date of this Agreement, at law or in equity, or to the best of Contractor's knowledge, any investigation, before or by any court or governmental authority, pending or threatened against Contractor which is likely to result in an unfavorable decision, ruling or finding which would materially and adversely affect the validity or enforceability of this Agreement in connection with the transactions contemplated hereby, or which could materially and adversely affect the ability of Contractor to perform Contractor's Obligations hereunder or which would have a material adverse effect on the financial condition of Contractor.
- (F) No Approvals. No approval, authorization, license, Permit, order or consent of, or declaration, registration or filing with any governmental or administrative authority, commission, board, agency or instrumentality is required for the valid execution and delivery of this Agreement by Contractor, except such as have been duly obtained. Contractor has all licenses, Permits, City business license, qualifications and approvals of whatsoever nature which are legally required for Contractor to provide services hereunder and meet Contractor's Obligations hereunder, and Contractor further warrants that it shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement all licenses, Permits, and approvals which are legally required for Contractor to provide such services and meet Contractor's Obligations under this Agreement.

2.5 Conditions to Effectiveness of Agreement

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by the City in writing, is a condition precedent to the effectiveness of this Agreement, and a condition of Contractor's continued right to the benefits conveyed herein:

- (A) Furnishing of Insurance. Contractor shall have furnished evidence of the insurance required by Section 13.3, and shall comply with all ongoing requirements relating thereto.
- (B) Proprietary Products. The Contractor shall have received the right to use proprietary technology, processes and equipment, if any, necessary for the operation and maintenance of the Facility in accordance with the provisions hereof for the term of this Agreement.
- (C) Guaranty. As a condition to the continued effectiveness of the Agreement after an assignment of Contractor's rights and obligations hereunder as provided in Section 15.5 hereof, if such Guaranty is required by Section 15.5.2 (C), the assignee shall have caused such Guaranty to be executed.
- (D) Audited Financial Statement. Contractor shall provide the most recent financial statement presenting the financial results of operations of the Facility and prepared in accordance with Generally Accepted Accounting Practices for year ending December 31, 2015, audited by an independent, certified public accountant that shall conduct the audit in accordance with

Generally Accepted Auditing Standards and issue an unqualified opinion.

ARTICLE FEES AND PAYMENTS DUE TO CITY

3

3.1 General

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the right and privilege to provide Covered Materials handling services and other Contractor Obligations as specified herein, Contractor shall pay to the City fees and payments described in this Article. The fees and payments described in this Article 3, which are due to City by Contractor, were not imposed on the Contractor, but were freely negotiated terms voluntarily entered into by the Parties.

3.2 Tonnage Incentive Fee

- (A) The Parties acknowledge that this Agreement and the Contractor's compensation hereunder are in part based on the Tonnage of Mixed Municipal Waste expected to be delivered to the Facility. If substantial additional Mixed Municipal Waste is delivered and accepted at the Facility from the average Tonnage delivered at the time of execution of this Agreement, there may be economic benefit to the Contractor. In order to provide incentive to the Contractor to contract for, or otherwise arrange for such additional Tonnage while at the same time keeping the cost to the City and its residents as low as is practical, the Contractor agrees to share any such benefit by paying to the City the amounts described in this Section.
- (B) If the total Tonnage of Mixed Municipal Waste delivered to and accepted by the Facility exceeds the Baseline MMW Tonnage, the Contractor will pay to the City the Tonnage Incentive Fee for each Ton of Mixed Municipal Waste which exceeds the Baseline MMW Tonnage in such Contract Year up to a total of the Maximum Incentive Tonnage. For the avoidance of doubt, a sample calculation is provided below:

Example:

A. Baseline MMW Tonnage	104,000
B. Actual MMW Tonnage for Future Contract Year	114,000
C. Tonnage Eligible for Tonnage Incentive Fee (B-A)	10,000
D. Tonnage Incentive Fee (per ton)	\$ 4.00
E. Total Payment Due to City Due to Tonnage Incentive Fee (C X D)	\$ 40,000

- (C) The Tonnage Incentive Fee described above in subsection 3.2 (B) shall be increased annually by one hundred percent (100%) of the annual percentage change in the CPI-U as determined in accordance with Exhibit 2.
- (D) No payment shall be due for Tonnage of Mixed Municipal Waste which exceeds the Maximum Incentive Tonnage but in the event Tonnage above that level is accepted at the Facility, the Parties shall meet and confer on the feasibility of any additional Tonnage Incentive Fee on Tonnage above the Maximum Incentive Tonnage, and if feasible, they shall negotiate modifications to this Section 3.2 and the result of those negotiations shall describe the new Tonnage Incentive Fee for those Tons in excess of the Maximum Incentive Tonnage. The feasibility of any additional fee shall be determined by taking into account additional costs that will be incurred by Contractor due to receipt of Tonnage over the Maximum Incentive Tonnage

including, without limitation: additional labor and other operating costs; additional maintenance costs; the acquisition of additional equipment or rolling stock or modifications to the Facility needed in order to Process the additional Tonnage including debt service on any funds borrowed for those purposes; and a reasonable profit.

3.3 Recyclable Material Revenue Sharing

- (A) The Parties also acknowledge that if total revenues from the sale of City Curbside Program Recyclables significantly exceed those received as of the execution of this Agreement, the Contractor will likely realize economic benefit and the Parties agree that the City should share in any such benefit.
- (B) In any Contract Year the Average Recyclable Per Ton Revenue shall exceed the Baseline Recyclable Per Ton Revenue by more than twenty five percent (25%), the Contractor shall pay to the City a Recyclable Material Incentive Fee. For the avoidance of doubt, a sample calculation is shown below:

Example	Per Ton
A. Baseline Recyclable Per Ton Revenue	\$ 155.21
B. 125% of Baseline Recyclable Per Ton Revenue (125% X A)	\$ 194.01
C. Average Recyclable Per Ton Revenue for Future Contract Year	\$ 215.00
D. Amount of Additional Revenue Per Ton over 125% of Baseline Revenue (C-B)	\$ 20.99
E. Recyclable Material Incentive Fee (D X 40%)	\$ 8.39
Outbound Tons of City Curbside Program Recyclables	5,313.00
Recyclable Material Incentive Fee Per Ton	\$ 8.39
Recyclable Material Incentive Fee Payment to City of Tracy	\$ 44,603

- (C) The Baseline Recyclable Per Ton Revenue shall be increased annually by one hundred percent (100%) of the annual percentage change in the CPI-U as determined in accordance with Exhibit 2.

ARTICLE GENERAL FACILITY OPERATIONS

4

4.1 General

The work to be done by Contractor pursuant to this Agreement shall include, but not be limited to, the furnishing of all labor, supervision, equipment, materials, supplies, and all other items necessary to perform the services required. The enumeration of, and specification of requirements for, particular items of labor or equipment shall not relieve Contractor of the duty to furnish all others, as may be required, whether enumerated elsewhere in the Agreement or not.

The work to be done by Contractor pursuant to this Agreement shall be accomplished in a thorough and professional manner so that City and all Customers are provided reliable, courteous and high-quality service at all times. The enumeration of, and specification of requirements for, particular aspects of service quality shall not relieve Contractor of the duty of accomplishing all other aspects in the manner provided in this Section, whether such other aspects are enumerated elsewhere in the Agreement or not.

Contractor will fulfill all requirements relating to Contractor Obligations in accordance with accepted practice for comparable facilities, sound management and operations practice, Permits, Applicable Law, the provisions hereof, and covenants, conditions and restrictions pertaining to the Facility.

4.2 Receiving and Operating Hours

Contractor shall operate and maintain the Facility at all times in accordance with Permits. Hours of operation are 8:00 a.m. to 4:00 p.m. Monday through Saturday except for Facility Holidays. If Contractor cannot accept Covered Material or operate the Facility during normal hours of operation for any reason, it shall give the City immediate telephonic notice followed by written Notice, including the nature and expected duration of the shutdown and its impact on Contractor's ability to fulfill Contractor's Obligations under this Agreement, provided such Notice shall not relieve the Contractor of Contractor's Obligations under this Agreement, including payment of any damages unless otherwise excused by the provisions hereof.

4.3 Weighing

4.3.1 Installation, Operation and Maintenance.

The Contractor shall maintain State certified motor vehicle scales in accordance with Applicable Law. All scales shall be linked to the Contractor's centralized computer recording and billing system for all incoming and outgoing materials. Contractor will follow procedures and collect, at a minimum, the information described in Section 12.2.

Contractor's licensed weigh master shall weigh at the scale house all materials entering and exiting the Facility other than materials delivered by Resident and Non-Resident Self-Haulers or materials that are accepted pursuant to a Per-Item Rate on which fees are not calculated based on weight, in compliance with Applicable Law. The City and its representatives shall have access to the scale house during operating hours and may observe weighing operations.

Contractor shall provide back-up generator(s) capable of supplying power to the scales in the event of a power outage.

4.3.2 Vehicle Tare Weights

Contractor shall within ten (10) working days of the Commencement Date provide City with the current tare weights of all Contractor vehicles that deliver to the Facility, and all transfer or other vehicles that transport materials from the Facility, to determine unloaded weight ("tare") weight of each vehicle, with an assigned number and vehicle description for each. Contractor shall record tare weight and vehicle identification number for each such vehicle and within ten (10) working days of weighing Contractor shall provide City with a report listing vehicle tare weight information. When additional or replacement vehicles are placed into service, Contractor shall promptly weigh such additional and replacement vehicles and provide the tare weight(s) to City. City shall have the right to request re-taring of vehicles as reasonably required to ensure accuracy but not more than two (2) times per Contract Year.

4.3.3 Substitute Scales

To the extent practicable, if any scale is inoperable, being tested or otherwise unavailable, vehicles shall be weighed on the remaining operating scales. To the extent that all the scales are inoperable, being tested, or otherwise unavailable, the Contractor shall substitute portable scales until the permanent scales are replaced or repaired. Contractor shall arrange for any inoperable scale to be repaired as soon

as possible, and in any event, within seventy-two (72) hours (excluding Federally Approved Holidays) of the failure of the permanent scale. Contractor shall arrange to immediately obtain a temporary substitute scale(s) should the repair of the permanent scale require more than seventy-two (72) hours, (excluding Federally Approved Holidays).

4.3.4 Estimates

Pending substitution of portable scales, the Contractor shall estimate the quantity of Covered Material being delivered to the Facility and Mixed Municipal Waste and Residue being transported from the Facility, on the basis of delivery truck and transfer trailer volumes, tare weights, landfill and/or Processing and composting facility weight records, and data obtained through historical information. These estimates shall take the place of actual weighing and shall be the basis for records while scales are inoperable.

4.3.5 Scale Testing

The Contractor shall arrange for the County of San Joaquin's Weights and Measures Program to test and calibrate all scales in accordance with Applicable Law, but at least three (3) times annually (every six (6) months and once on a randomly selected work day). Prior to any test, Contractor shall provide at least five (5) days' Notice thereof to the City, unless such test is conducted by the State or other regulatory entity without advance Notice to Contractor. Contractor shall provide the City with copies of test results. Contractor may use a third party for scale testing, with prior written City approval.

If the testing schedule is performed in accordance with this Section and the test results indicate scale inaccuracies, no adjustment of Gate Rates calculated, charged and paid, as the case may be, shall be made retroactively. However, if the scale testing schedule described in this Section is not maintained and scale test results indicate that the scale or scales did not comply with Applicable Law, then all weight measurements recorded and Gate Rates calculated, charged and paid, as the case may be, from the date of such test, shall be adjusted by Contractor and corrected consistent with the results of such test. The Contractor shall further test and calibrate any or all scales upon written request therefore by the City, within three (3) work days of such request.

4.4 Contractor Commitment to Deliver and Accept Covered Materials

4.4.1 Collection Franchisee Covered Materials

City agrees to direct all Covered Materials its Collection Franchisee collects from City customers to the Facility, or in the event that at any time, the City takes over collection of all or a portion of Covered Materials from the Collection Franchisee, the City shall deliver all such Covered Materials to the Facility. In such event, the City and Contractor agree to meet and confer to discuss any resulting changes in Gate Rates that may result from changes to the volumes of material delivered to the Facility.

4.4.2 County Users Covered Materials

The City and Contractor have entered into the County Agreement, which requires *inter alia*, that the County deliver, or cause to be delivered, all of the municipal solid waste from the area designated in the County Agreement to the Facility.

4.4.3 Agreements with Other Users

Contractor has the right to enter into agreements with Other Users for acceptance of Covered Materials

at the Facility to the extent Facility throughput capacity is available, in the following order of priority: (1) Collection Franchisee, City Haulers, and Other Franchised Users delivering material from inside the area designated in the County Agreement , (2) Resident Self-Haulers, and (3) other categories of Other Users, including Other Franchised Users delivering material from outside the area designated in the County Agreement. City or Contractor may enter into agreements with Other Users subject to the terms specified below:

- (A) Gate Rates. Contractor may charge Other Users amounts other than Gate Rates for Covered Materials.
- (B) Tonnage Incentive Fees. Contractor shall pay applicable Tonnage Incentive Fees in accordance with Article 3.

4.4.4 Contractor’s Facility Throughput Guarantee

Contractor guarantees to accept for transfer, Recovery, and Processing (as applicable): (i) all Covered Materials collected by the Collection Franchisee for the City that are delivered to the Facility and (ii) all Covered Materials delivered by City Haulers.

4.4.5 City Delivered Material

For the Contract Year beginning January 1, 2017, Contractor shall accept up to two thousand (2,000) Tons of Mixed Municipal Waste, Organic Materials or inert materials delivered to the Facility by the City or, at the direction of the City, by the City’s Collection Franchisee, at no charge to the City (for the purpose of this Section “City Delivered Material”). Beginning with October 1, 2017 and each October 1st during the term of this Agreement, City shall notify the Contractor of the annual estimate of the Tons of City Delivered Material to be delivered to the Facility for the upcoming Contract Year. The cost of the increase or the decrease of the annual estimate of City Delivered Material for the upcoming Contract Year over the annual estimate from the current Contract Year shall be considered a pass-through cost and included in the Gate Rate adjustment methodology as set forth in Exhibit 2.

4.5 Right to Enter and Inspect Facility

City shall have the right, but not the obligation, to observe and inspect Facility operations including, but not limited to scale house, grounds, offices, maintenance shop, tipping floor, Recovery and Processing areas, materials storage areas and Recyclable Household Hazardous Waste and E-Waste collection area. In connection therewith, City and its representatives authorized by the Public Works Director, or his or her designee, shall have the right to enter the Facility at any time and speak to any of Contractor's employees. Without limiting such right, City and its representatives shall attempt to provide twenty four (24) hours Notice of its intent to enter the Facility. Upon arrival the City’s representatives shall first present themselves to senior on-site management who shall provide a Contractor’s representative to accompany the City’s representatives during the visit. Such representatives shall comply with the Contractor's reasonable safety and security rules and shall not interfere with the work of the Contractor or its Subcontractors. Upon City request, Contractor shall make specified personnel available to accompany City representatives on inspections. Contractor shall ensure that its employees cooperate with the City and respond to the City's inquiries. Upon City request, Contractor shall make operational and business records required by this Agreement available to the City during Facility operating hours (specified in Section 4.2) and shall provide City copies of records at City's request.

4.6 Diversion Standards

4.6.1 Facility Diversion Standard

For Contract Year 2017 Contractor shall meet a minimum Facility Diversion Standard of eighty two percent (82%) by weight of all Covered Material, except Mixed Municipal Waste, delivered to the Facility under the terms of this Agreement. For Contract Year 2018 and annually thereafter during the term of this Agreement, Contractor shall meet a minimum Facility Diversion Standard that is no less than two (2) percentage points lower than the actual Facility Diversion Standard percentage from the preceding Contract Year. The Facility Diversion Standard rate shall be calculated on a quarterly basis and shall equal the total Tonnage of Diverted Materials divided by the total Tonnage of Covered Materials, adjusted for Organic Material shrinkage, except Mixed Municipal Waste delivered to the Facility during that period. An example of this calculation is provided below and in more detail in Table 1 of Exhibit 3.

$$\frac{\text{Tons Diverted}}{\text{Adjusted Tons of Covered Material, except Mixed Municipal Waste}} = \text{Facility Diversion \%}$$

4.6.1.1 Measurement of Contractor's Compliance.

The Parties agree to measure Contractor's compliance with the Facility Diversion Standard based on the overall performance of the Facility for each Contract Year. On or before April 15th 2018 and April 15th of each Contract Year during the term of this Agreement, Contractor shall provide City with the Facility Diversion Standard percentage calculation for the prior Contract Year in the manner and format provided in Exhibit 3. In order to provide the City with an ongoing assessment of the status of the Contractor's Diversion performance, Contractor shall prepare an interim Facility Diversion Standard calculation on a quarterly basis for each of the first three (3) quarters of each Contract Year using the cumulative data for that period and submit the results of the calculation to the City within forty five (45) calendar days from the end of the quarter.

If the interim Facility Diversion rate, calculated as set forth above, is less than the Facility Diversion Standard, the Contractor shall, in addition to the calculations, provide a summary of the reason it believes the Standard was not met and any plans it has to remedy the failure. Upon City request, the Contractor shall meet with the City and confer to determine the cause for not meeting the interim Facility Diversion Standard and the actions necessary to meet the standard. If the annual Facility Diversion rate, calculated as set forth in Section 4.6.1 above, is less than the Facility Diversion Standard, the Parties shall meet and confer to determine an appropriate solution. In the event the Parties cannot reach agreement on an appropriate solution, the Parties shall utilize the dispute resolution procedures set forth in Section 15.20 of this Agreement.

In the event a material that is considered a Recyclable Material and is being Recovered by the Contractor on or after the Commencement Date of this Agreement is no longer considered a Recyclable Material. Contractor and City shall meet and discuss the extent to which the Facility Diversion Standard should be adjusted to reflect the removal of that material from the Recyclable Material stream of the Facility. In the event the Parties cannot reach agreement on the required change in the Facility Diversion Standard the Parties shall utilize the dispute resolution procedures set forth in Section 15.20 of this Agreement.

4.6.2 City Curbside Program Recyclables (CCPR) Diversion Standard

Beginning with Contract Year 2017 and annually thereafter during the Term of this Agreement, Contractor shall meet a minimum CCPR Diversion Standard of eighty eight percent (88%) by weight of all Recyclable Materials included in the City Curbside Program Recyclables program delivered to the Facility under the terms of this Agreement. Compliance with this CCPR Diversion standard shall be determined using the results of the CCPR characterization studies as provided in Section 4.6.2.1 and Processing Diversion studies as provided in Section 4.6.2.2 and the calculations as provided in Section 4.6.2.3.

4.6.2.1 CCPR Characterization Sample Studies.

Contractor shall be responsible for having CCPR characterization sample studies designed and performed in accordance with this Section to determine by weight the percentage of City Curbside Program Recyclables delivered to the Facility that are Recyclable Materials. The CCPR characterization sample studies shall be conducted in accordance with the sampling plan developed by the third party contractor as discussed herein. The average of the results of CCPR characterization sample studies conducted in Contract Year 2017 shall be used to calculate compliance with the CCPR Diversion Standard in that Contract Year. The CCPR characterization sample studies shall be performed by the Contractor but shall be designed by a qualified third party contractor subject to City's approval, which shall not be unreasonably withheld. The studies shall be conducted at the Facility and shall be of sufficient scope to meet industry practices and standards. The study methodology proposed by the third party contractor shall be subject to City's approval, which shall not be unreasonably withheld. Contractor shall provide full access to the conduct of the CCPR characterization sample studies, and all data and products of the studies, to City and its representatives.

During Contract Year 2017, Contractor shall perform the CCPR characterization sample studies under the direct supervision of the third party contractor who designed the study methodology. Thereafter Contractor may perform the CCPR sample studies without supervision but shall strictly follow the methodology developed by the third part contractor. However, the City may at its sole discretion require the Contractor to have annual CCPR characterization sample studies supervised by an independent contractor once every five (5) Contract Years or in any Contract Year following a Contract Year when the result of the CCPR characterization sample studies increase or decrease by more than +/- three (3) percentage points. For example if the calculated percentage of Recyclable Materials included in the City Curbside Program Recyclables delivered to the Facility increased from twenty seven percent (27%) to thirty one (31%) percent in one Contract Year the City could require that the CCPR characterization sample studies for the next Contract Year be performed under the supervision of a qualified third party contractor subject to City's approval, which shall not be unreasonably withheld.

4.6.2.2 Processing Diversion Studies.

Contractor shall be responsible for having Processing Diversion studies designed and performed in accordance with this Section to determine by weight what percentage of City Curbside Program Recyclables delivered to the Facility are Diverted through Processing. Processing Diversion studies shall be conducted two (2) times in Contract Year 2017 and twice per Contract Year thereafter. The average of the results of the two (2) Processing Diversion studies conducted in a Contract Year shall be used to calculate compliance with the CCPR Diversion Standard in that Contract Year. Processing Diversion studies shall be performed by the Contractor but shall be designed by a qualified third party contractor subject to City's approval, which shall not be unreasonably withheld. The Processing Diversion studies shall be conducted at the Facility and shall be of sufficient scope to meet industry practices and standards. The studies shall use samples of material that consist exclusively of Recyclable Materials delivered to the Facility as part of the City Curbside Program; use samples that are representative of all

Recyclable Materials delivered to the Facility as part of the City Curbside Program; replicate Contractor's normal operating conditions, including but not limited to the number of sorters and other staff, Processing equipment, Processing equipment speed, material depth on the Processing line, material moisture content, and re-processing of Residue, as verified by the third party contractor. The study methodology proposed by the third party contractor shall be subject to City's approval, which shall not be unreasonably withheld. Contractor shall provide full access to the conduct of the Processing Diversion studies, and all data and products of the studies, to City or its representatives. During Contract Year 2017, Contractor shall perform the Processing Diversion studies under the direct supervision of the third party contractor who designed the study methodology. Thereafter Contractor may perform the Processing Diversion studies without supervision but shall strictly follow the methodology developed by the third part contractor. However, the City may at its sole discretion require the Contractor to have the annual Processing Diversion studies supervised by an independent contractor once every five (5) Contract Years or in any Contract Year following a Contract Year when the result of the studies increase or decrease by more than +/- three (3) percentage points. For example, if the calculated percentage by weight of the City Curbside Program Recyclables delivered to the Facility that are Diverted through Processing increased from sixty seven percent (67%) to seventy one percent (71%) in one Contract Year the City could require that the Processing Diversion studies for the next Contract Year be performed under the supervision of a qualified third party contractor subject to City's approval, which shall not be unreasonably withheld.

4.6.2.3 Calculation of Compliance with CCPR Diversion Standard.

The Parties agree to measure Contractor's compliance with the CCPR Diversion Standard in the following manner:

"A" is the weight of all City Curbside Program Recyclables delivered to the Facility under the terms of this Agreement as reported by Contractor as set forth in Article 12;

"B" is the average percentage of City Curbside Program Recyclables delivered to the Facility under the terms of this Agreement that are: Recyclable Materials that Contractor can Divert as determined by the CCPR characterization sample studies set forth in Section 4.6.2.1, multiplied by "A";

"C" is the average percentage of City Curbside Program Recyclables delivered to the Facility under the terms of this Agreement that are Diverted through Processing, as determined by the Processing Diversion studies set forth in Section 4.6.2.2 multiplied by "A";

The calculated annual CCPR Diversion percentage is "C" divided by "B" (C/B)

To determine compliance with Section 4.6.2, the calculated annual CCPR Diversion percentage is compared to the CCPR Diversion standard of eighty eight percent (88%).

An example of this calculation is provided in Exhibit 3.

4.7 Facility Ownership and Contractor Operating Responsibilities

Contractor owns the Facility including all structures, equipment, and other features, and is solely responsible for incurring such capital and operating costs as are necessary to meet Contractor's Obligations.

Contractor shall maintain the Facility in good working order and repair, including landscape, building and equipment maintenance and repair, cleaning and painting the Facility, and providing litter control,

Contractor shall schedule repair and maintenance activities at times other than the Facility operating hours specified in Section 4.2 above in such a manner that Contractor can fulfill Contractor's Obligations. In no event shall failure to provide adequate and sufficient repair, maintenance, or Facility equipment or vehicle replacement excuse Contractor defaults described in Section 14.1.

4.8 General Emergency Conditions and Response Plan

Contractor shall prepare an emergency response plan to be followed in the event of an emergency, such as a spill, injury, earthquake, or issues with known or unknown types of Unpermitted Waste. The plan shall meet all federal, State and City requirements and be made available for review by such agencies upon request.

At the request of the City, Contractor shall provide emergency services to the extent it is capable of providing such services in the event of major accidents, disruptions, or natural calamities. Contractor shall provide emergency services in accordance with this Section 4.8 within twenty-four (24) hours of Notification by the City or as soon thereafter as is reasonably practical in light of the circumstances. Provision of emergency services that exceed Contractor's Obligations shall be compensated through an extraordinary adjustment in accordance with Section 11.5.

4.9 Nuisances

4.9.1 Compliance with Permits

Contractor shall maintain the Facility in a neat and orderly condition, unfavorable to rodents, insects, and birds, including cleanup of litter and debris on site and along roads near the Facility in accordance with its Permits and Applicable Law.

4.10 Contractor Management

Contractor will provide City Notice at least thirty (30) calendar days after a change in management personnel responsible for ensuring complete and timely performance of Agreement services (such as a change in the Facility manager, operations/safety manager, or Contractor's regional manager). The Notice shall identify the name of the new manager, commencement date of the assignment, telephone and e-mail contact information for such Person, title, description of responsibilities, and the individual's professional qualifications.

Contractor shall provide City with a twenty-four (24) hour emergency number to the Contractor's manager of this Agreement and such number shall connect the City to the Person, not to a voicemail system.

4.11 Customer and Visitor Education

4.11.1 Facility Tours

As a result of Contractor's outreach to the community and upon request of the City and reasonable Notice (no less than thirty (30) calendar days unless otherwise agreed by Contractor), Contractor shall deliver visitor presentations on source reduction, recycling and Mixed Municipal Waste management and provide tours of the Facility. Upon request of the City no less than thirty (30) calendar days in advance, Contractor shall permit the City to conduct presentations and tours of the Facility.

4.11.2 Visitor Education Center

Contractor shall provide and operate a designated public visitor education center at the Facility where visitors can convene to learn about and view Facility operations which shall include appropriate and current equipment (e.g., laptop computer, and an audio/ visual system) The City shall have access to the visitor education center at all times during normal operating hours as set forth in Section 4.2 for use by the City.

4.11.3 Public Education Efforts and Materials

Contractor acknowledges and agrees that education and public awareness are critical, key and essential elements of any efforts to achieve the requirements of AB 341 and AB 939 and will conduct its own outreach to the community and reasonably cooperate with City in any reasonable education efforts. Contractor shall notify Customers through its Customer billing and through contact with Resident and Non-Resident Self-Haulers of Facility Gate Rates and Per Item Rates, methods of limiting contamination in loads, and other Facility procedures. City may instruct Contractor to place notices in all mailings and to pass out notices to Customers at the scale house, drop-off center and/or visitor education center. All public education materials shall be printed in English and Spanish.

4.12 Waste Generation/Characterization Studies

4.12.1 Periodic Studies

Contractor acknowledges that in addition to those studies required under Section 4.6., City may need to periodically perform generation and characterization studies of Covered Materials delivered to the Facility by Customers to comply with the requirements of AB 341 and AB 939. Contractor agrees to participate and cooperate with City and its agents and to accomplish studies and data collection and prepare reports, as needed and directed by City, to determine weights and volumes of Covered Materials delivered to the Facility by Customers and characterize Covered Materials generated, Disposed, transformed, Diverted or otherwise handled/Processed, by Customer and waste stream type. City has the right to request that Contractor will, at its sole expense, conduct characterization studies, up to once every three (3) years for five (5) consecutive work days, of Covered Materials delivered to the Facility by Customers and target loads selected by the City for sorting and weighing of agreed-upon material categories. Contractor shall provide City with results of waste volumes, weights, and characterization studies within fourteen (14) calendar days of completing such study. If City requests additional characterization studies in a particular year or for the characterization study to be performed for more than five (5) consecutive work days, the City shall pay for costs incurred by Contractor in excess of its regular operating costs.

4.12.2 Methodology

Prior to the study, the City and Contractor shall agree on the method of the waste characterization studies and the information to be reported by Contractor at the conclusion of the studies.

4.13 Equipment and Vehicles

4.13.1 General

Contractor shall provide all equipment necessary to perform Recovery, Processing and transfer activities including stationary equipment and rolling stock, sufficient in number and capacity to perform safely and efficiently the work required by this Agreement and shall maintain such equipment in a reasonable

manner and in accordance with its Permits and all Applicable Laws.

4.13.2 Equipment Down-Time Contingency Plan

In anticipation of planned equipment down-time and emergency operation during equipment failure and/or power outages, Contractor shall maintain back-up equipment on-site in order to assure on-going operations, together with a standby generator to power the operation of all scales.

4.14 Services and Performance Review

Each Contract Year during the term of this Agreement, City may but is not required to conduct a “Services and Performance Review”. Each Party shall bear its costs of participating in the review. The purpose of the Services and Performance Review is to provide for a discussion and review of opportunities to achieve an ever-improving Recycling system; and, to ensure services are being provided by Contractor with adequate quality, effectiveness, economy, and in full compliance with the terms of this Agreement. Topics for discussion and review at the Services and Performance Review may include, but are not limited to:

- (A) Services provided;
- (B) Feasibility of providing new services;
- (C) Application of new technologies;
- (D) Customer complaints;
- (E) Amendments to this Agreement;
- (F) Developments in the law and regulatory constraints; and
- (G) Contractor’s compliance with terms and conditions of the Agreement.

City and Contractor may each select additional topics for discussion at any Services and Performance Review.

Thirty (30) calendar days after the end of each Contract Year, Contractor may submit a report to City identifying additional information it wishes to have considered.

As a result of its findings following any Services and Performance Review, City may request Contractor to provide expanded or new services within a reasonable time and City may direct or take corrective actions for any performance inadequacies. Should City require expanded or new services following a Services and Performance Review that are not identified as a remedy for Contractor’s failure to perform Contractor’s Obligations hereunder, the new or expanded services shall be subject to the provisions of Section 4.16.

4.15 City Right of Purchase

4.15.1 City Right to Purchase Facility and Equipment

The City shall have the first right, but not the duty, to purchase the Facility upon a request by Contractor for assignment of this Agreement as provided in Section 15.5, at its Fair Market Value as defined in this Section 4.15.

4.15.2 Definition of Fair Market Value

For the purposes of Section 4.15, “Fair Market Value” means the value which would be obtained for the Facility in an arm’s length transaction between an informed and willing buyer under no compulsion to buy, and an informed and willing seller, under no compulsion to sell. In determining the Fair Market Value of the Facility the appraiser shall use methods appropriate for the appraisal of the Facility in accordance with generally accepted appraisal standards. Future net income from operations shall only include those related to the ownership and operation of the Facility and shall not include any net income associated with other business activities of the Contractor unrelated thereto.

4.15.3 Determination of Fair Market Value

Upon a request for assignment by the Contractor as provided in Section 15.5, the Parties shall meet and confer and if they shall agree on the Fair Market Value, and the City shall desire to exercise its right to purchase hereunder, the City shall execute a binding purchase contract containing mutually agreeable terms for the payment of an amount equal to the agreed upon Fair Market Value. However, the closing of the purchase by the City shall in no case occur later than ninety (90) calendar days of the Notice by the Contractor of its intent to assign the Agreement or upon the final determination of Fair Market Value as provided in this Section 4.15, whichever is later.

4.15.4 Disagreement as to Fair Market Value

If the City and the Contractor are unable to agree on the Fair Market Value of the Facility within ninety (90) calendar days of the request by Contractor for assignment, then the Fair Market Value shall be determined in accordance with this Section 4.15.4 by dual appraisal. The appraisals shall be made by two (2) independent appraisers who shall be qualified, nationally recognized appraisers of industrial property including, without limitation, solid waste and recycling facilities similar to the Facility, one (1) of whom shall be chosen by the City and one (1) by the Contractor. If the two (2) appraisers come to two different conclusions as to Fair Market Value but the difference between the two conclusions as to Fair Market Value are ten percent (10%) or less of the highest of the two, then the Fair Market Value shall be determined by adding the two amounts determined as Fair Market Value by the appraisers and dividing by two. If the difference in the Fair Market Values determined by the two (2) appraisers is over ten percent (10%), then the two (2) appraisers shall choose a third appraiser whose determination as to Fair Market Value shall be conclusive thereof. If either Party shall fail to appoint an appraiser within ten (10) days of the written Notice by either of its intent to determine Fair Market Value pursuant to this Section 4.15.4, then the conclusion of the appraiser appointed in a timely manner shall determine the Fair Market Value. The cost of each Party’s appraiser shall be paid by the Party. The cost of a third appraiser retained pursuant to this Section shall be shared equally by the City and the Contractor.

4.16 City and Contractor’s Right to Request Changes

4.16.1 General

The City or Contractor may request changes in Contractor operations, including, but not limited to the following: use different designated facilities (e.g., change in Approved Disposal Site, Approved Organics Processing Site, or Approved Recyclables Processing Site), perform additional services (including implementation of new Diversion programs such as designation of additional materials for Processing and Recovery, implementation of conversion technologies, etc.) or modify the manner in which it performs existing services (e.g., increased Diversion Standards, etc.). The Parties shall negotiate in good faith, terms, conditions and Contractor’s compensation for such changes if such changes result in an

increase in Contractor's costs. Contractor shall not be required to agree to any such request unless it is compensated fairly for such increased costs plus a reasonable profit thereon.

If the Parties fail to reach agreement on a change proposed by the City after sixty (60) days from the receipt of the proposal from the Contractor as set forth in Section 4.16.2, the City may submit the matter to binding determination by an independent expert. If the Parties fail to reach agreement on a change proposed by the Contractor after sixty (60) days from the receipt of the proposal by the City, the proposal is deemed rejected, unless the change is the result of a Change in Law and then the proposal shall be submitted to binding determination by an independent expert.

The independent expert shall have at least five (5) years experience with solid waste facilities and operations of the type under dispute and shall not have worked for either Party for a period of five (5) years of the referral of the dispute unless both Parties agree to the selection of that independent expert. If the Parties cannot agree on an independent expert, each Party shall select an independent expert and those independent experts shall select a third independent expert.

The determination of the independent expert as described in this Section shall be based on whether or not the proposal developed by the Contractor will reasonably achieve the objectives of the change in Contractor's operations and whether the compensation proposed is reasonable in allowing Contractor to recover increased costs and a reasonable profit.

4.16.2 Procedure for Making Changes in Scope

Contractor shall present, within sixty (60) calendar days of the City's written request, a written proposal to implement the requested change in service, or if Contractor's request, the proposal shall accompany the request. Contractor shall not be compensated for the proposal preparation costs or costs incurred during the negotiation of its proposal for the change in scope of such services. At a minimum, the proposal shall contain a complete description of the following:

- Methodology to be employed;
- Equipment to be utilized;
- Labor requirements (number of employees by classification);
- Type(s) of material to be Recovered and Processed;
- Provisions for program publicity/education/marketing;
- Implementation timeline;
- Compensation; and
- Three-year projection of the financial results of the program's operations in an operating statement format including documentation of the key assumptions underlying the projections and the support for those assumptions.

4.16.3 Implementation of New Services

The Contractor shall implement the agreed-upon new services, modification to existing service, or change in the designated facility(ies) in a timely, smooth, and seamless manner, to the greatest extent possible, such that Customers do not experience disruption in Facility operations.

4.16.4 Modified Permit Conditions Based on Tonnage.

The Parties understand that the Facility's Permits with the County will require major road construction

activities at the time the Facility begins to accept one thousand (1,000) Tons per day or more. Contractor shall be compensated for the reasonable cost of such construction, without any consideration of profit, through an increase in the Gate Rates or such other methodology as may be agreed to between the Parties.

4.17 Compost Giveaway Program

Contractor will provide compost and otherwise participate with the City in a compost giveaway program event held by the Contractor three (3) times per Contract Year, in the spring, summer and fall, which will allow residents of the City to receive compost at each event without charge, subject to availability. The details of each program, including the maximum amount of compost to be provided by the Contractor will be determined between the City and the Contractor.

ARTICLE TRANSFER STATION

5

5.1 General

Contractor shall operate the transfer station in a safe and efficient manner. Contractor's services shall include, but not be limited to, accepting Covered Material; screening and removing Unpermitted Waste; managing traffic flow of vehicles entering and exiting the transfer station; managing Customer unloading operations; providing and operating equipment required for handling Covered Material on the transfer station floor and for loading Mixed Municipal Waste and Residue into transfer trailers; providing Customer service support to Customers in the self-haul unloading area and in the main tipping floor area; and ensuring traffic safety and personnel safety of equipment operators, floor sorters, traffic directors, and Customers. In addition, Contractor shall use Reasonable Business Efforts to Recover Recyclable Materials, and Organic Materials through floor sorting efforts and through selection of targeted loads of Covered Material for Recovery and Processing in the MRF.

5.2 Transfer Station Receiving Hours

Contractor shall accept Covered Material delivered by Customers at hours consistent with its Permits and the needs of the City's Collection Franchisee. Hours of operation are 8:00 a.m. to 4:00 p.m. Monday through Saturday except for Facility Holidays. The Contractor shall give reasonable Notice to the City and the public of any change in hours from those in effect at the Commencement Date of this Agreement. The Contractor shall not change its days of operations, except with the advanced written approval of the City. Contractor agrees that in the event of a change in Collection Franchisee, Contractor and the new collection contractor shall meet and confer to determine open hours that are mutually acceptable.

5.3 Acceptance of Covered Material

5.3.1 Acceptance

Contractor shall accept at the transfer station, Covered Material delivered by Customers during Facility operating hours, subject to rejection rights in Section 5.3.2. However, nothing in this Agreement shall be construed to mean that the City guarantees to deliver or cause to be delivered any minimum amount of Covered Material.

Contractor shall not discriminate in the use of the Facility in accordance with local, State or Federal law

regarding discrimination.

At Contractor's expense, those items which have chlorinated fluoro-carbons ("CFCs") left intact shall be set aside, and Contractor shall then be responsible for having CFCs removed from used appliances if the appliances are being marketed for their scrap value. All handling shall be done in accordance with Permits and Applicable Law.

5.3.2 Rejection

Notwithstanding the foregoing Section 5.3.1, the Contractor shall not knowingly accept Unpermitted Waste at the Facility. Contractor shall reject any Unpermitted Waste discovered in vehicles or during tipping thereof and require that all Persons remove such Unpermitted Waste from their vehicle and from the Facility. If the Contractor reasonably determines that it is impracticable to remove such items, then the Contractor may deem the entire load to comprise Unpermitted Waste and shall have the right to refuse to accept the entire load.

Contractor may deny service for the following reasons:

- (A) Delivery at times other than Facility operating hours and Household Hazardous Waste and E-Waste operating hours, as the case may be, or at any other mutually agreed upon times;
- (B) Delivery in excess of an amount equal to the Permitted daily Tonnage for the Facility;
- (C) Facility is partially or completely closed due to Uncontrollable Circumstances;
- (D) The suspicion of the presence of Unpermitted Waste in the load;
- (E) In the reasonable judgment of the Contractor, providing service to such Customer would result in a risk of loss or liability to the Contractor;
- (F) Such Customer fails to comply with Applicable Law or the rules and regulations imposed by the Contractor; or
- (G) Such Customer has previously delivered, or attempted to deliver, Unpermitted Waste to the Facility.

The Contractor shall notify the City if Contractor refuses to provide service to a Customer within twenty-four (24) hours of the incident and shall specify the reason(s) for such refusal. If the Contractor wrongfully rejects Covered Material delivered in accordance with this Section 5.3.2, it shall pay damages in accordance with Section 14.6.

5.3.3 Inadvertently Accepted Unpermitted Waste

If the Contractor inadvertently receives delivery of any Unpermitted Waste, it shall classify, treat and/or transport or arrange for the transportation of such Unpermitted Waste from the Facility to a recycling, Processing, or Disposal site as appropriate in accordance with Applicable Law, as necessary. Neither the Contractor nor the City shall tolerate or knowingly permit the delivery of Unpermitted Waste to the Facility or the storage of Unpermitted Waste at the Facility.

The Contractor shall pay all costs and expenses incurred in the handling, transportation and Disposal incurred by third parties of such Unpermitted Waste. The Contractor shall use its best efforts to identify any Person responsible for delivery to or abandonment at the Facility of any Unpermitted Waste and shall use its Reasonable Business Efforts to require such Person to bear all costs and liabilities associated

with the handling of its Unpermitted Waste. Contractor shall nevertheless pay such costs in the event it cannot determine the Person so responsible in amounts up to ten thousand dollars (\$10,000.00) per Contract Year during the term of this Agreement. In the event that such costs exceed this level in any given Contract Year and such costs do not result from the Contractor's negligence or failure to inspect loads and record the identity of Customers as required by this Agreement, Contractor and City shall meet and confer to determine a fair and reasonable allocation of such costs.

The City and the Contractor shall take all reasonable steps necessary to seek enforcement of Applicable Law regarding such delivery.

5.4 Customer Comments

Contractor shall keep a record of comments made and concerns raised by Facility Customers and use Reasonable Business Efforts to address such comments and concerns. These records shall be retained and made available to City in accordance with Article 12.

5.5 Vehicle Turnaround

Contractor shall manage the scale house and vehicle receiving process to ensure that vehicles delivering Covered Material do not queue on the street. Contractor shall make Reasonable Business Efforts to ensure that Resident and Non-Resident Self-Haulers are able to unload and depart within thirty (30) minutes of entering the Facility property.

5.6 Transfer of Covered Material and Residue

Contractor shall transfer into transfer trucks (i) Mixed Municipal Waste from the tipping floor of the Transfer Station (which is not Recovered through floor sorting operations or moved to the MRF for Recovery and Processing); (ii) Residue from the MRF; and (iii) Organic Materials. Contractor's loading operation shall involve the use of truck scales to accurately measure the weight of the outgoing transfer vehicles as provided in Section 4.3.

ARTICLE MRF OPERATIONS

6

6.1 Acceptance of Recovered Materials

Contractor shall accept delivery of Recyclable Materials and Organic Materials from Customers during the Facility operating hours. Contractor will accept and Process Recyclable Materials, and will segregate, and remove contamination from Organic Materials as necessary prior to transport to the Approved Processing Facility. Contractor's Recovery and Processing operations are intended to result in Recovery of Recyclable Materials and Organic Materials to achieve or exceed the Diversion Standards specified in Section 4.6.

In the event loads of Recyclable Material are regularly delivered to the Facility that contain more than thirty percent (30%) Mixed Municipal Waste or other material which is not Recyclable Material, then the Parties shall meet and confer on a plan to reduce such contamination. During any period that the Contractor and the Collection Franchisee are related entities, sharing a fifty percent (50%) or more overlapping ownership interest, the Contractor shall cause the Collection Franchisee to attend this meeting. If no such plan to reduce the contamination is feasible or desired by the City, the Parties shall agree upon a modification to the Gate Rates so as to allow the Contractor to recover its net additional

costs.

6.2 Approved Recyclables Processing Site(s)

Unless and until City otherwise approves, as provided in this Section, the Approved Recyclables Processing Site(s) shall be the Tracy Material Recovery Facility and Transfer Station.

In addition, Contractor may indicate its desire to use additional lawful sites for Recyclable Materials Processing by Notice to the City for reasons including, but not limited to, increasing the net revenues from Processing and/or shortening the transportation distance. The City shall have the right, in its sole discretion, to approve the use of additional Recyclable Materials Processing sites, and upon the City's approval thereof, such approved sites shall be considered an Approved Recyclables Processing Site; provided, however, that if Contractor requests City's approval to use an additional Recyclables Processing Site as a result of a permanent unavailability of a Approved Recyclables Processing Site, then the City's approval shall be exercised in good faith and not unreasonably withheld.

6.3 Processing and Marketing of Recovered Materials

Contractor will Recover, at a minimum, Organic Materials and Recyclable Materials in accordance with standard recycling industry practices, including sorting and segregation of paper and metal by type and segregation of glass, plastics, and other commonly Recovered Materials. Contractor shall also Recover ferrous and non-ferrous scrap metal, rigid plastics, LDPE film plastic, plastic toys, and mattresses to the extent Contractor can market the Recovered Materials.

Contractor shall Process all Recovered Materials for marketing pursuant to Article 7. The City will not reimburse Contractor for any related marketing or other costs.

6.4 Disposal of Recyclable and Organic Materials Prohibited

Recovered Materials, including that rejected by purchasers, may not be Disposed of in lieu of recycling or composting of such material, without the express written approval of the City. Disposal of Recovered Materials without prior City approval is subject to payment of damages to the extent provided in Section 14.6, and if repeated Contractor may be in default as provided in Section 14.1 unless otherwise excused by the provisions hereof. In the event that a significant shift in market conditions prevents Contractor from marketing such materials, City and Contractor shall meet and confer to identify possible alternatives to Disposal.

ARTICLE 7 MARKETING

7.1 Marketing Obligations

Contractor shall market Recovered Materials and use Reasonable Business Efforts to operate the Facility for Recovery and Processing of additional materials as new recycling markets, processes and technologies develop. Contractor's Obligations shall include, but not be limited to:

- (A) Storage: storing all Recovered Materials on-site or indoors at an off-site location to protect against theft, deterioration, contamination or other loss or damage.
- (B) Insurance: insuring all Recovered Materials on-site, at an off-site storage location, and during shipment prior to transfer of title to purchasers thereof, against fire, theft and other casualty losses in accordance with Section 13.3.

- (C) Packaging and Transportation: properly Processing, consolidating, and/or packaging Recovered Materials in accordance with standard practice in the recycling industry, and arranging for transportation and delivery to purchasers unless the terms of sale require the purchaser to arrange for transportation and delivery.
- (D) Sales: arranging for the sale of Recovered Materials at competitive market prices, foreign or domestic.
 - (i) Contractor shall sell to local markets whenever commercially possible.
 - (ii) Contractor shall exert Reasonable Business Efforts to sell Recovered Materials in accordance with this Agreement and to maximize purchase prices and assure stable markets.
 - (iii) To the extent practicable, Contractor shall obtain a certification of end use from the purchaser of Recovered Materials establishing that the Recovered Materials have been, in fact, recycled, re-used or otherwise Diverted from Disposal.
- (E) Weighing: delivering Recovered Materials to the scale house for weighing during Facility operating hours prior to shipment and by the Contractor at other times.
- (F) Maintaining Records: maintaining complete, accurate and detailed records in accordance with Article 12.

ARTICLE DISPOSAL AND ORGANICS PROCESSING

8

8.1 Disposal of Mixed Municipal Waste and Residue

In accordance with the County Agreement, Contractor shall transport to and Dispose of all Mixed Municipal Waste received at the Facility, which is not Recovered and Processed, and Residue from the Facility at the Approved Disposal Site(s) pursuant to Section 8.1.1. If Contractor delivers materials to a facility other than the Approved Disposal Site(s) other than as provided herein, the City may assess liquidated damages as specified in Section 14.6.

8.1.1 Approved Disposal Site(s)

Unless and until City otherwise approves a change, the Approved Disposal Sites shall be the County of San Joaquin Foothill Landfill. City reserves the right to change the Approved Disposal Site(s) at any time during the term of the Agreement, pursuant to the County Agreement, and such change shall be treated as a City-directed change pursuant to Section 4.16.

In addition, Contractor may indicate its desire to use additional lawful sites for Disposal by Notice to the City for reasons including, but not limited to, reducing the tipping fees due and/or shortening the transportation distance. The City shall have the right, in its sole discretion, to approve the use of additional Disposal sites, and upon the City's approval thereof, such approved Disposal sites shall be considered an Approved Disposal Site; provided, however, that if Contractor requests City's approval to use an additional Disposal site as a result of a permanent unavailability of an Approved Disposal Site, then the City's approval shall be exercised in good faith and not unreasonably withheld.

8.1.2 Voluntary Use of Approved Disposal Site(s)

The Contractor has entered into the County Agreement wherein the Contractor agrees to use the

Approved Disposal Site(s) which, as of the Commencement Date is the Foothill Landfill owned and operated by the County of San Joaquin for the purposes of Disposing of Mixed Municipal Waste and Residue from the performance of Contractor Obligations in the amounts required by the existing agreement(s) between the Contractor, City and County. Such decision by Contractor in no way constitutes a restraint of trade notwithstanding any Change in Law regarding flow control limitations or any definition thereof.

8.1.3 Alternative Disposal Site(s)

City may in its sole discretion, approve and designate an alternative Disposal site for use by Contractor in the event of an emergency or other conditions under which the Approved Disposal Site is unavailable for Disposal. In addition, Contractor may use such alternative Disposal site without approval or designation in the event of an emergency or other condition under which the Approved Disposal Site is unavailable for Disposal. In such case Contractor shall not be required to indemnify City against all claims resulting from Disposal at such site. However, should Contractor use a Disposal site not authorized by the City, Contractor shall indemnify City against all claims resulting from Disposal at such site without City approval.

8.2 Processing of Organic Materials

8.2.1 Acceptance of Organic Materials

Contractor shall accept delivery of Organic Materials from Customers during the Facility operating hours. Contractor will accept and Process Organic Materials, and will segregate, and remove contamination as necessary prior to transport to the Approved Processing Facility. Contractor's Recovery and Processing operations are intended to result in Recovery of Organic Materials to assist in the achievement of the Facility Diversion Standard specified in Section 4.6.

In the event loads of Organic Materials are regularly delivered to the Facility that contain more than fifteen percent (15%) Mixed Municipal Waste or other material which is not Organic Material, then the Parties shall meet and confer on a plan to reduce such contamination. During any period that the Contractor and the Collection Franchisee are related entities, sharing a fifty percent (50%) or more overlapping ownership interest the Contractor shall cause the Collection Franchisee to attend this meeting. If no such plan to reduce the contamination is feasible or desired by the City, The Parties shall agree upon a modification to the Gate Rates so as to allow the Contractor to recover its net additional costs.

8.2.2 Approved Organics Processing Site(s)

Contractor shall be responsible for securing and paying for Processing services at the Approved Organics Processing Site, which is the Processing facility for all Organic Materials received at the Facility over the term of the Agreement. If Contractor delivers Organic Materials to a facility other than the Approved Organics Processing Site, the City may assess liquidated damages specified in Section 14.6 unless otherwise excused by the provisions hereof.

8.2.3 Change in Approved Organics Processing Site(s)

(A) Emergency or Sudden Closure. If Contractor is unable to use the Approved Organics Processing Site(s) due to an emergency, Uncontrollable Circumstance or sudden unforeseen closure of the Approved Organics Processing Site(s), Contractor may use an alternative Processing site provided that the Contractor provides verbal and written Notices to the City and receives

written approval from the City at least twenty-four (24) hours prior to the use of an alternative Processing site. The Contractor's Notice shall include a description of the reasons that use of the Approved Organics Processing Site is not feasible and the period of time Contractor proposes to use the alternative Processing site. Contractor shall not be compensated for any increased transportation and Processing costs and shall guarantee the then-current Gate Rates unless its inability to use the Approved Organics Processing site(s) occurs due to one (1) or more Uncontrollable Circumstances. In such case, Contractor may request a special review of Gate Rates pursuant to Section 11.5.

- (B) Contractor-Initiated. Contractor may change its selection of the Approved Organics Processing Site(s) following City's written approval, but Contractor will bear any increased transportation and Processing costs associated with a Contractor-initiated change in the Approved Organics Processing Site(s). In such case, Contractor shall guarantee the same Gate Rates. If Contractor elects to use a Processing site(s) that is different than the Processing site(s) approved by the City, it shall request written approval from the City sixty (60) calendar days prior to use of the site and obtain the City's written approval no later than ten (10) calendar days prior to use of the site.

8.2.4 Transportation

Contractor is responsible for transporting Organic Materials to the Approved Organics Processing Site.

ARTICLE PERSONNEL

9

9.1 Personnel Requirements

- (A) Qualified Staff. The Contractor shall engage and train qualified and competent sorters, drivers, mechanical, supervisory, clerical, maintenance, operations, management, and other personnel in numbers necessary and sufficient to perform Contractor Obligations and to provide the services required by this Agreement in a satisfactory, safe, economical, and efficient manner. Contractor shall ensure that all employees present a neat appearance and conduct themselves in a courteous manner.
- (B) Identifying Unpermitted Waste. Contractor shall establish and vigorously enforce an educational program that will train Contractor's employees in the identification of Unpermitted Waste. Contractor's employees shall not knowingly accept Unpermitted Waste or loads containing Unpermitted Waste
- (C) Customer Courtesy. Contractor shall train its employees in Customer courtesy and shall prohibit the use of loud or profane language. If any employee is found to be discourteous or not to be performing services in the manner required by this Agreement, Contractor shall take all necessary corrective measures including, but not limited to, transfer, discipline, or termination.

9.2 Subcontractors

City recognizes that Contractor may engage Subcontractors. Contractor shall seek approval for Subcontractors who provide thirty (30) days or more of service in one (1) calendar year and Public Works Director shall be authorized to review such request and recommend denial or approval of the request to the City Manager. Contractor will provide Notice to the City within ten (10) calendar days of engaging a Subcontractor, detailing the name of the Subcontractor, the nature of the service to be

performed, and the expected duration of the engagement. City reserves the right to request Contractor provide additional information substantiating the need for a given Subcontractor. As of the Commencement Date of the Agreement, Contractor is not using any Subcontractors.

All Subcontractors shall be licensed as required under Applicable Law to perform their subcontracted work and shall obtain and maintain a City business tax certificate if required by City ordinance. The Contractor shall remain liable for the full and complete performance of Contractor's Obligations hereunder including its Subcontractors' compliance with conditions such as, but not limited to: record keeping and reporting requirements as defined in Article 12; indemnification and insurance requirements in accordance with Article 13; and, the acquisition and maintenance of a valid City business tax certificate.

9.3 Fees and Gratuities

Contractor shall not, nor shall it permit any agent, employee, or Subcontractors employed by it to request, solicit, demand, or accept, either directly or indirectly, any compensation or gratuity for services required under this Agreement, other than as specifically provided for under this Agreement.

9.4 Non-Discrimination

In the performance of all work and services under this Agreement, Contractor shall not discriminate against any Person on the basis of such person's race, color, religion/religious creed, sex/gender, pregnancy, marital status, age, national origin/ancestry, physical and/or mental disability, medical condition, sexual orientation, gender identity, military or veteran status, or status in any other group protected by federal, State or local law. Contractor shall comply with all applicable local, State and federal laws and regulations regarding nondiscrimination, including those prohibiting discrimination in employment.

ARTICLE BILLING AND CUSTOMER SERVICE

10

10.1 Customer Billing

Contractor is responsible for billing Gate Rates or other rates as appropriate to all Customers. Contractor shall be solely responsible for collection of payments due from all Customers including any bad debt.

10.2 Customer Service and Contractor Availability

10.2.1 General

Contractor shall provide Customer service during regular service hours by telephone and in the office, including a responsible and qualified bilingual (English and Spanish speaking) representative, available by telephone and in the office from 7:00 a.m. to 5:00 p.m. Monday through Friday, and from 8:00 a.m. to 3:30 p.m. on Saturday. Contractor shall have a message machine or an answering service available outside of its regular telephone service hours. Calls received outside of regular telephone service hours shall be responded to on the next business day.

10.2.2 Complaint Documentation

All complaints shall be directed to Contractor. Daily logs of complaints shall be retained for a minimum of twenty-four (24) months. On a quarterly basis, Contractor shall submit copies of the daily complaint

log in accordance with Section 12.3.2.

Contractor shall log all complaints received by telephone, email and from its website and said log shall include the date and time the complaint was received as well as the name, address, and telephone number of the caller, a description of the complaint, the name of the employee recording the complaint, and the action taken by Contractor to respond to and remedy the complaint.

All written Customer complaints and inquiries shall be date-stamped when received and shall be initially responded to within one (1) work day of receipt. Contractor shall log the actions taken by Contractor to respond to and remedy the complaint.

All Customer service records and logs kept by Contractor shall be available to City upon request. City shall, at any time during regular office hours, have access to Contractor's Customer service department for purposes that may include monitoring the quality of Customer service or researching Customer complaints.

10.2.3 Resolution of Customer Complaints

Contractor shall make best efforts to resolve all complaints within ten (10) work days.

If Contractor is unable to resolve a complaint with a Customer, the City may, at its sole discretion, review the matter and suggest a resolution.

Intervention by the City is not a condition precedent to any rights or remedies third parties might otherwise have in any dispute with Contractor. Nothing in this Section is intended to affect the remedies of third parties against the Contractor.

ARTICLE 11 CONTRACTOR COMPENSATION AND GATE RATES

11.1 General

Contractor's compensation provided for in this Article 11 shall be the full, entire, and complete compensation due to Contractor pursuant to this Agreement.

The Gate Rates and Per Item Rates that the Contractor shall charge for the delivery of Covered Material to the Facility by the Collection Franchisee shall be determined in accordance with the procedures described in this Article. Contractor shall have the right to determine the tip fee, or other fees it charges Other Users for any material which may be accepted at the Facility under Applicable Law and the Facility's Permits, subject to the terms of this Agreement. City is in no way responsible for payment of Gate Rates or other fees of any kind from Other Users.

Other than as provided herein, if Contractor's actual costs of operation are more than the Gross Rate Revenues, Contractor shall not be compensated for the difference in actual costs and actual revenues from Gate Rates, Per Item Rates and other fees charged to the Customers. Other than as provided herein, if Contractor's actual costs are less than the actual revenues Contractor receives from Gate Rates, Per Item Rates and other fees, Contractor shall retain the difference between its actual costs and actual revenues. This is the only compensation due Contractor under this Agreement.

The City shall ratify Gate Rates that shall have been correctly calculated by Contractor and approved by City in accordance with this Agreement at a level and such times reasonably calculated to allow the City to pay the Gate Rates and other compensation which may be due the Contractor hereunder as they become due. The City's payment of Gate Rates and Per Item Rates to Contractor is in effect only to the extent City is authorized to collect monies under Tracy Municipal Code section 5.20.390 (City billing of customer solid waste rates)

11.2 Gate Rates for Contract Year One

Initial Gate Rates for Collection Franchisee for Contract Year One from January 1, 2017 through December 31, 2017, shall not exceed the Gate Rates set forth in Exhibit 1.

11.3 Annual Gate Rate Adjustment Method and Schedule of Adjustments

Beginning with Contract Year Two (January 1, 2018 through December 31, 2018) and for all subsequent Contract Years, the annual adjustment to the Gate Rates shall be based on the method of adjustment described in Exhibit 2 and shall be reviewed by the Public Works Director and approved by the City Manager.

11.4 Per Item Rate Adjustments

Beginning with Contract Year One (January 1, 2017 through December 31, 2017) and for all subsequent Contract Years, the annual adjustment to the Per Item Rates shall be made by Contractor and provided to City in writing on or before December 15th of the preceding Contract Year. Therefore the Per Item Rates for Contract Year 1 shall be provided to the City by December 15, 2016.

11.5 Extraordinary Adjustments

City or Contractor may request an "Extraordinary Adjustment" either as part of the annual Gate Rate adjustment or at any other time in accordance with this Section 11.5. If the Extraordinary Adjustment is requested as part of the annual Gate Rate adjustment, the increase or decrease in the Gate Rate approved for the next Contract Year attributable to the Extraordinary Adjustment shall be calculated retroactively from the date on which the Contractor's costs increase or decrease due to the event giving rise to the Extraordinary Adjustment.

11.5.1 Eligible Items

The City and Contractor are entitled to seek a special review of Gate Rates at any time during the Contract Year should one (1) or more of the following events occur and, after considering offsetting effects of other events or trends on revenues or expenses, such event or events shall have the net effect of changing total operating costs or Gross Rate Revenues, or a combination thereof, which net effect totals two percent (2%) or more annually of the Gross Rate Revenues for the most-recently completed Contract Year. If such net effect is less than two percent (2%) annually of the Gross Rate Revenues for the most-recently completed Contract Year, such cost and/or revenue impact shall be considered at the time of the next annual Gate Rate adjustment.

- (A) Emergency Service. Provision of emergency services pursuant to Section 4.8.
- (B) Uncontrollable Circumstance. An event of Uncontrollable Circumstance, as defined herein.
- (C) Fees. Changes in regulatory, governmental, or other surcharge fees after the Commencement Date that: (1) were not reasonably known to the Contractor before the Commencement Date;

- (2) were not known in time to be included in the appropriate annual Gate Rate adjustment process for any Contract Year and, (3) the Contractor substantiates.
- (D) Disposal Cost Adjustment. Per-Ton Disposal cost increases at the City-contracted Approved Disposal Site(s) above those reflected in the Disposal cost determined during the annual Gate Rate adjustment process performed in accordance with Section 11.3.
- (E) Processing Cost Adjustment. If the City contracts directly with the Approved Recyclables Processing Site or the Approved Organics Processing Site operator(s), the following condition will be an eligible item: per Ton Processing cost increases at the Approved Recyclables Processing Site(s) and/or Approved Organics Processing Site(s) above those reflected in the Processing cost determined during the annual Gate Rate adjustment process performed in accordance with Section 11.3.
- (F) Material Change in Markets for Recovered Materials. If in any period of twelve (12) consecutive months during the Term of this Agreement, the Baseline Recyclable Per Ton Revenue received by Contractor shall decline by ten percent (10%) or more as compared to the Baseline Recyclable Per Ton Revenue received for the preceding period of twelve (12) consecutive months. Any adjustment to the Gate Rates made under this Section 11.5.1 (F) shall be reversed as part of the next annual Gate Rate adjustment process after such time as the Average Recyclable Per Ton Revenue returns to the level it was at prior to the decline that triggered an extraordinary adjustment under this Section. The percentage revenue threshold for a special review of rates described in this Subsection F shall be effective notwithstanding whether the dollar amount of such decline in revenue is equal to or greater than two percent (2%) of Gross Rate Revenues.
- (G) Decrease in Tonnage Levels. A decrease in the Tonnage of Covered Materials.
- (H) Change in Material Composition. A change in the composition of Covered Materials.
- (I) New Equipment. A change in Contractor's depreciation and interest expense for the purchase of new equipment or in order to make major renovations in the Facility whether due to the need for periodic replacement of equipment or for necessary renovations, required by Permit, an increase in volume of materials handled at the Facility, an Uncontrollable Circumstance, or a material change in the composition of Covered Materials. Notwithstanding the provisions of this Section 11.5.1, in the case of change in Contractor's depreciation and interest expense due to the purchase of new equipment or renovations, it shall be entitled to a special review of Gate Rates at any time during the Contract Year as otherwise provided herein upon the satisfaction of both of the following conditions: (i) the net effect of the increase in its depreciation and interest costs is equal to, or greater than one percent (1%) of Gross Rate Revenues and (ii) Contractor can show to the satisfaction of the City that the equipment purchase or renovation was unexpected and in spite of using Reasonable Business Efforts in planning for such items in general, the timing of the need for such specific purchase or renovations could not have been anticipated or that an opportunity for material cost savings in the purchase of equipment would be jeopardized if such purchase was delayed. In the event Contractor cannot meet both of the conditions set forth herein, the cost and/or revenue impact shall be considered at the time of the next annual Gate Rate adjustment.
- (J) Other Reasons Agreed Upon by Parties. For any other reason if agreed upon by the Contractor and City.

11.5.2 Ineligible Items

A special review of Gate Rates may not be initiated for the following items and Contractor shall not be compensated for such items over the term of the Agreement.

- (A) Increased Operation Costs. Increases in the cost of Contractor Obligations in excess of the increases provided through the annual adjustment mechanism described in Exhibit 2 unless cost increases are demonstrated to be directly related to eligible items listed in Section 11.5.1 above.
- (B) Increased Transportation and Processing Costs. Increases in the cost of Organic Materials transportation or Processing that may be impacted by change in Processing site, unless such change is initiated by or at the direction of the City or due to an Uncontrollable Circumstance.
- (C) Contractor Error. Equipment failure or failure to accept Covered Materials due to Contractor error(s) in planning, failure to maintain proper Permits; regulatory actions against Contractor that prohibit or curtail Contractor Obligations; underestimation of Facility operating costs; other operating problems; and/or problems related to internal company operations of the Contractor, its Subcontractors, its vendors, or its agents.
- (D) Processing Cost Adjustment. If Contractor contracts directly with the Approved Recyclables Processing Site and/or Approved Organics Processing Site operator(s), the following condition will be an ineligible item: per Ton Processing cost increases at the Approved Recyclables Processing Site and/or Approved Organics Processing Site above those reflected in the Processing cost determined during the annual Gate Rate adjustment process performed in accordance with Section 11.3, subject only to Uncontrollable Circumstances, if applicable

11.5.3 Review of Costs

If the Contractor or the City requests a special review of Gate Rates, the City, or its agent, shall have the right to review any or all financial and operating records of Contractor and related-party entities if related-party entities are involved in services provided by the Contractor as part of this Agreement.

The City may use and, if so, shall pay for the assistance of an independent third party consultant to perform a rate analysis or other required services.

11.5.4 Submittal of Request

A request for an Extraordinary Adjustment shall be conducted as provided in this Section. Contractor is obligated to meet requirements of this Section whether process is City-initiated or Contractor-initiated.

- (A) The Party initiating an Extraordinary Adjustment shall Notice the other Party, citing the applicable provisions of this Article and providing a complete written summary of the reason for the Extraordinary Adjustment, and its impact on Contractor's Obligations and Gate Rates.
- (B) If a Notice of Extraordinary Adjustment is issued by the City, within thirty (30) calendar days of receiving the City's Notice, the Contractor shall prepare and submit a proposal in accordance with the proposal format specified in Section 11.5.4(D).
- (C) If a Notice of Extraordinary Adjustment is issued to City by the Contractor, the Contractor's Notice shall include a proposal in accordance with the proposal format specified in Section 11.5.4(D).
- (D) Proposal Format. For any proposal submitted under this Section, Contractor shall:

- (i) Describe the circumstance warranting an Extraordinary Adjustment.
 - (ii) Describe the impact of the circumstance under Extraordinary Adjustment on Contractor's compensation or Contractor's Obligations.
 - (iii) Submit work plan for implementing a change in Contractor's Obligations identifying physical changes to the Facility, changes in operating methods and labor needs, and implementation schedule.
 - (iv) Identify the capital and/or operating cost of modifying the Contractor's Obligations to support any requested change in Contractor compensation. The Contractor shall include detailed documentation supporting its cost proposal, including cost substantiation. Contractor covenants that it will not propose a cost in excess of the fair market price for such change in Contractor's Obligations, whether it implements such changes itself or through a Subcontractor.
 - (v) Propose a change in compensation, as necessary, as a change in the Gate Rate. Increased costs (or decreased costs) of Contractor in meeting Contractor's Obligations related to any adjustment in Gate Rates caused by one or more of the eligible items in Section 11.5.1 shall be apportioned to the City using a ratio equal to the Tonnage delivered by the City in the Contract Year preceding the occurrence of the eligible item(s) divided by the total Tonnage delivered to the Facility by all Customers for such Contract Year.
 - (vi) For the purposes of analyzing cost impacts of changes in scope, the Contractor's profit from operations shall be calculated using profit percentage of nine and nine tenths percent (9.9%) multiplied by the actual reasonable and necessary costs net of Disposal expenses and City fees specified in Article 3.
 - (vii) Provide draft language changes to the provisions of this Agreement, as Contractor deems appropriate and necessary to affect any change in Contractor's compensation or Contractor's Obligations.
- (E) Such proposal shall be deemed the Contractor's offer with regard to changes in Contractor's compensation, Contractor's Obligations, and/or change in scope pertaining to the circumstances under review, as appropriate, in accordance with the terms of such proposal, and shall be binding for one hundred and eighty (180) calendar days unless the request for Extraordinary Adjustment is withdrawn subject to Subsection 11.5.4.(F).
- (F) The Party that initiated the Extraordinary Adjustment may withdraw its Notice and its request for Extraordinary Adjustment at any time.

11.5.5 City Review

The initiator of the request for an Extraordinary Adjustment shall bear the burden of justifying by substantial evidence its entitlement to any adjustment in Gate Rates under this Section 11.5. City shall review the proposal provided by Contractor as well as any other information it deems necessary to determine, what, if any adjustment is justified.

The City may use the assistance of an independent third party to review the proposal. Each Party shall be responsible for its cost of the Extraordinary Adjustment review. The City may request from the Contractor operating and business records reasonably required to verify the reasonableness and accuracy of the impacts associated with an Extraordinary Adjustment. Contractor shall fully cooperate with the City's request and provide City and its agent(s) copies of or access to Contractor's records.

If the City determines that the Contractor has not met its burden, Contractor may request a meeting with City staff and the Public Works Director at which time Contractor may produce additional evidence in support of its request for a special Gate Rate adjustment. Upon such request, City shall promptly arrange said meeting.

Based on evidence the Contractor submits and the City's review of the evidence and any other information it deems necessary, the City may recommend and the City Manager may grant some or all of the requested increase and approve adjusted Gate Rates or City Manager may deny all of the requested Gate Rate increase.

Any dispute regarding compliance with this Section or the validity of the grounds for Extraordinary Adjustment or the amount of any change in Gate Rates will be resolved through dispute resolution procedures set forth in Section 15.20.

11.5.6 Grant of Request

An Extraordinary Adjustment may be approved at any time as set forth in Section 11.5.1. The City Manager may approve the Extraordinary Adjustment unless, in the City Manager's determination, the Extraordinary Adjustment must be considered for approval by the City Council, in which event City Council consideration of approval shall be required. City will issue a Notice to Contractor approving the Extraordinary Adjustment and documenting any change to Gate Rates. In the event any Extraordinary Adjustment results in changes to Contractor's Obligations, to the extent required, the changes shall be documented in the form of an amendment to this Agreement.

11.6 City Users are Most Favored Customers

11.6.1 Most Favored Customer Conditions

Contractor represents and warrants that Collection Franchisee is the largest Customer of the Facility and that the original contract for its use between the Parties was the major rationale for its construction and operation. Therefore, the Parties consider the City its most favored Customer and although Contractor may accept Covered Materials from Other Users of the Facility, the Parties acknowledge that the payments to the City required by Sections 3.2 and 3.3 hereof will be made by the Contractor to the City in consideration of its willingness to use the Facility and execute this Agreement. Contractor acknowledges and agrees that this most favored Customer representation and warranty is material.

11.6.2 Most Favored Customer

The Contractor shall not sign an agreement with Other Franchised Users with a Gate Rate for Mixed Municipal Waste that is less than the net MMW Gate Rate that is, or will be, paid by the City pursuant to this Agreement at the time that the agreement with the Other Franchised User will become effective. The net MMW Gate Rate paid by the City shall be the then current MMW Gate Rate less per Ton City fees and, to the extent the additional Tonnage to be delivered to the Facility by the Other Franchised User shall require payment of the Tonnage Incentive Fee described in Section 3.2, the Tonnage Incentive Fee shall also be deducted in calculating the net MMW Gate Rate for the purposes of this Section.

11.6.3 Verification of Compliance

Contractor shall by January 31, 2018 and annually thereafter during the term of this Agreement provide the City written verification and documentation (to the satisfaction of the City) that the then-current Gate Rates, (as adjusted in accordance with Section 11.6.2 herein) for the Collection Franchisee for

delivery of those materials listed in Exhibit 1 to this Agreement are equal to or lower than the comparative rates and tipping fees that the Contractor is then providing to Other Franchised Users, If one (1) or more of the then-current Gate Rates, as adjusted, for the Collection Franchisee is not equal to or lower than the comparative Gate Rates for Other Franchised Users, the Gate Rates for the Collection Franchisee shall be adjusted accordingly.

11.6.4 Adjustment for Comparability

If an adjustment to the Gate Rates is made to reflect comparative rates or tipping fees on a date other than January 1 of the regularly scheduled annual adjustment, the adjustment to the Gate Rates in the following annual adjustment period shall reflect the change in CPI-U that occurred between the date the Gate Rate(s) were adjusted to reflect the comparative rate or tipping fee and the date of the following annual adjustment.

11.7 City Payment to Contractor

11.7.1 Monthly Invoice by Contractor

Beginning with the Commencement Date, Contractor shall produce a preliminary monthly invoice. City shall pay Contractor for services performed in accordance with this Agreement at the initial Gate Rates set forth in Exhibit 1, and as such Gate Rates may be adjusted pursuant to this Agreement. Such invoice shall be delivered to the City by mail and e-mail no later than the tenth (10th) day of the month following the month such services were rendered.

11.7.2 Payments to Contractor

City, as long as it is the collection agent, shall remit all payments required under this Section 11.7 on or before the thirtieth (30th) calendar day following receipt of Contractor's invoice. If any of the payments specified in this Section 11.7, not including any payments withheld per Section 11.7.4, are not paid on or before the thirtieth (30th) calendar day following receipt of Contractor's invoice, City shall pay to Contractor a late payment penalty in an amount equal to two percent (2%) of the amount owing for that month.

11.7.3 Wire Transfers

Unless requested otherwise by Contractor, City will make monthly invoice payments and/or additional payments electronically through the City's e-payables system to Contractor's bank account or accounts as designated by Contractor

11.7.4 Withholding of Payment

City may withhold from any payment otherwise due to Contractor such amount as is reasonably determined by City as the result of a material error in the calculation of the monthly invoice. In such cases, the City shall contact Contractor informing it of the error in the monthly invoice and, upon receipt of a correct invoice, shall pay the amount of the correct invoice in a timely manner.

Upon resolution by the Parties of any dispute as to the proper amount of the monthly invoice, City shall pay all withheld amounts which should not have been withheld within fifteen (15) calendar days of that resolution but may retain any withheld payments that reflect overpayment by the City. City shall not be liable for interest on any delayed or late payment.

Any disputes not resolved by the Parties within thirty (30) calendar days of the date on which payment to the Contractor was due shall be resolved in accordance with the dispute resolution procedures of Section 15.20. Upon final resolution, if the City shall have wrongfully withheld payment properly due the Contractor, it shall pay to the Contractor the amount wrongfully withheld within fifteen (15) calendar days of resolution.

ARTICLE **RECORDS, REPORTS & INFORMATION REQUIREMENTS**

12

12.1 General

Contractor shall maintain such accounting, statistical and other records related to operations and its performance under this Agreement as shall be necessary to develop the financial statements and other reports required by this Agreement. Also, Contractor agrees to conduct data collection, information and record keeping, and reporting activities needed to comply with Applicable Laws and to meet the reporting and solid waste and Recycling program management needs of City and other Customers.

12.2 Record Keeping Requirements

12.2.1 General

During the Term of the Agreement, Contractor shall keep daily accurate and complete records of Contractor operations, as needed to complete reports and audits as required in Sections 12.3 and 12.4; and keep records in sufficient detail to allow the Contractor to calculate, and City to corroborate, the Gate Rates, any damages and other amounts hereunder and to determine compliance with the provisions hereof. Records shall be kept in electronic, magnetic or other media approved by the City and compatible with the City's system. Records shall be maintained in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. Adequate record security shall be maintained to preserve records from events that can be reasonably anticipated such as a fire, theft and earthquake. Electronically maintained data/records shall be protected and backed up off site.

Contractor agrees that Contractor and Subcontractor records shall be provided or made available to City and its official representatives during normal business hours or within twenty-four (24) hours Notice. City may review or utilize any of the records described in this Section for any purpose whatsoever.

12.2.2 Weight Records

Contractor shall maintain at least the following records:

- (A) Delivery of Covered Material weighed at Scale house: the weight of Covered Material in the aggregate and by category to the extent delivered in segregated loads delivered by each Customer daily to the Facility and weighed at the scale house.
- (B) Delivery of Covered Material, Recyclable Household Hazardous Waste, and E-Waste not weighed at the Scale house: the volume, category and estimated weight of:
 - (i) Recyclable Household Hazardous Waste and E-Waste delivered daily to the Recyclable Household Hazardous Waste and E-Waste Area, and
 - (ii) Mixed Municipal Waste delivered daily by Resident and Non-Resident Self-Haulers to the

Facility in their vehicles which are not weighed at the scale house (including retention of video of license plates and time, reported jurisdictional origin, Tonnage as estimated, and date and time of delivery).

- (C) Transport of Recovered Materials; Transfer of Residue and Covered Material: the weight of Recovered Materials (including specifically the weight of all Recovered Materials Recovered and Processed, sold or otherwise Diverted from Disposal, and/or otherwise Disposed); Residue; transferred Covered Material; and any other materials leaving the Facility.
- (D) Third Party Invoices and Receipts: copies of the invoices or other receipts issued by third parties (e.g. brokers, purchasers or other takers of Recovered Materials) evidencing weight of Recovered Materials shipped from the Facility.
- (E) Vehicle Weights: gross and tare weight of each municipal and commercial vehicle (including vehicle ID number and date and time of delivery).

12.2.3 Cash/Billing Records

Contractor shall maintain all invoices and receipts for all payments and other records generated by the Contractor related to Customer Billing and payments including, but not limited to the following:

- (A) any Gate Rate paid to Contractor in cash for delivery of Covered Material by Resident and Non-Resident Self-Haulers;
- (B) any other cash receipts; credit card payment transaction records; and,
- (C) all invoices issued to Customers with accounts and payments remitted.

12.2.4 Operations Records

In addition to records supporting operational and maintenance reports, Contractor shall maintain traffic counts, and upon City request, the arrival and departure time of each vehicle, the amount of time vehicles were queued, amount of time for vehicles to cross scales at the scale house and unload materials on tipping floor and exit the Facility.

12.2.5 Marketing Records

In addition to records supporting Marketing and Diversion reporting and amounts owed to the City, Contractor shall maintain at least the following records:

- (A) names, addresses, phone numbers of brokers and purchasers, including contacts;
- (B) date and terms of sale including type, grade, specification, and quantity of Recovered Materials sold sales prices;
- (C) unit and total sales prices for each sales transaction and total revenue from Recovered Materials;
- (D) contracts or other documents evidencing transfer of title;
- (E) Residue rates for secondary Processing activities; and,
- (F) any certifications of end use of Recovered Materials.

12.2.6 Financial Records

Contractor shall maintain financial records relating to Contractor Obligations pursuant to this Agreement separate and segregated from such records relating to its other operations.

12.3 Reporting Requirements

12.3.1 Report Formats, Submittal Schedule

Contractor may propose report formats that are responsive to the objectives and audiences for each report. The format of each report shall be approved by City. Contractor shall submit all reports in an electronic format approved by City, compatible with City's software/computers.

Monthly reports shall be submitted within forty-five (45) calendar days after the end of the report month except documentation supporting monthly Gate Fees due by City and payments by the Contractor shall be submitted with the monthly invoices and payments. Annual reports shall be submitted within ninety (90) calendar days after the end of the Contract Year, unless audited, in which case the audit reports shall be submitted by July 1. Failure to update and submit all required reports on time may result in assessment of liquidated damages as specified in Section 14.6. City may request additional information and report clarifications, which Contractor will provide within thirty (30) calendar days.

All reports shall be submitted to:

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

12.3.2 Reports

At a minimum, the reports shall include the following information:

- (A) Facility Tonnage. monthly report providing summarized monthly weight records with respect to the Facility, by incoming waste stream type (Mixed Municipal Waste and Organic Materials) and by Customer type.
- (B) Recyclable Household Hazardous Waste and E-Waste Tonnage. monthly report providing weight records with respect to the types of materials delivered to the Recyclable Household Hazardous Waste and E-Waste collection area listed separately by type of Customer and jurisdiction of origin.
- (C) Recovery Information.
 - (i) Monthly Tonnage summary of outbound Recovered Material by material type and Tons.
 - (ii) Calculation of compliance with the Facility Diversion Standard in accordance with Section 4.6.1. If the Facility Diversion Standard is not met on a quarterly basis, Contractor shall include a discussion of reasons why the Facility Diversion Standard was not met, it's proposed corrective action to meet such Facility Diversion Standard in the succeeding quarter, and projections for annual compliance.
 - (iii) Results of waste characterization studies, CCPR Characterization Sample Studies, and

Processing Diversion Studies.

- (iv) Calculation of compliance with the CCPR Diversion Standard in accordance with Section 4.6.2. If CCPR Diversion Standard is not met, Contractor shall include a discussion of reasons why the CCPR Diversion Standard was not met, and its proposed corrective action to meet such CCPR Diversion Standard in the succeeding quarter, and projections for annual compliance.
- (v) Materials sales statement showing type of material Diverted (available upon request).
- (D) Marketing and Diversion. based on delivery records, Contractor will use Reasonable Business Efforts to allocate specific Diversion percentages to the individual jurisdictions from which Customers deliver Covered Materials. City acknowledges that licensed commercial hauling companies delivering materials to the Facility may collect waste from multiple jurisdictions, and will cooperate with Contractor to develop a method or procedure for tracking and/or apportioning such waste by jurisdiction of origin.
- (E) Contaminated Load Rejections. monthly report on loads rejected as contaminated or discovered contaminated after acceptance.
- (F) Complaint Log. copy of daily logs of complaints required to be maintained by Section 10.2.2.
- (G) Appliance Vouchers. monthly submittal of Appliance Vouchers.

12.3.3 Annual Reports

Contractor will submit to City an annual report including:

- (A) Annual audited financial statements and footnotes prepared in accordance with Generally Accepted Accounting Principles (GAAP) and audited in accordance with Generally Accepted Auditing Standards (GAAS) by a certified public accountant (CPA) licensed (in good standing) to practice public accounting in the State of California as determined by the State of California Department of Consumer Affairs Board of Accountancy. Contractor shall select the firm to perform the work, subject to City having the right to reject one (1) firm selected by the Contractor, after which the Contractor shall have the right to select any firm to perform the audit. Contractor shall provide City with a copy of the audit on or before July 1st of each Contract Year following the Contract Year for which the audit was performed. City may observe such inventory and auditing procedures and confer with accountant conducting the audit. The Contractor shall pay the cost of any such audit.
- (B) Yearly totals of data required in Sections 12.3.2(A) through (C) and (F).
- (C) General information about the Contractor, including a list of officers and members of its board of directors.

City may reasonably request other information or reports.

12.4 Review of Tonnage and Payment of Fees

12.4.1 Contractor's Review

Upon request, but no more often than once per Contract Year, the City may request that a review be performed of Contractors reported Tonnage and payment of fees. City shall develop the scope of work

and select the firm to perform the work, subject to Contractor having the right to reject one (1) firm selected by the City, after which the City shall have the right to select any firm to perform the work. City and Contractor further agree that City shall not select a firm to perform the review if that firm has performed similar services for the City or the Contractor within the last five (5) years unless both Parties agree to the selection of that firm. The Parties shall each pay fifty percent (50%) of the cost of the review.

12.4.2 Payments and Refunds

If a review determines that Contractor has been overpaid by the City, Contractor shall refund the amount of the overpayment. If a review determines that Contractor has been underpaid by the City, City shall pay the amount of the underpayment. Unless otherwise agreed by the Parties, payments shall be due as follows:

- (A) One hundred thousand dollars (\$100,000) or less shall be due thirty (30) calendar days from the date of the completion of the review.
- (B) More than One hundred thousand dollars (\$100,000) shall be due ninety (90) calendar days from the date of the completion of the review.

12.5 Reporting Adverse Information

Contractor shall report to the City the occurrence of any notices of violation, communications or other material relating to an allegation of a violation of Applicable Law resulting from Contractor's performance of services pursuant to this Agreement, received by Contractor from, the United States or California Environmental Protection Agency, the California Department of Resources Recycling and Recovery (CalRecycle), the Securities and Exchange Commission or any other federal, State or local agency, including any federal or State court and shall provide copies of relevant information related thereto upon written request of the City. Such copies shall be submitted to City within fifteen (15) calendar days of receipt by Contractor, or sooner if reasonably apparent that to do so is materially relevant.

12.6 Failure to Report

The refusal or failure of Contractor to file any required reports, or to provide required information to City, or the inclusion of any materially false or misleading statement or representation by Contractor in such report shall be deemed a condition of default of the Agreement as described in Section 14.1 and shall subject Contractor to all remedies which are available to the City under this Agreement or otherwise.

ARTICLE INDEMNIFICATION AND INSURANCE

13

13.1 Indemnification

13.1.1 General

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

In this Section:

- “City” means the City, its officials, officers, agents, employees and volunteers;
- “Contractor” means the Contractor, its employees, agents and Subcontractors;
- “Claims” includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these, including claims related to hazardous substances as set forth in Section 13.1.4; and
- “Arising out of” includes “pertaining to” and “relating to”, or alleged to be arising out of.

13.1.2 Survival; No limitations

The provisions of this Section: (a) survive completion of the services or the termination of this Agreement; and (b) are not limited by the provisions of Section 13.3 relating to insurance. City’s review, acceptance or approval of Contractor’s work or work product shall not affect, relieve or reduce Contractor’s indemnification or defense obligations.

13.1.3 Duty to Defend

The duty to defend is a separate and distinct obligation from Contractor’s duty to indemnify. Contractor is obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel reasonably approved by the City immediately upon tender to Contractor of the Claim in any form or at any stage of an action or proceeding, whether or not the Claim is established. However a determination or admission of sole active negligence or sole willful misconduct by the City shall relieve Contractor from its separate and distinct obligation to defend the City. In the event that Contractor asserts that the Claim is caused in whole or in part by the sole active negligence or sole willful misconduct of the City or counsel notifies the Contractor that due to conflicts, it cannot represent both City and Contractor, the City may retain independent counsel, the reasonable costs of which shall be paid by Contractor. If a judgment is entered by a court of competent jurisdiction that the Claim is caused by the sole active negligence or sole willful misconduct of the City, Contractor may submit a claim to City and City shall reimburse Contractor for its reasonable attorneys’ fees and defense costs. If such judgment shall find the City and Contractor both liable, the City shall reimburse Contractor’s legal costs in an amount equal to the percentage the award against the City represents to the overall award from both Contractor and City.

13.1.4 Hazardous Substances

A Claim under this Section includes: response costs, investigative costs, assessment costs, monitoring costs, treatment costs, cleanup costs, removal costs, remediation costs and similar costs, damages and expenses; any Claim that the City is liable or responsible in any way; or a Claim related to material collected, transported, recycled, Processed, treated or Disposed of by Contractor.

Contractor’s Obligations under this Article 13 shall apply, without limitation, to:

- (A) A Claim brought under or based on the provisions of any Applicable Law;
- (B) A Claim arising out of Contractor’s ownership, use, sale, design, construction, maintenance or operation of the Facility;

- (C) A Claim arising out of the marketing, sale, distribution, storage, transportation, Disposal, Processing or use of any materials Recovered by Contractor; or
- (D) A Claim arising out of a breach of an express or implied warranty, representation or covenant under this Agreement.

13.2 Consequential Fines

Contractor shall pay any consequential fines and penalties assessed on the City, including any related to AB 939 and AB 341, resulting from Contractor's failure to perform its obligations hereunder. City may allow for the payment of such fines and penalties over time so long as it does not have a material adverse affect on the City's Solid Waste Fund.

If Contractor does not pay any such damages to City by the first day of the month after the month in which they are assessed or within thirty (30) calendar days of such other due date as shall have been agreed to by the Contractor and the City, the City may (i) withhold such amounts from monthly Gate Rate payments, unless such delay would adversely impact the City's Solid Waste Fund, or (ii) declare Contractor in default in accordance with Section 14.1.

13.3 Insurance

13.3.1 Required Forms of Insurance

Contractor shall secure and maintain the following insurance throughout the Term of the Agreement:

- (A) Commercial General Liability Insurance. Contractor shall provide commercial general liability insurance General Liability (ISO CGL forms, at least as broad as CG 00 01...), including the following extensions:
 - (i) premises and operations;
 - (ii) products and completed operations;
 - (iii) advertising and personal injury;
 - (iv) unlicensed mobile equipment;
 - (v) explosion, collapse and underground hazard coverage;
 - (vi) blanket contractual;
 - (vii) broad form property damage;
 - (viii) premises medical coverage; and
 - (ix) cross suits.

Minimum limits of liability for Commercial General Liability are \$2,000,000 each occurrence or \$4,000,000 aggregate, as applicable, for Combined Single Limit-Bodily Injury, Property Damage Liability, and Products/Completed Operations. Limits can be met using Umbrella or Excess Liability policy.

Deductibles shall be no greater than \$10,000 per loss, which deductibles shall be the responsibility of Contractor.

- (B) Commercial Automobile Liability Insurance. Contractor shall maintain Commercial Automobile Liability Insurance coverage for:

- (i) all autos owned or leased to the Contractor that are being used for this Project;
- (ii) cross suits; and
- (iii) transportation by insured vehicle of “pollutants” or “wastes” and clean-up costs relating to spills thereof

Minimum \$2,000,000/accident required. Deductibles shall be no greater than \$10,000 per loss, which deductibles shall be the responsibility of Contractor. Limits can be met using Umbrella or Excess Liability policy.

- (C) Workers’ Compensation Insurance. Contractor shall maintain Workers’ Compensation Insurance Part 1, in accordance with Applicable Law. The policy shall include a waiver of rights of subrogation against the City and the Facility.
- (D) Employers’ Liability Insurance. Contractor shall maintain Employers’ Liability Insurance in the following amounts:
 - (i) bodily injury by accident \$1,000,000 each accident; and
 - (ii) bodily injury by disease \$1,000,000 policy limit
\$1,000,000 each employee

The policy shall include a waiver of rights of subrogation against the City.

- (E) Crime Insurance, Including Employee Dishonesty. Contractor shall maintain Crime Insurance, including Employee Dishonesty including losses of “money, securities and property other than money and securities”, including Gate Rates, Recovered Materials, and Recovered Materials revenues lost as a result of burglary, theft, forgery, alteration, disappearance and destruction occurring on or off-site. Deductibles shall be no greater than \$15,000 per loss, which deductibles shall be the responsibility of Contractor.
- (F) Umbrella Liability and/or Excess Liability Policies. Contractor shall maintain Umbrella Liability and/or Excess Liability policies with endorsements providing “drop down” coverage solely for Contractor’s performance of its obligations required by this Agreement, effective when primary limits of General Liability, Automobile and Employers’ Liability policies described in items A, B and D above are exhausted, with minimum limits of liability (Occurrence Form) of \$10,000,000 each occurrence or in the aggregate, as applicable, for Combined Single Limit-Bodily Injury and Property Damage Liability and \$10,000,000 aggregate for Products/Completed Operations at the Facility. Deductibles shall be no greater than \$10,000 per loss, which deductibles shall be the responsibility of Contractor. (Accord 25 Certificate required.)
- (G) Environmental Impairment and Pollution Liability. Contractor shall maintain Environmental Impairment and Pollution Liability coverage for any environmental liability attributable to Contractor’s actions, including clean-up and/or transportation of pollutants or hazardous materials. Minimum limits of liability shall be \$10,000,000 per occurrence and in the aggregate. The amount of the deductibles shall be determined when the policy is obtained.

13.3.2 Additional Insurance Requirements

- (A) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either: the insurer shall reduce or eliminate such deductibles or self-insured retention’s as respects City, its officials, employees

and agents; or Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

(B) Other Insurance Provisions. The policies are to contain, or be endorsed to contain, the following provisions:

(i) General Liability and Automobile Liability Coverages

(a) City, its elective and appointive boards, commissions, officials, employees, agents and volunteers are to be named as Additional Insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; Premises owned, leased or used by Contractor; or vehicles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its elective and appointive boards, commissions, officials, employees, agents or volunteers. The coverage shall be at least as broad as ISO form CG 20 10 04 13.

(b) Contractor's insurance coverage shall be primary insurance as respects City, its elective and appointive boards, commissions, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by City, its officials, elective and appointive boards, commissions, employees, agents or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

(c) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its officials, elective and appointive boards, commissions, employees, agents or volunteers.

(d) Coverage shall state that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(ii) Workers' Compensation and Employers Liability Coverage - The insurer shall agree to waive all rights of subrogation against City, its officials, elective and appointive boards, commissions, employees, agents and volunteers for losses arising from work performed by Contractor for City.

(iii) All Coverages – Contractor shall immediately (and at least sixty (60) calendar days beforehand) notify the City if any required insurance coverage is cancelled or not renewed, and Contractor shall immediately obtain replacement coverage meeting the requirements of this Section 13.3.

(C) Acceptability of Insurers. The insurance policies required by this Section shall be issued by an insurance company or companies authorized to do business in the State of California and with a rating in the most recent edition of Best's Insurance Reports of size category VII or larger and a rating classification of A or better.

(D) Verification of Coverage. Contractor shall furnish City's Finance Director, at the address provided below or another address as City may provide, with certificates of insurance and with original endorsements affecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a Person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

City reserves the right to require complete, certified copies of all required insurance policies, at any time.

City of Tracy
Finance Director
333 Civic Center Plaza
Tracy, CA 95376

Upon request of the City's Finance Director, the Contractor shall cause its Subcontractors to provide proper evidence of insurance coverage required hereunder, satisfactory to the City's Finance Director. Contractor shall institute a comprehensive accounting system to assure the City it is monitoring all insurance requirements hereunder, including those of its Subcontractors.

- (E) Companies and Subcontractors. Contractor shall include all companies and Subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each Contractor and Subcontractor. Each Subcontractor providing its own insurance shall also name the City as an "Additional Insured" and provide endorsements to that effect, if the Subcontractor will be doing work on City property. All coverages for Companies and Subcontractors shall be subject to all of the requirements stated herein.
- (F) Required Endorsements. The Commercial General Liability policy shall contain endorsements in substantially the following form:
- (i) ISO AI endorsement form at least as broad as CG 20 10 04 13.
 - (ii) "City, its officers, elective and appointive boards, commissions, employees, and agents are Additional Insureds on this policy."
 - (iii) "This policy shall be considered primary insurance as respects any other valid and collectible insurance maintained by City, including any self-insured retention or program of self-insurance, and any other such insurance shall be considered excess insurance only."
 - (iv) "Inclusion of City as an Additional Insured shall not affect City's rights as respects any claim, demand, suit or judgment brought or recovered against Contractor. This policy shall protect Contractor and City in the same manner as though a separate policy had been issued to each, but this shall not operate to increase Contractor's liability as set forth in the policy beyond the amount shown or to which Contractor would have been liable if only one party had been named as an insured."
- (G) Delivery of Proof of Coverage. Simultaneously with the execution of this Agreement, Contractor shall furnish City certificates of each policy of insurance required hereunder, in form and substance satisfactory to City. Such certificates shall show the type and amount of coverage, Commencement Dates and dates of expiration of policies and shall have all required endorsements. CG forms shall be at least as broad as CG 00 01. If City requests, copies of each policy together with all endorsements, shall also be promptly delivered to City.
- Renewal certificates will be furnished periodically to City to demonstrate maintenance of the required coverage throughout the Term.
- (H) Other Insurance Requirements.

- (i) If any services are delegated to another company or Subcontractor, Contractor shall require such company or Subcontractor to provide statutory workers' compensation insurance and employer's liability insurance for all of the company or Subcontractor's employees engaged in the work in accordance with this Section. The liability insurance required by this Section shall cover the company and all Subcontractors or the company or Subcontractor must furnish evidence of insurance provided by it meeting all of the requirements of this Section.
- (ii) Contractor shall comply with all requirements of the insurers issuing policies. The carrying of insurance shall not relieve Contractor from any obligation under this Agreement. If any claim exceeding the amount of any deductibles or self-insured reserves is made by any third Person against Contractor or any Contractor or Subcontractor on account of any occurrence related to this Agreement, Contractor shall promptly report the facts in writing to the insurance carrier and to City.

If Contractor fails to procure and maintain any insurance required by this Agreement, City may take out and maintain, at Contractor's expense, such insurance as it may deem proper and deduct the cost thereof from any moneys due Contractor.

ARTICLE 14

DEFAULT, REMEDIES AND LIQUIDATED DAMAGES

14.1 Events of Default by Contractor

Each of the following shall constitute an event of Contractor default unless excused by an event of Uncontrollable Circumstances or caused by prior breach by the City of this Agreement.

- (A) Fraud or Deceit or Misrepresentation. If Contractor engages in, or attempts to practice, any fraud or deceit upon City or makes a misrepresentation regarding material information to City.
- (B) Insolvency or Bankruptcy. If Contractor becomes insolvent, unable, or unwilling to pay its debts, files a bankruptcy petition or takes steps to liquidate its assets.
- (C) Failure to Maintain Coverage. If Contractor fails to provide or maintain in full force and effect insurance, workers' compensation, liability, or indemnification coverage as required by this Agreement.
- (D) Violations of Regulation. If Contractor violates any orders or filings of any regulatory body having jurisdiction over Contractor relative to this Agreement which violation, orders or filings cause a material adverse effect in Contractor's ability to perform Contractor's Obligations hereunder, provided that Contractor may contest any such orders or filings by appropriate proceedings conducted in good faith, in which case no breach of this Agreement shall be deemed to have occurred until a final decision adverse to the Contractor is entered.
- (E) Failure to Ensure Facility Availability. Contractor fails to accept and transfer some or all of the Covered Materials generated by Collection Franchisee for more than four (4) consecutive work days, even if due to labor unrest including strike, work stoppage or slowdown, sick-out, picketing, or other concerted job action, and without arranging at its own cost and with City approval for use of an alternative facility or facilities for transfer and Processing of Covered Materials generated by Collection Franchisee.
- (F) Failure to Pay Fees or Submit Reports. If Contractor fails to make any payments required under

this Agreement and/or refuses to provide City, within ten (10) calendar days of the demand, with required information, reports, and/or records in a timely manner as provided for in the Agreement.

- (G) Failure to Cooperate with Audits. Failure to complete, perform or cooperate with any audit or reviews as described by this Agreement.
- (H) False or Misleading Statements. Any material written representation or disclosure made to City by Contractor in connection with or as an inducement to entering into this Agreement, or any future amendment to this Agreement, which proves to be false or misleading in any material respect as of the time such representation or disclosure is made.
- (I) Attachment. The seizure of, attachment of, or levy on, the operating equipment of Contractor, including, without limits, its equipment, maintenance or office facilities, vehicles, or any part thereof which seizure or attachment shall cause a material adverse effect in Contractor's ability to perform Contractor's Obligations hereunder.
- (J) Failure to Provide Assurance of Performance. Contractor fails to provide reasonable assurances of performance during instances including but not limited to an event of default or bankruptcy.
- (K) Failure to Maintain or Secure Permits/Approvals. Contractor fails to acquire and maintain all Permits/licenses required to perform Contractor Obligations or to acquire and maintain those needed for Facility improvements and operational changes.
- (L) Assignment. Contractor Assigns any portion of the Agreement in violation of Section 15.5 hereof.
- (M) Disposal of Recovered Materials. Disposal of Recovered Materials without prior written approval of City.
- (N) Any other substantive failure to perform Contractor's Obligations.

Contractor shall have seventy two (72) hours from the time it is given Notification by City to cure any default arising under Subsections C, E, F, G, H, I, J, K, L, M, and N unless such cure is not reasonably possible within such period in which case, provided that Contractor commences and pursues such cure with diligence until the cure is complete and reimburses the City for any costs it incurs due to the failure of the Contractor to meet Contractor Obligations during such cure period, it shall be given such additional time to cure as is necessary but in no event more than six (6) months from the Notice of default. It is expressly understood that Contractor is not entitled to receive Notice of default, or to cure such default, with respect to those matters listed in Subsections A, B, and D above.

14.2 Criminal Activity of Contractor

Should the Contractor or any of its officers or directors have a criminal conviction of, have made an admission of guilt for, or pled nolo contendere to any offense directly related to this Agreement or any other Agreement held with the City, from a court of competent jurisdiction with respect to:

- (A) fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement;
- (B) bribery or attempting to bribe a public officer or employee of a local, State, or federal agency in that officer's or director's or Contractor's employee's official capacity;
- (C) embezzlement, racketeering, false claims, false statements, forgery, falsification or destruction of records, obstruction of justice, receiving stolen property, or theft; or

- (D) conviction for any other crime indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of the Contractor or its officers or directors.

14.2.1 Remedy for Contractor Activity

City has the option to exercise each or all of the remedy options below related to criminal activity of Contractor:

- (A) To have each, officer, or director of Contractor responsible for such proscribed conduct promptly terminated and/or replaced; and/or,
- (B) To unilaterally terminate this Agreement.

14.3 Remedies for Contractor Default

If Contractor commits a material breach, (including any of the matters listed in Section 14.1), and, if permitted to cure, does not cure it within the time period specified in 14.1, City is entitled to any of the following remedies:

- (A) Termination. Unilaterally terminate this Agreement. If City decides to terminate this Agreement upon a default by Contractor, City has the right to do so upon giving ten (10) calendar days Notice to Contractor, or three (3) calendar days if there is an imminent danger to public welfare or safety. City's rights to terminate this Agreement are not exclusive, and City's termination of this Agreement shall not constitute an election of the remedies. Instead, such remedies shall be in addition to any and all other legal and equitable rights and remedies which City may have. Any such notice of termination described in this Subsection shall only be given upon approval of the City Council.
- (B) Liquidated Damages. Impose Liquidated Damages in accordance with Section 14.6 of this Agreement
- (C) Other Remedies and Sanctions. The City is entitled to pursue any other legally available remedy or sanction, including a suit for damages, injunctive relief and or specific performance.
- (D) Assurances of performance. City may, at its option and in addition to all other remedies it may have, demand from Contractor reasonable assurances or timely and proper performance of this Agreement, in such form and substance as City may require. If Contractor fails or refuses to provide satisfactory assurances of timely and proper performance in the form and by the date required by the City, such failure or refusal shall be an event of default.
- (E) Other sanctions. The Parties are entitled to pursue any other available remedies in law or in equity.

14.4 Waiver

City's waiver of any breach or default shall not be deemed to be a waiver of any other breach or default, including ones with respect to the same obligations hereunder. The subsequent acceptance by City of any damages or other money paid by Contractor shall not be deemed to be a waiver by City of any pre-existing or concurrent breach or default.

14.5 Contractor's Payment of Damages

Contractor shall pay City any damages accrued and payable during the then-current Contract Year or portion thereof which would have otherwise become payable unless a settlement of the matter between the Parties shall provide for other payment provisions. City may allow for the payment of such fines and penalties over time so long as it does not have a material adverse affect on the City's Solid Waste Fund.

Contractor's liability for such payments shall survive the termination of this Agreement.

14.6 Liquidated Damages

- (A) Applicability. The provisions of this Section 14.6 shall not be applicable during the term of this Agreement unless the Agreement is assigned as provided for in Section 15.5 of this Agreement. In the event the Agreement is assigned as provided for in Section 15.5 the terms and conditions of this Section 14.6 shall become effective concurrently with the assignment.
- (B) General. City finds, and Contractor agrees, that as of the time of the execution of this Agreement, it is impractical, if not impossible, to reasonably ascertain the extent of damages which shall be incurred by City as a result of a breach by Contractor of Contractor's Obligations. The factors relating to the impracticability of ascertaining damages include, but are not limited to, the fact that: (i) substantial damage results to members of the public who are denied services or denied quality or reliable service; (ii) such breaches cause inconvenience, anxiety, frustration, and deprivation of the benefits of the Agreement to individual members of the general public for whose benefit this Agreement exists, in subjective ways and in varying degrees of intensity which are incapable of measurement in precise monetary terms; (iii) that the services that are the subject of this Agreement might be available at substantially lower costs than alternative services and the monetary loss resulting from denial of services or denial of quality or reliable services is impossible to calculate in precise monetary terms; and (iv) the termination of this Agreement for such specific breaches, and other remedies are, at best, a means of future correction and not remedies which make the public whole for past breaches.
- (C) Service Performance Standards; Liquidated Damages for Failure to Meet Standards. The Parties further acknowledge that consistent, reliable performance of Contractor Obligations is of utmost importance to City and that City has considered and relied on Contractor's representations as to its quality of service commitment in entering this Agreement with it, and in assisting with funding of the Facility. The Parties further recognize that some quantified standards of performance are necessary and appropriate to ensure consistent and reliable service and performance. The Parties further recognize that if Contractor fails to achieve the performance standards, or fails to submit required documents in a timely manner, City, its residents and businesses, and Customers may suffer damages and that it is and will be impractical and extremely difficult to ascertain and determine the exact amount of damages which such parties will suffer. Therefore, without prejudice to City's right to treat such breaches as an event of default under Section 14.1 hereof, the Parties agree that the liquidated damage amounts set forth in Exhibit 5 represent a reasonable estimate of the amount of such damages for such specific breaches, considering all of the circumstances existing on the date of this Agreement, including the relationship of the sums to the range of harm to City and others that reasonably could be anticipated and the anticipation that proof of actual damages would be costly or impractical. In placing their initials at the places provided, each Party specifically confirms the accuracy of the statements made above and the fact that each Party has had ample

opportunity to consult with legal counsel and obtain an explanation of the liquidated damage provisions at the time that the Agreement was made.

City

Contractor

Initial Here_____

Initial Here_____

Contractor agrees to pay (as liquidated damages and not as a penalty) the amounts set forth in Exhibit 5.

City may determine the occurrence of events giving rise to liquidated damages through the observation of its own employees or representative or investigation of Customer complaints.

Before assessing liquidated damages, City and Contractor shall meet and confer regarding these specific areas of substandard performance. If, despite such meeting, incidents of the type(s) addressed at the meeting continue to occur, City may proceed to assess liquidated damages as provided below.

In order to begin the process of assessing liquidated damages, City shall give Contractor Notice of its intention to do so. The Notice will include a brief description of the incident(s)/non-performance. Contractor may review (and make copies at its own expense) all information in the possession of City relating to incident(s)/non-performance. Contractor may, within ten (10) calendar days after receiving the Notice, request a meeting with City. Contractor may present evidence in writing and through testimony of its employees and others relevant to the incident(s)/non-performance. City will provide Contractor with a written explanation of its determination on each incident(s)/non-performance prior to authorizing the assessment of liquidated damages. The Contractor shall have the right to appeal the determination to the City Manager. The decision of the City Manager shall be final but the Contractor shall have the right to appeal the decision of the City Manager, under Tracy Municipal Code section 1.12.020 to the City Council which may ratify, reverse, or modify the decision of the City Manager.

- (D) Amount. City may assess liquidated damages for each calendar day or event, as appropriate, that Contractor is determined to be liable in accordance with this Agreement.
- (E) Timing of Payment. City may either withhold the liquidated damage amount from compensation to be paid to Contractor, or City may request Contractor to pay any liquidated damages assessed by City within ten (10) calendar days after they are assessed. If they are not paid within the ten (10) calendar day period and there is insufficient Contractor Compensation to cover these damages due Contractor within the ten (10) calendar day period or other period as Parties may agree to, City may find Contractor in default and terminate this Agreement.

14.7 Default by the City

Each of the following shall constitute an “Event of Default” on the part of the City unless excused by an event of Uncontrollable Circumstances or caused by prior breach by the Company of this Agreement:

- (A) Failure to Comply with Agreement. The failure or refusal by the City to substantially perform any material obligation under this Agreement following written Notice from the Company and failure by the City to cure such breach within twenty (20) calendar days, except that such period shall be extended during such time as the City is diligently taking reasonable steps to cure the

default.

- (B) Failure to Ratify Rates. The failure of the City to comply with the provisions of Section 11.3 hereof.
- (C) Failure to Direct Waste. The failure of the City to direct waste in accordance with Section 4.4.1 hereof and the failure to continue to pay or cause to be paid the Gate Rate as provided in Article 11 hereof within the time provided therein.

14.8 Remedies Upon Default by the City

In the event of City default hereunder, the Contractor shall have the right to pursue any legal remedies available in law or in equity.

14.9 Excuse from Performance

- (A) The Parties shall be excused from performing some or all of their respective obligations under this Agreement if there is an Uncontrollable Circumstance, as defined in Section 1.65 that actually prevents such performance. The Party claiming excuse from performance shall, within two (2) work days after such Party has Notice of such cause, give the other Party Notice of the facts constituting such cause and asserting its claim to excuse under this Section.
- (B) The interruption or discontinuance of Contractor's services caused by one (1) or more of the events excused shall not constitute a default by Contractor under this Agreement.
- (C) Upon the occurrence of an event constituting an Uncontrollable Circumstance, the Parties shall meet and confer no later than five (5) work days after such event and determine whether one (1) or more services required of the Contractor hereby can be resumed within seven (7) calendar days of the event date notwithstanding the event. If some services can be resumed within seven (7) calendar days of the event date the Contractor shall resume those services under the terms and conditions of the Agreement. At that time either Party may request an Extraordinary Adjustment under the provisions of Section 11.5. If some services can be resumed at some future date exceeding seven (7) calendar days from the event date, the Contractor shall provide the City with a plan for resuming those services at the meeting. At that time the Parties shall discuss the plan and either Party may request an Extraordinary Adjustment under the provisions of Section 11.5. The City may obtain temporary substitute services for any services that cannot be performed by the Contractor until such time as it again can perform.
- (D) If the event constituting an Uncontrollable Circumstance is such that no services can be performed by the Contractor hereunder, and if substitute services are available, the City may obtain such temporary substitute services during the duration of the inability of Contractor to perform its duties hereunder.
- (E) If the event constituting an Uncontrollable Circumstance shall cause damage or destruction to the Facility or otherwise prevent Contractor's performance hereunder but Contractor reasonably believes its ability to comply with Contractor's Obligations can be restored within eighteen (18) months of the event of Uncontrollable Circumstance, the City may not terminate the Agreement until the end of such period as long as Contractor is using Reasonable Business Efforts to restore its ability to meet Contractor's Obligations as soon as is practicable. During such period, the City may obtain temporary substitute services.

- (F) If the event constituting an Uncontrollable Circumstance shall reasonably prevent the Contractor from ever resuming performing its obligations under this Agreement, then the City shall have the right to terminate this Agreement upon approval of such termination by the City Council.

ARTICLE OTHER AGREEMENTS OF THE PARTIES

15

15.1 Relationship of Parties

The Parties intend that Contractor shall perform the services required by this Agreement as an independent contractor engaged by City and not as an officer or employee of City or as a partner of or joint venture with City. No employee or agent of Contractor shall be or shall be deemed to be an employee or agent of City. Except as expressly provided herein, Contractor shall have the exclusive control over the manner and means of conducting the services performed under this Agreement, and all Persons performing such services. Contractor shall be solely responsible for the acts and omissions of its officers, employees, affiliates, contractors, Subcontractors and agents. Neither Contractor nor its officers, employees, affiliates, contractors, Subcontractors and agents shall obtain any rights to retirement benefits, workers' compensation benefits, or any other benefits which accrue to City employees by virtue of their employment with City.

15.2 Compliance with Law

In providing the services required under this Agreement, Contractor shall at all times, at its sole cost, subject to Article 11, comply with all Applicable Laws now in force and as they may be enacted, issued, or amended including, but not limited to, the payment of prevailing wage, if applicable.

15.3 Governing Law

This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California.

15.4 Jurisdiction

Except for those matters where Federal Courts have exclusive jurisdiction, any lawsuits between the Parties arising out of this Agreement shall be brought and concluded in the courts of the State of California, which shall have exclusive jurisdiction over such lawsuits. The Parties agree that venue is made in and will be performed in courts sitting in San Joaquin County, California or, in case of federal jurisdiction, Federal District Court, Central Division. Parties further agree that the site of any other hearing or action, whether arbitration or non-judicial, of whatever nature of kind regarding this Agreement, shall be conducted in San Joaquin County, California.

15.5 Assignment

Contractor shall not enter into negotiations to assign its rights, or delegate, subcontract or otherwise transfer any Contractor Obligations under this Agreement (collectively referred to as an "assignment") to any other Person for a period of three (3) years from the Commencement Date of this Agreement.

After such three (3) year period Contractor shall not assign its rights, nor delegate, subcontract or otherwise transfer any Contractor Obligations under this Agreement to any other Person without the

prior written consent of the City Council. Any such assignment made without the consent of the City Council shall be void and the attempted assignment shall constitute a material breach of this Agreement.

For purposes of this Section the term assignment shall be given the broadest possible interpretation, and shall include, but not be limited to (i) a sale, exchange or other transfer of substantially all of Contractor's assets dedicated to service under this Agreement to a third party; (ii) a sale, exchange or other transfer of outstanding common stock of Contractor to a third party provided said sale, exchange or transfer would result in a Change of Control of Contractor; (iii) any dissolution, reorganization, consolidation, merger, re-capitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction which results in a Change of Control; (iv) any assignment by operation of law, including those resulting from mergers or acquisitions by or of Contractor of any of its affiliates, insolvency or bankruptcy, making assignment for the benefit of creditors, writ of attachment for an execution being levied against this Agreement, appointment of a receiver taking possession of Contractor's property, or transfer occurring in the event of a probate proceeding; and (v) any combination of the foregoing (whether or not in related or contemporaneous transactions) which results in a Change of Control.

Contractor acknowledges that this Agreement involves rendering a vital service to City's residents and businesses, and that City has selected Contractor to perform the services specified herein based on (i) Contractor's experience, skill and reputation for conducting services required under this Agreement in a safe, effective and responsible fashion, at all times in keeping with Applicable Laws, regulations and best solid waste and Recycling management practices, and (ii) Contractor's financial resources to maintain the required equipment and to support its indemnity obligations to City under this Agreement. City has relied on each of these factors, among others, in choosing Contractor to perform the services to be rendered by Contractor under this Agreement.

15.5.1 Requirements of the Contractor

If Contractor requests City Council's consideration of and consent to an assignment, City Council may deny or approve such request in its reasonable discretion. Any request for an assignment shall be made in a manner to be prescribed by the Public Works Director, and no request by Contractor for consent to an assignment need be considered by City unless and until Contractor has met (or with respect to matters that would only occur upon completion of the assignment if approved, made reasonable assurances that it will meet) the following requirements:

- (A) Contractor shall undertake to pay City its reasonable expenses for attorney's fees and investigation costs necessary to investigate the suitability of any proposed assignee, and to review and finalize any documentation required as a condition for approving any such assignment. An advance payment of one hundred thousand dollars (\$100,000) towards expenses shall be paid to City prior to City consideration of any assignment request and Contractor shall be responsible to pay all costs incurred by City in considering a request for assignment, including those in excess of the aforesaid deposit amount, regardless of whether City consents to the assignment.
- (B) Contractor shall pay the City a transfer assignment right fee equal to two hundred fifty thousand dollars (\$250,000). This payment shall be due no later than five (5) calendar days before final closing of the assignment but if paid and the assignment shall not be completed, it shall be refunded to the Contractor. If there shall be an escrow-type arrangement with an escrow agent,

financial institution or other third party in connection with the assignment and the documentation thereof and payment of the purchase price to Contractor in consideration of the assignment by the assignee, then a payment of this amount by Contractor to the escrow agent or institution who is instructed to pay it over to the City upon closing of the assignment, then such payment shall be considered as compliant with this subsection.

- (C) Contractor shall furnish City with audited financial statements of the proposed assignee's operations for the immediately preceding three (3) operating years.
- (D) Contractor shall furnish City with proof satisfactory to City: (i) that the proposed assignee has at least five (5) years of transfer station and MRF operating and management experience on a scale equal to or exceeding the scale of operations conducted by Contractor under this Agreement; (ii) that in the last five (5) years, the proposed assignee has not suffered any significant citations or other censure from any federal, State or local agency having jurisdiction over its solid waste and Recycling management operations which are materially greater than those suffered by similar companies engaged in solid waste and recycling management operations due to any significant failure to comply with State, federal or local Applicable Laws and that the assignee has provided City with a complete list of any such citations and censures; (iii) that the proposed assignee has at all times conducted its operations in an environmentally safe and conscientious fashion as compared with similar companies engaged in solid waste and recycling management operations; (iv) that the proposed assignee conducts its solid waste and Recycling management practices in accordance with sound solid waste and Recycling management practices in full compliance with all federal, State and local laws regulating the handling of solid waste and Recycling including Hazardous Substances, and; (v) proposed assignee(s) financial resources are sufficient to ensure ability to meet all Contractor Obligations under this Agreement.
- (E) Contractor shall furnish the City with any other information required by City to ensure the proposed assignee can fulfill the terms of this Agreement in a timely, safe and effective manner.

In considering a requested assignment, City may at its sole discretion exercise its right to purchase the Facility from the Contractor as provided in Section 4.15.

Under no circumstances shall City be obliged to consider any proposed assignment by City if Contractor is in default at any time during the period of consideration. Should City consent to any assignment request, such assignment shall not take effect until all conditions relating to City's approval have been met.

15.5.2 Requirements of the Proposed Assignee

In approving an assignment, City may require that the proposed assignee agree to one or more of the following:

- (A) For any assignment approved on or before December 31, 2024, a reduction in the length of the remaining term of the Agreement to ten (10) years from the date of the City's approval of the assignment.
- (B) Reasonable increases in the insurance limits, or modifications in the insurance requirements contained in Section 13.3.
- (C) Execution of a Guaranty by the controlling entity in the event of a City approved assignment of this Agreement to any corporation, limited liability company and every similar corporate entity that is controlled by another such corporate entity through ownership of a majority of the

equity interests in the assignee. The Guaranty shall unconditionally and absolutely guarantee the performance of the Contractor's obligations hereunder and shall be in a form approved by the City, which approval shall not be unreasonably withheld. For the avoidance of doubt, while the City and the controlling entity may agree on any form of Guaranty they wish, if a form of Guaranty proposed by the City is substantially similar to those in use by other municipalities in northern California in connection with similar solid waste collection or facility agreements, then it shall be presumed to be reasonable by the controlling entity. In the event the City does not propose a Guaranty form then if a form of Guaranty proposed by the controlling entity is substantially similar to those accepted by other municipalities in northern California in connection with similar solid waste collection or facility agreements by the controlling entity, then it shall be presumed to be reasonable. The form of Guaranty shall be provided concurrently with the request for City approval of the assignment of the Agreement and no assignment to the proposed assignee shall be effective until the Controlling Entity executes the Guaranty. This paragraph shall not be construed so as to require a Guaranty from human persons controlling an assignee or Controlling Entity thereof.

- (D) Funding of a fidelity bond in an amount similar to such required by other Cities for similar facilities and/or provision of financial assurance in a form other than a fidelity bond, such as a letter of credit or certificate of deposit.
- (E) Application of liquidated damages as set forth in Section 14.6 and Exhibit 5 including the provision of the initials as required in Section 14.6(C) and Exhibit 5.

15.6 Binding on Assigns

The provisions of this Agreement shall inure to the benefit to and be binding on the permitted assigns (if any) of the Parties.

15.7 Cooperation in Unforeseen Circumstances

The Parties recognize and agree that unforeseen developments and circumstances may occur during the term of this Agreement that materially modify or otherwise affect the obligations of the City or the Contractor. The City and the Contractor further agree that in such event each will cooperate in a professional manner and negotiate with the other in good faith to address and resolve such unforeseen developments.

15.8 Cooperation Upon Termination or Expiration of Agreement

Prior to, and at, the end of the term of this Agreement or in the event this Agreement is terminated for cause prior to the end of the term, Contractor shall cooperate fully with City and any subsequent City contractor to assure a smooth transition in provision of service. Contractor's cooperation shall include, but not be limited to:

- (A) Providing Customer billing information.
- (B) Paying City any compensatory damages or liquidated damages, in accordance with Section 14.6, accrued and payable during the then current calendar year or portion thereof which would have otherwise become payable. Contractor's liability for such payments shall survive the termination of this Agreement.
- (C) Paying all taxes due to appropriate parties including, but not limited to, State, county, and local agencies.

(D) Paying any amounts due and owing to the City.

The failure to cooperate with City following expiration of the term or early termination shall be conclusively presumed to be grounds for specific performance of this covenant and/or other equitable relief necessary to enforce this covenant.

15.9 Parties in Interest

Nothing in this Agreement, whether express or implied, is intended to confer any rights on any Persons other than the Parties to it and their representatives, successors and permitted assigns.

15.10 Waiver

The waiver by either Party of any breach or violation of any provisions of this Agreement shall not be deemed to be a waiver of any breach or violation of any other provision nor of any subsequent breach or violation of the same or any other provision. The subsequent acceptance by either Party of any moneys which become due hereunder shall not be deemed to be a waiver of any pre-existing or concurrent breach or violation by the other Party of any provision of this Agreement.

15.11 Contractor's Investigation

Contractor has made an independent investigation (satisfactory to Contractor) of the conditions and circumstances surrounding the Agreement and the work to be performed by it.

15.12 Notice

All Notices, demands, requests, proposals, approvals, consents and other communications, which this Agreement requires, authorizes or contemplates, shall be in writing and shall either be personally delivered to a representative of the Parties at the address below or be deposited in the United States mail, first class postage prepaid, addressed as follows:

If to City:

Public Works Director and City Attorney
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

If to Contractor:

Michael Repetto, President
Tracy Material Recovery & Solid Waste Transfer, Inc.
P.O. Box 93
30703 S. MacArthur Drive
Tracy, California 95378

The address to which communications may be delivered may be changed from time to time by a Notice given in accordance with this Section.

Notice shall be deemed given on the day it is personally delivered or, if mailed, three (3) days from the date it is deposited in the mail.

15.13 Delegation of Authority

The administration of this Agreement by the City shall be under the supervision and direction of the Public Works Director and the actions specified in this Agreement, unless otherwise stated, shall be taken by the Public Works Director, or his or her designee.

15.14 Contractor's Representative

Contractor shall, by the Commencement Date, designate in writing a responsible officer who shall serve as the representative of Contractor in all matters related to the Agreement and shall inform City in writing of such designation and of any limitations upon his or her authority to bind Contractor. City may rely upon action taken by such designated representative as actions of Contractor unless they are outside the scope of the authority expressly delegated to him/her by Contractor as communicated to City.

15.15 Compliance with Municipal Code

Contractor shall comply with those provisions of the municipal code of the City which are applicable, and with any and all amendments to such applicable provisions during the term of this Agreement provided that any changes thereto may be a Change in Law as provided herein.

15.16 Exercise of Options

Except as otherwise provided, City's or Contractor's exercise of any approval, disapproval, option, discretion, election or choice hereunder shall be in each Party's independent and sole reasonable control and judgment.

15.17 Cooperation and Disputes with Approved Site Operators

Contractor shall fully comply with Contractor's Obligations and cooperate to its fullest extent with the operator of an Approved Disposal Site, Approved Organics Processing Site, and Approved Recyclables Processing Site. In the event of disputes between Contractor and said operator, Contractor shall continue performance of Contractor's Obligations under this Agreement and shall attempt to continue to resolve such dispute in a cooperative manner, including but not limited to negotiating with the operator in good faith.

15.18 Payment of Taxes

Contractor shall pay, when and as due, any and all Federal, State, and local fees, assessments, or taxes incurred as a result of Contractor's compensation hereunder, including estimated taxes.

City and Contractor agree that this Agreement does not create a possessory interest in Contractor subject to taxation. If, however, it is asserted that this Agreement does create a taxable property interest, Contractor will be solely responsible for contesting any proceeding in which such an assertion is made and solely responsible for payment of any taxes or payments assessed as a result of any determination made in any such proceeding. However, if such possessory interest subjects the Agreement to such taxation due to a Change in Law, the Contractor may recover the additional costs thereof pursuant to Article 11.

15.19 Amendments

The Parties may change, modify, supplement, or amend this Agreement only upon mutual written

agreement duly authorized and executed by both Parties.

15.20 Dispute Resolution

Obligation to Continue Performance. In the event of a dispute by the Parties arising from this Agreement, each Party shall continue the performance of their respective obligations under this Agreement pending the resolution of any dispute.

- (A) Notice. The Party claiming the dispute shall Notify the other Party in writing which Notice shall include a description of the nature of the dispute, any financial affect which has or is likely to be incurred, and the suggested resolution by the claiming Party.
- (B) Meet and Confer. Within thirty (30) calendar days of receipt by either Party of a Notice of dispute, the Parties shall meet and negotiate in good faith a resolution of the dispute.
- (C) Mediation. If the Parties cannot resolve the dispute through such good faith negotiation, either Party may request that the dispute be submitted to mediation and if such request is made, the Parties shall select a mutually agreed neutral mediator with at least five (5) years experience at dispute resolution in an effort to resolve the dispute by a resolution in writing between the Parties. If the Parties cannot agree on such a resolution after mediation the Parties may elect to utilize an independent expert as set forth in Section 15.20 (D) below
- (D) Independent Expert. If the Parties fail to reach agreement on a change proposed by the City after thirty (30) days from the receipt of the proposal, the City may submit the matter to determination by an independent expert.

The independent expert shall have at least five (5) years experience with solid waste facilities and operations of the type under dispute and shall not have worked for either Party for a period of five (5) years prior to referral of the dispute unless both Parties agree to the selection of that independent expert. If the Parties cannot agree on an independent expert, each Party shall select an independent expert and those independent experts shall select a third independent expert.

- (E) Continued Dispute. If the Parties cannot agree on such a resolution after utilizing mediation, as set forth in Section 15.20 (C) above and/or an independent expert, as set forth in Section 15.20 (D) above, the Parties shall have the right to appeal to the City Manager and/or to seek any remedy available at law or in equity from a court of competent jurisdiction.

ARTICLE MISCELLANEOUS PROVISIONS

16

16.1 Entire Agreement

This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice of counsel. Each of the Parties acknowledges that no Party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other Party to execute this instrument.

16.2 Section Headings

The Article headings and Section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

16.3 References to Laws and Other Agreements

All references in this Agreement to laws shall be understood to include such laws as they may be subsequently amended or recodified, unless otherwise specifically provided.

16.4 Interpretation

This Agreement, including the Exhibits attached hereto, shall be interpreted and construed reasonably and neither for nor against either Party, regardless of the degree to which either Party participated in its drafting.

16.5 Agreement

This Agreement may not be modified or amended in any respect except by a writing signed by the Parties.

16.6 Severability

If any non-material provision of this Agreement is for any reason deemed to be invalid and unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Agreement which shall be enforced as if such invalid or unenforceable provision had not been contained herein.

16.7 Exhibits

Each of the Exhibits identified as Exhibit 1 through 6 is attached hereto and incorporated herein and made a part hereof by this reference.

IN WITNESS WHEREOF, City and Contractor have executed this Agreement as of the day and year first above written.

CITY OF TRACY:

**TRACY MATERIAL RECOVERY &
SOLID WASTE TRANSFER, INC.**

A California Corporation

By: Robert Rickman
Title: Mayor
Date: _____

By: Michael Repetto
Title: President
Date: _____

Approved by City Council on _____
By Resolution _____

By: Curtis Repetto
Title: Chief Financial Officer
Date: _____

Attest:

Nora Pimentel, City Clerk

Approved as to form:

Bill Sartor, City Attorney



EXHIBIT 1 INITIAL GATE RATES

Beginning for services in January 1, 2017, CITY shall compensate CONTRACTOR for services performed in accordance with this Agreement in the following rates:

Refuse	\$115.65 per Ton
Food Waste	\$115.65 per Ton
Construction & Demolition Debris	\$115.65 per Ton
Wood	\$67.00 per Ton
Greenwaste	\$67.00 per Ton

EXHIBIT 2 GATE RATE ADJUSTMENT METHOD

The purpose of this Exhibit is to describe and illustrate the method by which the Contractor's Gate Rates shall be adjusted on an annual basis commencing with the Contract Year beginning January 1, 2018.

A. ANNUAL ADJUSTMENT OF GATE RATES

On or before November 1, 2017 and each November 1 during the term of this Agreement, or such other time as may be agreed to between City and Contractor, Contractor shall deliver to City the Gate Rate application in the format set forth herein. The application shall consist of the following templates agreed to by the City and Contractor.

1. Gate Rate Adjustment Summary
2. Labor Index Component
3. Health and Welfare Benefits Component
4. Workers Compensation Benefits Component
5. Contract Labor Component
6. Fuel Component
7. CPI Adjustment (Used to adjust the Other Operating Expense, Profit, and Depreciation and Amortization Components.)
8. Inbound and Outbound Tonnage Detail
9. Extraordinary Adjustment Detail
10. Other Information as Agreed to By City and Contractor.

B. GATE RATES ADJUSTMENT PROCESS

The Gate Rates shall be adjusted in the following order as is shown in Exhibit 2.

- 1. Index Gate Rate Adjustment Factors.** Each current Gate Rate shall be multiplied by the Index Adjustment Factor to calculate the Index Adjustment. The Index Adjustment shall be added to the Gate Rates from the prior Contract Year to calculate the Index Adjusted Gate Rates.
- 2. Pass-Through Gate Rate Adjustment Factors.** Each Index Adjusted Gate Rate shall then have the appropriate per Ton pass-through rates added to it as follows to calculate the Pass-Through Adjusted Gate Rate:
 - A. The per Ton Disposal Pass-through rate shall be added to the Mixed Municipal Waste Index Adjusted Gate Rate.
 - B. The per Ton Agency Fee Pass-Through rate shall be added to the Index Adjusted Gate Rates listed in Exhibit 1 of this Agreement.
 - C. The per Ton City Payment Pass-Through rate, if any, shall be applied each of the Index Adjusted Gate Rates listed in Exhibit 1 of this Agreement.
 - D. The per Ton City Tonnage Pass-through rate shall be added to the Mixed Municipal Waste Index Adjusted Gate Rate.
- 3. Extraordinary Adjustments.** The appropriate Adjusted Gate Rate shall be adjusted for an extraordinary rate adjustment meeting the criteria of Section 11.5 of this Agreement. The rate

adjustment methodology shall be as agreed to between the City and the Contractor.

C. GATE RATE ADJUSTMENT FACTORS

Gate Rate Adjustment Factor shall consist of “Indexed Gate Rate Adjustment Factors”, “Pass-through Gate Rate Adjustment Factors”, and “Extraordinary Gate Rate Adjustment Factors” as defined below.

1. Indexed Gate Rate Adjustment Factor

The Indexed Gate Rate Adjustment Factor is comprised of the eleven (11) components described below.

Each component is assigned a weighted percentage factor of that components proportionate share of the total of the Contractor’s estimated expenses and profit for Contract Year 1. The percentage weight for each component is multiplied by the change in each appropriate index or the actual change in the cost or fee to calculate a weighted percentage for each component. The weighted percentage change for each component is added together to calculate the Gate Rate Adjustment Factor each Contract Year as is shown in Exhibit 2B.

The component weighting factors shall remain as set forth below for Contract Years one through five. Thereafter the component weighting factors shall be adjusted every five (5) years based on the Contractor’s expenses and profit for the second preceding Contract Year as shown in the most recent available annual audit required by Section 12.3.3 (A). Therefore the component weighting factors for Contract Year 6 shall be based on the audited figures from Contract Year 4.

Details of each component, their respective weighting, and the index or adjustment basis used for the annual adjustment of each are described below.

If any of the indices described in this Exhibit 2 shall be discontinued or modified such that it no longer reasonably reflects the cost component hereunder for which it was originally chosen, the parties shall reasonably agree on another index which is as similar as possible to the discontinued index.

A. Labor Component

The Labor Component will be adjusted by the weighted percentage change in the average hourly labor rate of the three (3) labor categories as shown on the labor index template included in rate application for the prior Contract Year and the current Contract Year. That is, the Labor Component portion of the January 1, 2018 rate adjustment will be the weighted percentage change in the average hourly labor rates for the 2016 Contract Year and the 2017 Contract Year multiplied by the Labor Component weighting factor. The Labor Component weighting factor is twenty six and sixty five hundred percent (26.65%). A summary of a sample Labor Component calculation is shown below.

Sample Labor Index Information for Exhibit 2

Labor rates Adjusted 7/1

Sample January 1, 2018 Rate Adjustment

	# of Empl	Avg Mo Salary 2017	Avg Mo Salary 2016	\$ Variance	% Variance	Weighted Allocation	Labor Index Component Adjustment
Category 1 - Drivers, Mechanics and Scalehouse							
Totals	16.1	\$ 4,570.33	\$ 4,524.82	\$ 45.51	1.01%	25.00%	0.25%
Category 2 - Sorting operations, Compost and Janitorial							
Totals	40.3	\$ 2,500.51	\$ 2,344.08	\$ 156.43	6.67%	62.58%	4.18%
Category 3 - Supervisory							
Totals	8	\$ 8,858.36	\$ 8,590.79	\$ 267.57	3.11%	12.42%	0.39%
All Category Totals	64.4	\$ 3,807.76	\$ 3,616.59	\$ 191.17	5.29%	100.00%	4.81%

B. Health and Welfare Benefits Component

The Health and Welfare Benefits (HWB) Component will be adjusted by the weighted percentage change in the average monthly health and welfare benefit rates of all eligible employee categories in effect on November 1st of the prior Contract Year and November 1st of the current Contract Year. That is, the HWB Component of the January 1, 2018 rate adjustment will be the weighted percentage change in the average monthly HWB rates in effect on November 1, 2016 and those rates in effect on November 1, 2017 multiplied by the HWB Component weighting factor. The HWB Component weighting factor is four and eighty four hundred percent (4.84%). A summary sample HWB Component calculation is shown below.

Sample Health and Welfare Benefits Index Information for Exhibit 2

Premiums adjusted 11/1

Sample January 1, 2018 Rate Adjustment

Category	Rate 11/1/16	Rate 11/1/17	Dollar Variance	% Increase	Weighted Allocation of Total Expense	HWB Index Component Adjustment
Health						
EE (HMO)	\$ 640.44	\$ 685.27	\$ 44.83	7.00%		
EE+SP	\$ 1,440.97	\$ 1,541.84	\$ 100.87	7.00%		
EE+Ch	\$ 1,216.85	\$ 1,302.03	\$ 85.18	7.00%		
EE+Fam	\$ 2,081.46	\$ 2,227.16	\$ 145.70	7.00%		
Total				7.00%	92%	6.44%
Dental/Vision						
EE	\$ 53.09	\$ 54.77	\$ 1.68	3.16%		
EE+1	\$ 102.42	\$ 105.66	\$ 3.24	3.16%		
EE+Fam	\$ 171.20	\$ 176.62	\$ 5.42	3.17%		
Total				3.16%	8%	0.25%
Total All Categories						6.69%

C. Workers Compensation Benefits Component

The Workers Compensation (WC) Benefits Component will be adjusted by the weighted percentage change in the average monthly WC costs of the three (3) labor categories as shown on the WC index worksheet included in rate application for the prior Contract Year and the current Contract Year. That is, the WC Component of the January 1, 2018 rate adjustment will be the weighted percentage change in the average monthly WC costs per full time equivalent employee for the 2016 Contract Year and the 2017 Contract Year multiplied by the WC Component weighting factor. The WC Component weighting factor is one and ninety four hundred percent (1.94%). A summary sample WC Component calculation is shown below.

Sample WC Index Information for Exhibit 2

WC Rates Adjusted as of 10/1

Sample January 1, 2018 Rate Adjustment

	# of Empl	Avg Monthly WC Cost Per FTE 2017	Avg Monthly WC Cost Per FTE 2016	\$ Variance	% Variance	Weighted Allocation	W/C Index Component Adjustment
Category 1 - Drivers, Mechanics and Scalehouse							
Total	16.1	\$ 256.44	324.67	\$(68.23)	-21.01%	25.00%	-5.25%
Category 2 - Sorting Operations, Compost and Janitorial							
Total	40.3	\$ 146.75	175.15	\$(28.40)	-16.21%	62.58%	-10.15%
Category 3 - Supervisory							
Totals	8	\$ 392.41	474.88	\$(82.47)	-17.37%	12.42%	-2.16%
All Category Totals	64.4	\$ 204.69	245.85	\$(41.16)	-16.74%	100.00%	-17.56%

D. Contract Labor Component

The Contract Labor (CL) Component will be adjusted by the percentage change in the annual hourly rate for contract labor as of October 1st of the prior Contract Year and October 1st of the current Contract Year in accordance with the annual contract entered into by the Contractor for the provision of contract labor services. That is, the CL Component of the January 1, 2018 rate adjustment will be the percentage change in the hourly rate in effect on October 1, 2016 and October 1, 2017 multiplied by the CL Component weighting factor. The CL Component weighting factor is two and four hundred percent (2.04%). A sample Contract Labor Component calculation is shown below.

Sample Contract Labor Index Information for Exhibit 2

WC Rates Adjusted as of 10/1

Sample January 1, 2018 Rate Adjustment

Contracted Hourly Rate		\$ Variance	Contract Labor Index Component Adjustment
October 2016	October 2017		
\$ 21.38	\$ 22.24	\$ 0.86	4.02%

E. Fuel Component

The Fuel Component will be adjusted by the weighted percentage change in the annual average of the Producer Price Index (“PPI”) for number 2 diesel fuel, commodity code 057303, Series ID: wpu057303, not seasonally adjusted, compiled and published by the U.S. Department of Labor, Bureau of Labor Statistics for the twelve months ended September of the prior Contract Year and the twelve months ended September of the current Contract Year. That is, the Fuel Component of the January 1, 2018 rate adjustment will be the percentage change in the PPI index described between the annual average for the twelve months ended September, 2016 and the annual average for the twelve months ended September, 2017 multiplied by the Fuel Component weighting factor. The Fuel Component weighting factor is four and sixty seven hundred percent (4.67%). A summary sample Fuel Component calculation is shown below.

Sample Fuel Template For Exhibit 2		
Sample January 1, 2018 Rate Adjustment		
Series Id:	WPU057303	
Item:	No. 2 diesel	
Year	Annual Avg	Fuel Index Component Adjustment
2016	312.5	
2017	207.5	-33.58%

If during the term of this Agreement, the Contractor shall purchase vehicles or equipment that employ natural gas or another alternate fuel other than diesel, and the amount of fuel used by those vehicles and equipment is a material part of the Contractor’s fuel usage, the Parties shall agree on an index which most closely approximates the changes in costs of the alternate fuel then used by the Contractor. The Parties may agree to substitute that index for the diesel index if only a small part of Contractor’s fuel usage still consists of diesel fuel, or if both alternate and diesel represent a material portion of fuel usage, the calculation of the Fuel Component may be performed using both a diesel and an alternate fuel index allocated according to approximate percentage of each fuel used. A summary sample Fuel Component calculation with two (2) fuels is shown below:

Sample January 1, 2018 Rate Adjustment					
Diesel	12 Months Ending 2016 Diesel #2	12 Months Ending 2017 Diesel #2	Fuel Adjustment	Allocable Fuel Use	Allocated Fuel Adjustment
	312.5	207.5	-33.58%	35%	= -11.75%
Alternative Fuel	12 Months Ending 2016 Alternative Index	12 Months Ending 2017 Alternative Index			
	120.0	100.0	-16.67%	65%	= -10.83%
Total Index Fuel Adjustment					=-22.58%

F. Other Operating Expense Component

The Other Operating Expense (OOE) Component will be adjusted by the percentage change in the annual average of the Consumer Price Index, All Urban Customers, all items, not seasonally adjusted for the San Francisco-Oakland-San Jose Metropolitan Area, Series ID: cuura422sa0, compiled and published by the U.S. Department of Labor, Bureau of Labor Statistics (“CPI-U”) for the twelve months ended August of the prior Contract Year and the twelve months ended August of the current Contract Year. That is, the OOE Component of the January 1, 2018 will be the percentage change in the CPI-U index between the annual average for the twelve months ended August, 2016 and the annual average for the twelve months ended August, 2017 multiplied by the OOE Component weighting factor. The OOE Component weighting factor is seventeen and thirty seven hundred percent (17.31%). A summary sample Other Operating Expense Component calculation using the Consumer Price Index is shown below.

Sample CPI Index Information for Exhibit 2

Sample January 1, 2018 Rate Adjustment

Series Id: CUURA422SA0

Area: San Francisco-Oakland-San Jose, CA

Item: All items

Index Provided Bi-Monthly

Year	Feb	Apr	Jun	Aug	Oct	Dec	Annual Avg	CPI Component Adjustment
2015					254.5	252.3		
2016	254.9	257.6	259.1	259.9			256.4	
2016					261.0	260.3		
2017	262.6	264.6	266.0	267.9			263.7	2.86%

G. Operating Profit Component

The Operating Profit (OP) Component will be adjusted by the percentage change in the annual average of the Consumer Price Index, All Urban Customers, all items, not seasonally adjusted for the San Francisco-Oakland-San Jose Metropolitan Area, Series ID: cuura422sa0, compiled and published by the U.S. Department of Labor, Bureau of Labor Statistics (“CPI-U”) for the twelve months ended August of the prior Contract Year and the twelve months ended August of the current Contract Year. That is, the OP Component of the January 1, 2018 will be the percentage change in the CPI-U index between the annual average for the twelve months ended August, 2016 and the annual average for the twelve months ended August, 2017 multiplied by the OP Component weighting factor. The OP Component weighting factor is six and twenty eight hundred percent (6.28%). A sample OP component calculation using the Consumer price Index is shown in Section F above.

H. Depreciation and Amortization Component

The Depreciation and Amortization (DA) Component will be adjusted by the percentage change in the annual average of the Consumer Price Index, All Urban Customers, all items, not seasonally adjusted for the San Francisco-Oakland-San Jose Metropolitan Area, Series ID: cuura422sa0, compiled and published by the U.S. Department of Labor, Bureau of Labor Statistics (“CPI-U”) for the twelve months ended August of the prior Contract Year and the

twelve months ended August of the current Contract Year. That is, the DA Component of the January 1, 2018 will be the percentage change in the CPI-U index between the annual average for the twelve months ended August, 2016 and the annual average for the twelve months ended August, 2017 multiplied by the DA Component weighting factor. The DA Component weighting factor is seven and one hundred percent (7.01%). A sample DA component calculation using the Consumer price Index is shown in Section F above.

I. Disposal Component

The Disposal Component is adjusted as a pass-through cost. The Disposal Component weighting factor is included in this calculation in order to show that all compensation components are properly accounted for. The indexed adjustment factor for the Disposal Component is always \$0.00. The Disposal Component weighting factor is twenty nine and thirteen hundred percent (29.13%).

J. Agency Fee Component

The Agency Fee Component is adjusted as a pass-through cost. The Agency Fee Component weighting factor is included in this calculation in order to show that all compensation components are properly accounted for. The indexed adjustment factor for the Agency Fee Component is always \$0.00. The Agency Fee Component weighting factor is zero and six hundred percent (0.06%).

K. City Payments Component

The City Payments Component is adjusted as a pass-through cost. The City Payment Component weighting factor is included in this calculation in order to show that all compensation components are properly accounted for. The indexed adjustment factor for the City Payment Component is always \$0.00. As of January 1, 2017, the City Payment Component weighting factor is zero and zero hundred percent (0.00%).

2. Pass-Through Gate Rate Adjustment Factor

The Pass-Through Gate Rate Adjustment Factor is comprised of the four (4) components described below.

The change in cost of each component between the current Contract Year and the upcoming Contract Year is calculated in total and on a per Ton basis. The cost per Ton for each component is then used in the rate adjustment process.

Details of each component, and the methodology used to calculate the cost per Ton are described below.

A. Disposal Pass-Through Component

The Disposal Component shall be adjusted in the following manner based on the dollar change in the per Ton tip, gate and all other fees imposed on Contractor as of January 1st of the current Contract Year and January 1st of the upcoming Contract Year in consideration of Contractor's use of the Designated Disposal Site (or Alternate Disposal Site but only as provided in the Agreement) for Disposal of Mixed Municipal Waste and Residue.

1. The per Ton Disposal fee for the current Contract Year shall be subtracted from the per Ton Disposal Fee for the upcoming Contract Year to calculate the per Ton Disposal increase.
2. The per Ton Disposal increase shall then be multiplied by the estimated Tons to be Disposed

in the upcoming Contract Year to calculate the estimated Disposal cost. The estimated Tons to be Disposed in the upcoming Contract Year shall be estimated by the Contractor based on historical and current information and trends and approved by the City, which approval shall not be unreasonable withheld.

3. The estimated Disposal cost shall be divided by the estimated Tons of MMW to be delivered to the Facility in the Upcoming Contract Year to calculate the per Ton Disposal Pass-Through Component adjustment. The estimated Tons of MMW to be delivered to the Facility in the upcoming Contract Year shall be estimated by the Contractor based on historical and current information and trends and approved by the City, which approval shall not be unreasonable withheld.

4. The per Ton Disposal Pass-through Component adjustment shall be applied to the MMW rate after the rate has been adjusted by the Indexed Rate Adjustment Factor as set forth herein.

B. Agency Fees Pass-Through Component

The Agency Fees Component shall be escalated, based on the percentage change in the ENR Construction Cost Index for the San Francisco Bay Area from January 1st of the second preceding Contract Year and January 1st of the preceding Contract Year. The percentage change shall be applied to each of the inbound rate categories listed in Exhibit 1 of this Agreement after the rate has been adjusted by the Indexed Rate Adjustment Factor as set forth herein.

C. City Payments Pass Through Component

The City Payments Component shall be escalated, if at all, in the same percentage as any change in the City Payments expense as required by the City. The actual payment for the current Contract Year shall be multiplied by the percentage change to determine the payment increase. The payment increase shall be divided by the total inbound City Covered Material Tonnage to calculate the per Ton increase. The per Ton increase shall be added to each of the Gate Rates listed in Exhibit 1 of this Agreement.

D. City Tonnage Pass-Through Component

The City Tonnage Component shall be adjusted to account for any change in the number of Tons of City Delivered Material allowed to be delivered to the Facility at no charge, as set forth in Section 4.4.5 of this Agreement, between the current Contract Year and the Upcoming Contract Year. The adjustment shall be calculated in the following manner.

1. Obtain the estimated Tons of City Delivered Material to be delivered to the Facility for the Upcoming contract Year from the City in accordance with Section 4.4.5 of this Agreement..
2. Calculate the change in Tons of City Delivered Material by subtracting the estimated Tons of City Delivered Material for the current Contract year from the estimated Tons of City Delivered Material to be delivered to the Facility in the upcoming Contract Year.
3. Calculate the cost of additional Tons of City Delivered Material by multiplying the change in the Tons of City Delivered Material from C. 2. above by the MMW rate after taking into account the Index Gate Rate Adjustment Factor and all other Pass-Through adjustments.
4. Calculate the per Ton City Tonnage Pass-Through Adjustment by dividing the cost of additional Tons of City Delivered Material by the estimated Tons of MMW to be delivered to the Facility by the City's Collection Franchisee in the upcoming Contract Year. The estimated

Tons of MMW to be delivered to the Facility by the City's Collection Franchisee in the upcoming Contract Year shall be estimated by the Contractor based on historical and current information and trends and approved by the City, which approval shall not be unreasonable withheld.

5. The per Ton City Tonnage Pass-Through Component adjustment shall be applied to the MMW rate after the rate has been adjusted by the Indexed Rate Adjustment Factor and all other pass-through adjustments as shown in the Gate Rate Adjustment Template below.

Tracy Material Recovery and Solid Waste Transfer, Inc. Gate Rate Adjustment Template					
Indexed Gate Rate Adjustment Factors					
Component	Annual Values Contract Years 1-5	Weight	Index	Component Adjustment	Indexed Adjustment Factor
Labor	\$ 3,728,000	26.65%	Weighted Actual Change	4.81%	1.28%
Health and Welfare	\$ 677,000	4.84%	Weighted Actual Change	6.69%	0.32%
Workers Compensation	\$ 272,000	1.94%	Weighted Actual Change	-17.56%	-0.34%
Contract Labor	\$ 285,000	2.04%	Actual Change	4.02%	0.08%
Fuel	\$ 653,500	4.67%	PPI #@ Diesel	-31.09%	-1.45%
Other Operating Expense	\$ 2,430,000	17.37%	CPI U SF Oak SJ	2.86%	0.50%
Operating Profit	\$ 878,675	6.28%	CPI U SF Oak SJ	2.86%	0.18%
Depr & Amort	\$ 980,000	7.01%	CPI U SF Oak SJ	2.86%	0.20%
Disposal	\$ 4,074,650	29.13%	Pass-through	0.00%	0.00%
Agency Fees	\$ 8,300	0.06%	Pass-through	0.00%	0.00%
City Payments	\$ -	0.00%	Pass-through	0.00%	0.00%
Total	\$ 13,987,125	100.00%		Indexed Adjustment Factor	0.77%

Pass-Through and Extraordinary Gate Rate Adjustment Factors and Adjusted Gate Rates										
	Current Gate Rates	\$ Index Adjustment ⁽¹⁾	Index Adjusted Gate Rate	Disposal Pass- Through	Agency Fee Pass-Through	City Fee Pass- Through Componet	City Tonnage Pass- Through	Pass-Through Adjusted Gate Rates	Extraordinary Adjustments	Adjusted Gate Rates
Mixed Municipal Waste	\$ 115.65	\$ 0.89	\$ 116.54	\$ 1.23	\$ 0.00	\$0.00	\$ 0.53	\$ 118.31	\$0.00	\$118.31
Green Waste	\$ 67.00	\$ 0.52	\$ 67.52		\$ 0.00	\$0.00		\$ 67.52	\$0.00	\$67.52
Wood	\$ 67.00	\$ 0.52	\$ 67.52		\$ 0.00	\$0.00		\$ 67.52	\$0.00	\$67.52
Food Waste	\$ 115.65	\$ 0.89	\$ 116.54		\$ 0.00	\$0.00		\$ 116.55	\$0.00	\$116.55
Construction & Debris	\$ 115.65	\$ 0.89	\$ 116.54		\$ 0.00	\$0.00		\$ 116.55	\$0.00	\$116.55

Notes
(1) - The \$ Index Adjustment is calculated by multiplying each "Current Gate Rate" by the "Indexed Adjustment Factor"

EXHIBIT 3 SAMPLE CALCULATION OF FACILITY AND CCPR DIVERSION STANDARDS

Table 1 - Calculation of Compliance with Facility Diversion Standard (Section 4.6.1)			
A- Contract Year Covered Material, except for Mixed Municipal Waste Delivered to the Facility Reported per Article 12. (Tons)	27,144		
B - Organic Material Shrinkage (Tons)	(8,470)		
C - Contract Year Adjusted Covered Material, except for Mixed Municipal Waste Delivered to the Facility (Tons)	18,674		
D - Tons Diverted Reported per Article 12	15,686		
E - Prior Year Facility Diversion Standard (82% in Contract Year 2017 and annually thereafter no less than 2 percentage points lower than the actual Facility Diversion Standard from the prior Contract Year (Section 4.6.1.)	82.0%		
Compliance = D Divided by C (Must be no less than 2 percentage points lower than E.	84.0%		
Table 2 CCPR Diversion Standard			
CCPR Characterization Sample Studies		Bi-Annual Processing Diversion Studies	
Contract Year Study No. 1		Contract Year Study No. 1	
Sample Total (lbs.)	1,500	Sample Total (lbs.)	5,000
CCPR materials that are Recyclable Materials	1,100	CCPR materials diverted through Processing	3,300
Result	73.3%	Result	66.0%
Contract Year Study No. 2		Contract Year Study No. 2	
Sample Total (lbs.)	1,350	Sample Total (lbs.)	5,100
CCPR materials that are Recyclable Materials	1,000	CCPR materials diverted through Processing	3,500
Result	74.1%	Result	68.6%
Average of Annual CCPR Sample Studies		Average of Annual Processing Diversion Studies	
Section 4.6.2.1 Percentage of CCPR materials that are Recyclable Materials	73.7%	Section 4.6.2.2 Percentage of CCPR materials that are Diverted through Processing	67.3%
Section 4.6.2.3 Calculation of Compliance with CCPR Diversion Standard			
A- Contract Year City Curbside Program Recyclables Delivered to the Facility (Tons)	6,130		
B - Available Recyclable Material Based on CCPR Sample Studies (Tons)(6,130 x 73.7%)	4,517		
C - Diverted Recyclable Material Based on Processing Diversion Studies (Tons) (6,130 x 67.3%)	4,127		
Compliance = C Divided by B (Must be at least 88%) (Section 4.6.2.3)	91.4%		

EXHIBIT 4 APPROVED SUBCONTRACTORS AND AFFILIATES

No Subcontractors have been approved by the City for the Contract Year Ended December 31, 2017.

Name of Company/Firm	Address	Area of Responsibility

EXHIBIT 5 LIQUIDATED DAMAGES

Performance Area No. 1: Operations	
1.	<u>Facility Diversion Activities.</u> Failure to conduct the Approved Processing Facilities Diversion program studies specified in this Agreement: \$100.00 per incident per day
2.	<u>Discourteous Behavior.</u> For each occurrence of discourteous behavior by a Contractor or Subcontractor employee reported by a user of the Facility with sufficient detail to reasonably describe the incident: \$150.00 per incident
3.	<u>Unauthorized Hours.</u> For each occurrence of Contractor’s failure to operate the Approved Trans-Load Facility during receiving hours specified in this Agreement: \$250.00 per hour(assess in 15-minute increments)
4.	<u>Vehicle Non-compliance.</u> Failure to have a vehicle properly licensed, registered and inspected: \$500.00 per Day per incident
5.	<u>Invalid Driver License.</u> Failure to have a vehicle driver properly licensed: \$500 per incident or \$100 per Day, whichever is greater
6.	<u>Mixing of Material Types.</u> For each Load of Recyclable Materials that is Transported by Contractor in a vehicle with a different material type resulting in a mixing of one or more material types (e.g. mixing Recyclable Materials with Solid Waste or Organic Materials): \$500.00 per Load
7.	<u>Unauthorized Facilities.</u> For each individual occurrence of delivering Recyclable Materials to a Facility other than the Approved Recyclable Materials Processing Facility or delivering Residue to a Facility other than the Designated Disposal Facility: \$500.00 per Ton
8.	<u>Unauthorized Disposal.</u> For each individual occurrence of Disposal rather than Processing and Marketing of Recyclable Materials: \$500.00 per Ton
Performance Area No. 2: Reporting and Other Requirements	
1.	<u>Late Reporting.</u> For each Day after a due date as specified in this Agreement, that any monthly report or other report other than an annual report is submitted: \$100.00
2.	<u>Late Annual Reporting.</u> For each Day after a due date as specified in this Agreement, that any annual report is submitted: \$500.00
3.	<u>Incomplete Records.</u> For each occurrence of CITY requesting information required to be maintained by Contractor where Contractor fails to provide such information: \$500.00 per event

4. Incomplete or Inaccurate Information. For each occurrence of Contractor providing misleading or otherwise inaccurate information or reporting to CITY under or in regard to this Agreement. (Typographical, cell reference, mathematical, and/or logic errors shall not be considered legitimate excuses from this requirement, nor shall ignorance.): \$500.00 per event

By placing designee's initials at the places provided, each Party specifically confirms the accuracy of the statements made above and the fact that each Party has had ample opportunity to consult with legal counsel and obtain an explanation of Liquidated Damage provisions of the time that the Agreement was made.

City

Contractor

Initial Here: _____

Initial Here: _____

**EXHIBIT 6
PER ITEM RATE MATERIALS**

Appliances

Large and Small including Refrigerators, Freezers and Air Conditioners

E-Waste

CRTs, TVs, Monitors - no charge (limit 5 per day)
DVD, VCR, Computers, Printers, Fluorescent Light Bulbs

Tires

Auto, Motorcycle, Truck and Tractor

Sharps

Syringes, Needles, and Lancets accepted in Biohazard Sharps Containers at the Office Only

Other Miscellaneous Items

Batteries, Used Oil Filers
Oil & Coolant - no charge (limit 5 gallons per day)
Mattresses

RESOLUTION _____

APPROVING A SERVICE AGREEMENT BETWEEN THE CITY OF TRACY AND TRACY MATERIAL RECOVERY AND SOLID WASTE TRANSFER INC., AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT, AND AUTHORIZING THE CITY MANAGER TO EXECUTE MINOR AMENDMENTS FOR THE SAKE OF ADMINISTRATIVE EFFICIENCY

WHEREAS, The City and Tracy Material Recovery and Solid Waste Transfer Inc. (TMRF) entered into a Service Agreement for the Material Recovery Facility (MRF), dated August 1, 1994 which was approved by the City Council on July 5, 1994 under Resolution No. 94-212, and

WHEREAS, On August 1, 1999, the First Amendment to the Service Agreement was executed to refinance the costs to acquire and construct the Tracy MRF, and

WHEREAS, On April 21, 2015 (Resolution No. 2015-060) and December 15, 2015 (Resolution No. 2015-209) respectively, the Second and Third Amendments to the Service Agreement extended the Agreement through December 31, 2016, and

WHEREAS, The City and TMRF have completed negotiations and have agreed to the terms of a new Service Agreement to begin on January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED, The City Council does hereby approves a Service Agreement between the City of Tracy and TMRF, authorizes the Mayor to execute the Agreement, and authorizes the City Manager to make minor amendments for the sake of administrative efficiency.

* * * * *

The foregoing Resolution _____ was adopted by the Tracy City Council on the 20th day of December 2016, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

RESOLUTION _____

APPROVING AMENDMENT NO. FOUR TO THE SERVICE AGREEMENT BETWEEN THE CITY OF TRACY AND TRACY MATERIAL RECOVERY AND SOLID WASTE TRANSFER, INC., AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT, AND APPROVING THE BUDGET FOR THE OPERATION OF THE TRACY MATERIAL RECOVERY FACILITY AND SOLID WASTE TRANSFER STATION FOR THE PERIOD OF JANUARY 1, 2017 THROUGH MARCH 31, 2017

WHEREAS, The City and Tracy Material Recovery and Solid Waste Transfer, Inc. (TMRF) entered into a Service Agreement for the material recovery facility (MRF), dated August 1, 1994 which was approved by the City Council on July 5, 1994 under Resolution No. 94-212, and

WHEREAS, On August 1, 1999, the First Amendment to the Service Agreement was executed to recognize the refinancing of the costs of acquiring and constructing the Tracy MRF, and

WHEREAS, On April 21, 2015, the Second Agreement to the Service Agreement, which expired on May 1, 2015, was executed under Resolution No. 2015-060, extending the Agreement through December 31, 2015, to permit uninterrupted service during negotiations for a new Agreement, and

WHEREAS, On December 15, 2015, the Third Agreement to the Service Agreement, executed under Resolution No. 2015-209, extended the Agreement through December 31, 2016 to continue uninterrupted service during negotiations for a new Agreement, and

WHEREAS, The City Council requires additional time to review the new Agreement presented to them on December 20, 2016 and has therefore requested an extension of the current Agreement through March 31, 2017.

NOW, THEREFORE, BE IT RESOLVED, That the City Council does hereby approve Amendment No. 4 to the Service Agreement between the City of Tracy and Tracy Material Recovery And Solid Waste Transfer, Inc. to extend the Agreement by three months, authorizes the Mayor to execute the Amendment, and approves the operations budget for the material recovery facility and solid waste transfer station.

* * * * *

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 20th day of December 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

MAYOR

CITY CLERK

AGENDA ITEM 7

REQUEST

CONSIDER AND ADOPT A RESOLUTION ADOPTING THE MAYOR'S 5-POINT PLAN AND INTEGRATING THE PLAN INTO THE COUNCIL'S STRATEGIC PRIORITIES

EXECUTIVE SUMMARY

On December 6, 2016, Mayor Rickman outlined his 5-Point Plan for the City over the next 100 days. The Plan highlights: (1) Economic Development activities (2) Enhancing the City's image (3) Investing in the community and amenities (4) Enhancing great things Tracy has that other communities do not and (5) Working with Public Safety to enhance community safety. This item presents the 5-Point Plan as discussed by the Mayor for adoption into the City Council's Strategic Priorities, Goals and Objectives.

DISCUSSION

Mayor Rickman was seated as the City's Mayor on December 6, 2016. The Mayor developed a policy plan to implement effective immediately to address key strategic areas during the first 100 days of his term as Mayor. The Plan is attached and includes:

- Creating an Economic Development plan to bring head-of-household jobs to Tracy, retail, and create an atmosphere where small businesses can continue to thrive
- Enhancing our City image
- Investing in our community and building community amenities
- Enhancing the great things Tracy has and does that other communities don't have or have stopped doing
- Working with Public Safety to enhance our community safety

The City Council has Strategic Priorities, Goals and Objectives that serve as the blueprint for the City. Those priorities include: Economic Development, Public Safety, Quality of Life and Governance. The Mayor's 5-Point Plan will be integrated into the Strategic Priorities of the City and work will commence immediately on implementation of the points outlined by the Mayor.

FISCAL IMPACT

There is no fiscal impact associated with this item.

STRATEGIC PLAN

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

RECOMMENDATION

That the City Council adopt a resolution adopting the Mayor's 5-Point Plan and integrating the Plan into the Council's Strategic Priorities.

Prepared by: Troy Brown, City Manager

Reviewed by: Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

Attachment A: Mayor Rickman's 5-Point Plan

RESOLUTION 2016 -

ADOPTING THE MAYOR'S 5-POINT PLAN AND INTEGRATING THE PLAN INTO THE COUNCIL'S STRATEGIC PRIORITIES

WHEREAS, Mayor Rickman was elected Mayor of the City of Tracy during the General Election held on November 8, 2016 , and

WHEREAS, The Mayor developed a 5-Point Plan to address strategic areas of significance in moving the City forward over the coming months, particularly making substantial progress over the next 100 days, and

WHEREAS, The City Council has Strategic Priorities that include goals and objectives that it sets on an annual basis as a means for allocating resources and organizing work in the City, and

WHEREAS, The City Council wishes to add the Mayor's 5-Point Plan and its contents to the Council's Strategic Priorities, immediately to begin organizing work in the organization toward an expedient implementation of the Plan.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Tracy that it hereby adopts the attached 5-Point Plan and integrates the Plan into its Strategic Priorities.

* * * * *

The foregoing Resolution _____, was passed and adopted by the City Council of the City of Tracy on the 20th day of December, 2016, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

1. Create an Economic Development plan to bring head of household jobs to Tracy, retail, and create an atmosphere where small businesses can continue to thrive. This includes:

- Work on outreach and exposure programs
- Have an infrastructure plan so Tracy can be ready
- Devise a plan to attract start-up and incubator companies
- Create incentive plans
- Make our entitlement process less complicated, more efficient. In short, getting back to basic customer service
- Revisit the way our fire and building inspectors are structured

We must have a long term vision, be proactive, and aggressively seek out head of household jobs and get residents working here instead of over the hill. We also must continue to diversify our economy with commercial, industrial, high tech, and various other types of businesses.

2. Enhance our City Image:

- This includes areas such as view corridors related to the type of uses allowed and design standards,
- Maintenance of City landscape
- Aesthetics of the community
- City signage/banners
- Branding

The statement we make to our residents and our businesses about our reputation and the quality of life we want for Tracy is manifested in what you see on the ground, especially when you see it every time you drive through town.

3. **Invest in our community and build community amenities** such as an aquatic center, continue to expand the Legacy Fields sports park with new ball fields for soccer, football, baseball, lacrosse, and others, as well as other needed amenities over the next two years. Working with stakeholders, staff, and our community We Can Make It Happen.

4. **Enhance the great things Tracy has and does that other communities don't have or have stopped doing.** Keep our downtown parades going strong, protect and keep the Water Towers with the original historical colors and names. Create business partners to keep our July 4th festivities and fireworks going strong. These are traditional values that make Tracy a better place to live.

5. **Work with Public Safety to enhance our community safety.** We will work with City Hall to create a more accountable, accessible, responsive, and inclusive government. Most importantly, we will continue to fight to make sure we have local control over our resources and that our Fire Department will be dispatched to medical emergencies.

AGENDA ITEM 8

REQUEST

INTRODUCE ORDINANCE AMENDING SECTION 4.16.180(S) OF THE TRACY MUNICIPAL CODE TO MAKE THE UNAUTHORIZED CONSUMPTION OF ALCOHOL IN A CITY PARK A MISDEMEANOR

EXECUTIVE SUMMARY

Consider introducing and waiving first reading of an Ordinance amending Section 4.16.180(s) of the Tracy Municipal Code to make the unauthorized consumption of alcohol in the park subject to misdemeanor prosecution. The possession of an “open-container” of alcohol will be subject to an infraction in accordance with state law.

DISCUSSION

The City Council introduced an ordinance at the November 15, 2016 Council meeting that would amend Section 4.16.180(s) of the Tracy Municipal Code to make a violation for possessing or consuming alcohol in the park subject to misdemeanor prosecution. Following the presentation of the ordinance to Council, further research was conducted and staff confirmed that state law preempts the City’s ability to prosecute mere possession of alcohol as a misdemeanor.

The California Constitution establishes the State as having “the exclusive right and power to license and regulate the manufacture, sale, purchase, possession and transportation of alcoholic beverages within [California].” (Cal. Const. Art. XX, § 22.) Because the State occupies the field of regulating the manufacturing, sale, purchase, possession and transportation of alcoholic beverages in California, the City is preempted from enacting any regulation that contradicts state law. Business and Professions Code Section 25620 specifically allows a City to make, by ordinance, the possession of “...any can, bottle, or other receptacle containing any alcoholic beverage that has been opened, or a seal broken, or the contents of which have been partially removed,…” in a publicly owned park an infraction. The City is therefore prohibited from charging the possession of an open container of alcohol in park as a misdemeanor.

Local jurisdictions may, however, regulate the “consumption” of alcohol because Article XX, Section 22 of the State Constitution does not refer to consumption. Currently, Tracy Municipal Code (TMC) section 4.16.180(s) prohibits persons from possessing or consuming alcohol in any City park without first obtaining permission from the City Council or obtaining a permit through the Parks and Recreation Department. City parks

have signs posted informing the public that the consumption or possession of alcohol without a permit is prohibited. The new proposed ordinance, Attachment B, clarifies that the possession of an open container of alcohol in a City park is subject to an infraction and that the unauthorized consumption of alcohol in a park is subject to misdemeanor prosecution.

STRATEGIC PLAN

This agenda item is intended to maintain and enhance the City's parks for the continued enjoyment and improved quality of life for the entire community. It is in alignment with the *Tracy City Council's Strategic Priorities – Public Safety, Goal 2: Promote public health, safety and community welfare throughout the community.*

FISCAL IMPACT

There would be no new fiscal impact to the City of Tracy. This item falls within standard operating procedures for the budgets of the City Attorney's Office and Police Department.

RECOMMENDATION

That Council introduce and waive the first reading of an ordinance amending TMC section 4.16180(s) to make the unauthorized consumption of alcohol in the park subject to misdemeanor prosecution.

Prepared by: Leticia Ramirez, Deputy City Attorney II

Reviewed by: Bill Sartor, City Attorney

Approved by: Troy Brown, City Manager

ATTACHMENTS

ATTACHMENT: A – Recommended Changes to Ordinance

ATTACHMENT: B – Proposed Ordinance

[Recommended Changes to Tracy Municipal Code Section 4.16.180\(s\)](#)

Formatted: Right

4.16.180 - Unlawful acts in park.

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

- (a) Play or engage in any game or contest in any park except in such places suited, specially provided or designated for that purpose;
- (b) Play upon any tennis courts wearing shoes other than those having vulcanized soles and heels, commonly known as tennis shoes. In-line skating, skateboards, or other wheeled items and dogs are prohibited on tennis courts, basketball courts or similar multi-use courts;
- (c) Use any tennis courts for tennis tournaments, team practices or other special events of any kind without the prior written permission of the Director;
- (d) Cut, break, injure, deface or disturb any plant, rock, building, cage, pen, monument, fence, bench or other structure, apparatus or property; or pluck, pull up, cut, take or remove any shrub, bush, plant or flower; or make or write upon any building, monument, fence, bench or other structure;
- (e) Cut or remove any wood, turf, grass, soil, rock, sand or gravel, or any found object, whether above or below the ground;
- (f) Lead or let loose any farm animals of any kind. Dogs are permitted subject to regulations and section 5.08.130 of this Code. Owners are responsible for picking up after their animals while on/in parks, parkways, trails or other public areas;
- (g) Post, place or erect any bills, notice, paper or advertising device of any kind on park equipment;
- (h) Tear down, deface or destroy any sign posted pursuant to this chapter;
- (i) Willfully tamper with or damage any water or gas pipes, hydrant, stopcock, sewer, basin or other construction in any park;
- (j) Carry any firearms, air gun, slingshot or archery equipment;
- (k) Make or kindle any fire except in picnic stoves provided for that purpose, or camp, except in places designated as such by official action of the City;
- (l) Ride or drive any horse or other animal or any motorized vehicle, cycle, go cart or scooter elsewhere than on the roads or drives provided for such purpose, or drive a motor vehicle in an erratic or hazardous manner on any park roads, paths or parking areas;
- (m) Enter, remain or stay in the swimming pools in the public parks or the enclosures surrounding the pools at any time when the pools are not open to the public with a lifeguard on duty;
- (n) Play or engage in model aircraft flying or boats, driving of golf balls, archery, hardball or any similar games of a hazardous nature except at such places as are especially set apart for such purposes;
- (o) Throw or place on or in any park any paper, rubbish, garbage or refuse matter of any kind, unless in or adjacent to a receptacle designed for the purpose; but no person shall deposit household rubbish and garbage in any City park, rubbish receptacles or in garbage receptacles;
- (p) Urinate or defecate in a park or recreation facility except in proper fixtures in a restroom facility designed for the purpose;
- (q) To sell refreshments, food stuffs or novelties in any park or on any street immediately adjacent thereto without the prior written permission of the Director or the City Council;
- (r) Use or possess any glass beverage container within the boundaries of any park;
- (s) Alcoholic beverages are prohibited in mini and neighborhood parks adjacent to joint use areas of elementary schools. ~~It shall be unlawful and a misdemeanor to consume any alcoholic beverage, or to possess any can, bottle or other receptacle containing any alcoholic beverage as defined by the Alcoholic~~

Beverage Control Act of the State of California, in any park without first obtaining the permission of the City Council or a permit from the Parks and Recreation Department ~~is prohibited~~. It shall be unlawful to possess any can, bottle or other receptacle containing any alcoholic beverage as defined by the Alcoholic Beverage Control Act of the State of California that has been opened, or a seal broken or the contents of which have been partially removed in any park without first obtaining the permission of the City Council or a permit from the Parks and Recreation Department. Signs will be posted and shall read "ALCOHOL CONSUMPTION OR POSSESSION PROHIBITED IN CITY PARK WITHOUT A PERMIT BY T.M.C. 4-4.16.180(s)";

- (t) No person shall go upon any surface in a park with any skateboard, roller skate, rollerblade, in-line skate, coaster, or any similar device, when appropriate signs giving reasonable notice thereof are posted at the park;
- (u) A person shall be permitted to use a skateboard in a park only if: (1) the City Council has adopted a resolution which identifies the park at which skateboarding is permitted; and (2) signs are posted at the park affording reasonable notice that: (i) any person riding a skateboard in the park is undertaking a "hazardous recreational activity" pursuant to California Health and Safety Code section 115800; and (ii) the person must wear a helmet, elbow pads, and knee pads; and (iii) that any person failing to do so will be subject to citation pursuant to this section.

(Ord. 1074 § 2, 2005; Ord. 990 § 1, 1999; prior code § 4-4.18)

ATTACHMENT B

ORDINANCE _____

AN ORDINANCE OF THE CITY OF TRACY AMENDING SECTION 4.16.180(s) OF CHAPTER 4.16 OF TITLE 4 OF THE TRACY MUNICIPAL CODE MAKING THE UNAUTHORIZED CONSUMPTION OF ALCOHOL IN A CITY PARK A MISDEMEANOR AND THE UNAUTHORIZED POSSESSION OF AN OPEN CONTAINER OF ALCOHOL IN A CITY PARK AN INFRACTION

WHEREAS, Tracy Police have reported an increase of violations of individuals bringing in and drinking alcohol in Tracy parks despite properly posted signage prohibiting this violation; and

WHEREAS, Members of the public are complaining about individuals consuming alcohol and becoming intoxicated in the park when families are there trying to use the park for their enjoyment; and

WHEREAS, Issuing citations for infractions for the consumption of alcohol in parks is not serving as a deterrent to repeat offenders,

WHEREAS, Prosecuting these violations as misdemeanors will send a strong message to curtail such activity and will also facilitate getting help for individuals who may need it through the Tracy Police Restorative Policing Program.

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

SECTION 1: Subsection (s) of Section 4.16.180 of Chapter 4.16 of Title 4 of the Tracy Municipal Code is hereby amended to read as follows:

“Alcoholic beverages are prohibited in mini and neighborhood parks adjacent to joint use areas of elementary schools. It shall be unlawful and a misdemeanor to consume any alcoholic beverage, in any park without first obtaining the permission of the City Council or a permit from the Parks and Recreation Department. It shall be unlawful to possess any can, bottle or other receptacle containing any alcoholic beverage as defined by the Alcoholic Beverage Control Act of the State of California that has been opened, or a seal broken or the contents of which have been partially removed in any park without first obtaining the permission of the City Council or a permit from the Parks and Recreation Department. Signs will be posted and shall read "ALCOHOL CONSUMPTION OR POSSESSION PROHIBITED IN CITY PARK WITHOUT A PERMIT BY T.M.C. 4.16.180(s)";

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

SECTION 3. This Ordinance shall be published once in a newspaper of general circulation, within fifteen days from and after its final passage and adoption.

The foregoing ordinance was introduced at a regular meeting of the Tracy City Council held on the _____ day of _____, 2016, and was finally adopted by the Council at the regular meeting held on the _____ day of _____, 2016, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

AGENDA ITEM 9

REQUEST

**UPDATE ON THE STATUS OF THE SOUTH COUNTY FIRE AUTHORITY'S
REQUEST TO BE DISPATCHED TO ALL MEDICAL EMERGENCIES**

EXECUTIVE SUMMARY

The City Council recently received a letter from the San Joaquin County EMS Agency (Attachment A) in response to the letter the City Council sent to the San Joaquin County Board of Supervisors (Attachment B) concerning the EMS Agency's prohibition from allowing the Fire Department from responding to all medical emergencies within the South County Fire Authority's jurisdiction. Staff disagrees with many of the assertions made in the letter, but would like to move forward constructively and seeks direction from Council.

DISCUSSION

Staff has concerns that the recent letter received from the EMS Agency contains many misleading statements and would like to highlight these to clear up any misconceptions, keeping in mind that staff has been, and will continue to be, committed to trying to work with the County in providing the best possible medical services to the people of Tracy. Our concern remains with the fact that County policies prevent the City of Tracy from responding to medical emergencies within the City of Tracy, which has caused, and which will continue to cause substandard emergency care within the City.

Some of the contentions in the letter staff would like to clarify include the following:

- The Director states that the change in EMS Policy 3202 (that further restricted the Tracy Fire Department's response to medical emergencies) was unrelated to the Easter Day incident in which a critically ill person was forced to wait 19 minutes for a County-dispatched ambulance and died, while local personnel were prohibited from responding more quickly. In fact, staff requested a change in policy after this incident and the EMS Agency said that they would consider changing the policy. The initial draft, however included language that allowed for a Fire Department response only when ambulances had a response time greater than *19 minutes*. The 19 minute rule was clearly based on the time it took the ambulance to respond to the Easter Day incident, demonstrating the direct nexus between the new policy and the Easter Day incident.
- The EMS Agency letter also implies that their intention was to always have a collaborative approach and to work directly with stakeholders. This approach was only considered by the EMS Agency, however, after the county fire agencies expressed extreme concerns about the unilateral change in policy that did not include the stakeholders. According to the EMS Agency Director, the draft policy was actually partially implemented while still in draft form and prior to the end of the comment period. When the initial request was made to allow the Fire

Department to respond to all medical emergencies, the EMS Director stated in a meeting, "No, I have already won that lawsuit." Staff is very concerned that this issue has now become a "win or lose" matter, rather than a vital issue of community concern, where we all must be unified to provide the best possible services to the Tracy public.

- The EMS Agency expressed concerns that the EMS Agency Director was discouraged from attending the Tracy City Council EMS workshop. In fact, after discussion with the Director regarding our desire to keep the workshop productive and constructive, and due to a fear that his presence could spark a confrontational response from our residents or others, staff did suggest the EMS Agency send another staff member to represent their interests and participate in the discussion if desired. There was actually an EMS Agency staff member in attendance at the workshop, but she chose not to identify herself or speak on behalf of the EMS Agency.
- It was also asserted that City staff held the workshop to undermine the EMS citizenry's faith in the EMS System. This is not true. The City Council requested the workshop and staff provided a comprehensive overview of the identified deficiencies in the current EMS system. Staff took those identified deficiencies to the EMS Agency prior to bringing them to the workshop with an expectation they would be addressed.
- The EMS Director further asserts that the City of Tracy's request to respond to all medical emergencies within the City of Tracy's jurisdiction is fundamentally different than engaging in meaningful negotiations. To clarify, Staff has requested several meetings and has met with the EMS Agency and County Administration on several occasions. There have been numerous emails and phone calls and these communications have fallen on deaf ears. Staff does not believe that the City of Tracy should have to "negotiate" to respond to emergencies. No other fire departments in the State are required to "negotiate" to respond to emergencies within their jurisdiction.
- To prevent the Tracy Fire Department from responding to all medical emergencies, the EMS Agency continues to assert that this request may have negative impacts on dispatch centers, computer aided dispatch systems and other technologies. The EMS Agency is very much aware that these systems are already in place and are used to dispatch over 100 medical emergencies on a daily basis and adding four or five additional emergencies will have no impact on these systems. This change could be made within hours by simply changing dispatch protocols within the computer aided dispatch system. This would actually bring us into line with what neighboring counties are actually doing.
- The EMS Agency also asserts that allowing the Tracy Fire Department to respond to all medical emergencies could have a negative impact on hospitals, the private ambulance company, and the overall EMS System. Although these assertions have been made, the EMS Agency has been unable to identify or articulate these system impacts. Staff asserts that these impacts cannot be explained because they simply do not exist.

Staff believes that while changing the system to allow Tracy to respond to its own medical emergencies may impact the private ambulance company serving the County, and may negatively shine a light on the current performance of the current EMS System in terms of dispatch performance and ambulance availability, it is more important to work together to solve problems together rather than continuing to shield them. Our residents of Tracy's safety should always be our primary concern.

STRATEGIC PLAN

This item is in accordance with Goal 1 of City Council's Public Safety Strategy:

Goal 1: Partner with and engage the community to address public safety concerns.

FISCAL IMPACT

No fiscal impact.

RECOMMENDATION

Request City Council provide feedback and direction to staff.

Prepared by: Randall Bradley, Fire Chief

Reviewed by: Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

Attachments: A - San Joaquin County EMS Agency Letter Dated December 5, 2016
B - Tracy City Council Letter Dated October 4, 2016



A DIVISION OF
HEALTH CARE SERVICES
AGENCY

San Joaquin County Emergency Medical Services Agency

CC: Brown
Warter
Garrabrant-Sierra
Bradley



<http://www.sjgov.org/ems>

Mailing Address
PO Box 220
French Camp, CA 95231

Health Care Services Complex
Benton Hall
500 W. Hospital Rd.
French Camp, CA 95231

Phone Number
(209) 468-6818

Fax Number
(209) 468-6725

December 5, 2016

Mayor and Council Members
City of Tracy
333 Civic Center Plaza
Tracy, California 95376



RE: City of Tracy's October 4, 2016, Letter to the San Joaquin County Board of Supervisors Regarding Emergency Medical Dispatch

Dear Mayor and Council Members,

The Board of Supervisors have asked that the San Joaquin County Emergency Medical Services Agency (SJCEMSA), a Division of Health Care Services (HCS), respond to your October 4, 2016, letter regarding emergency medical dispatch in San Joaquin County.

As you know, on July 20, 2016, SJCEMSA re-posted a draft revision of EMS Policy No. 3202 Medical Priority Dispatch System Response and Mode Assignments for Cards 1-34 for public comment. EMS Policy No. 3202 was first adopted in 2006, and was most recently revised in 2014. The 2016 draft revisions were intended to address the recent release of National Academy of Emergency Medical Dispatch (NAED) Medical Priority Dispatch System (MPDS) version 13.¹ The release of NAED MPDS version 13 affected the call processing, including interrogation, determinants and medical instructions utilized by the Valley Regional Emergency Communication Center (VRECC) and, therefore, had to be addressed by EMS Policy No. 3202. As an accredited NAED Center of Excellence VRECC is required to implement NAED MPDS version 13. The City of Tracy's assertions that SJCEMSA issued draft EMS Policy No. 3202, to further restrict Tracy Fire Department in response to the discussions held between representatives of the City and County regarding the events of Easter Morning 2016 are inaccurate. The timing of the issuance of the draft policy and its proposed changes were unrelated.²

¹ In May 2006, San Joaquin County adopted the NAED MPDS as its standard for emergency medical dispatch (EMD) consistent with the standards established by the State of California EMS Authority EMSA #132 Emergency Medical Dispatch Standards & Guidelines and the ASTM F1258-95 Standard Practice for Emergency Medical Dispatch.

² The events of the 2016 Easter Morning call referenced in the City of Tracy's October 4, 2016, letter were addressed by the SJCEMSA and involved medical providers within the SJCEMSA Continuous Quality Improvement (CQI) program. As with all occurrences reported to the SJCEMSA, the issues presented in the report were addressed by participants of the CQI program.

On August 29, 2016, the final day of the public comment period, the City of Tracy sent a 43-page letter commenting on the draft policy and requesting a 90-day continuance. On August 30, 2016, SJCEMSA Administrator met with representatives of the San Joaquin County Regional Fire Dispatch Authority (SCRFDA), the Joint Radio Users Group (JRUG) and VRECC to explore the concerns expressed by some cities and fire districts with the proposed revisions to EMS Policy No. 3202. As a result of that meeting the representatives of the SCRFDA, JRUG, VRECC and SJCEMSA had a clearer understanding of the concerns of the fire service, including those expressed by the City of Tracy, in regards to EMS Policy No. 3202. Accordingly, SJCEMSA agreed to revise the publicized draft of EMS Policy No. 3202 and to meet with stakeholders, including the City of Tracy, to review and discuss the next version of the draft policy prior to its re-release for public comment. This collaborative approach of working directly with stakeholders satisfied the request of the City of Tracy and other stakeholders for a continuance of the public comment process that was completed on August 29, 2016. SJCEMSA chose to employ this collaborative process because it believes that such a process will facilitate the changes required to sustain San Joaquin County's high performing prehospital health care system.

Despite SJCEMSA's attempts to continue working on the collaborative process of revising EMS Policy No. 3202 to meet the needs of the diverse stakeholders in the prehospital healthcare system, the process of further revising EMS Policy No. 3202 was delayed by the immediate need for SJCEMSA to focus on ensuring the integrity and continued provisions of trauma services to the citizens and visitors of San Joaquin County.

On September 22, 2016, the Director of Health Care Services (HCS) arranged for a meeting with Supervisor Elliott and representatives from the City of Tracy and San Joaquin County. During the meeting the SJCEMSA Administrator and Director of Health Care Services continued to provide collaborative solutions and explore options of further revising EMS Policy No. 3202 to meet the City of Tracy's needs, while balancing the effects of such changes on the overall prehospital health care system. Also during the meeting, the City of Tracy informed Supervisor Elliott and other attendees that the City of Tracy was holding a City Council workshop the following day addressing emergency medical dispatch. The SJCEMSA Administrator offered to attend that workshop to provide information or answer citizens' and council members' questions. However, City representatives told the SJCEMSA Administrator in no uncertain terms not to attend the City Council workshop. Accordingly, that workshop proceeded with no input from SJCEMSA. The workshop neither discussed, nor considered, any negative impacts the City of Tracy's requests may have on the overall prehospital healthcare system or any technological limitations or impediments of the City's requests. In reviewing the recordings of the workshop it appears that the workshop was intended to undermine citizenry's faith in the overall emergency medical services system, a system on which they depend.

On October 4, 2016, the City of Tracy sent the letter at issue to the BOS. In that letter the City of Tracy did not detail SJCEMSA's good faith efforts at revising EMS Policy No. 3202 to meet the diverse needs of stakeholders with the prehospital healthcare system. Instead the City's letter shifted to a request that the City of Tracy be exempted from EMS Policy No. 3202 and

instead be "allowed to respond to all medical emergencies within the City of Tracy's jurisdiction."

The request in the October 4, 2016, letter to the Board of Supervisors is fundamentally different than engaging in a meaningful negotiation and development of a version of EMS Policy No. 3202 and requires a different analysis by SJCEMSA and system stakeholders, including but not limited to the City of Tracy, VRECC, and the City of Stockton's dispatch center.

The City of Tracy's desire to be exempt from adherence to the medical control standards established by the SJCEMSA poses potential risks for patients, legal challenges, and technological issues that must be addressed before a decision can be made on its efficacy or practicality³. A few of the issues that would need to be explored in order to consider the City of Tracy's request to customize emergency medical dispatch specifically for the City of Tracy include but are not limited to: whether the computer assisted dispatch (CAD) interface between VRECC to the City of Stockton's dispatch center will facilitate such customization since the City of Tracy chose to move its fire dispatch services from VRECC to the City of Stockton effective May 1, 2016; whether the City of Stockton's fire dispatchers are willing and able to implement customize dispatch policies for the multiple fire services utilizing their center, and what if any negatives impacts such a change will have on other providers; and whether exempting the City of Tracy from EMS Policy No. 3202 will negatively impact patients or other providers within the prehospital healthcare system.

With the acknowledgement of these caveats, SJCEMSA is willing to explore the City of Tracy's request to deviate from the medical control standards established in EMS Policy No. 3202 and to potentially allow the Tracy Fire Department to respond to an alternate set of EMD determinants. However, such an exploration of the issues raised above will take time to complete. Accordingly, SJCEMSA proposes to move forward with the next public comment process for revisions to EMS Policy No. 3202, to address the necessary changes allowing implementation of NAED MPDS version 13. In parallel SJCEMSA proposes to meet with representatives of the City of Tracy, SCRFDA, the City of Stockton, and VRECC to explore the technological options and limitations with current technology employed at both VRECC and City of Stockton dispatch center. All parties need to first understand the technological and functional limitations for communication between VRECC and the SCRFDA in order to determine the possible alternative ways to potentially utilize those systems in implementing the City of Tracy's request for customization. Based on solid information, SJCEMSA, the City of Tracy, and other stakeholders can then discuss, design, and considering implementing a trial study to measure the effects of the requested customization on other stakeholders and

³ The Emergency Medical Services and Prehospital Care Act (California Health and Safety Code, Division 2.5) requires the local EMS agency to plan, implement and evaluate an EMS system consisting of an organized pattern of readiness and response services based on public and private agreement and operational procedures. In addition, the EMS Act specifies that the medical direction and management of the EMS system shall be under the medical control of the medical director of the local EMS agency. Further, the EMS Act specifies that the local EMS shall establish policies and procedures to assure medical control of the EMS system including dispatch.

the patients within the study area. Analysis of the data from the trial study will assist the EMS medical director in determining how best to proceed.

A primary goal of this letter is to articulate the reasons why a request, such as the one made by the City of Tracy, requires a measured and collaborative process in order to ensure that it is undertaken based on all available dispatch and response data, including but not limited to dispatch and response time data from VRECC, City of Stockton dispatch center, American Medical Response, and fire services.

Note, since the agreement authorizing the City of Tracy to provide advanced life support (ALS) services as an integrated component of the San Joaquin County's EMS system is set to be renewed in January 2017, it may be best to integrate the details of a trial study of customized emergency medical dispatch determinants into the terms of the new ALS provider agreement.

In this letter SJCEMSA has attempted to address the City of Tracy's concerns raised in the October 4, 2016, letter addressed to the San Joaquin county Board of Supervisors. However, more importantly, SJCEMSA has and will continue to address the City of Tracy's request for customized emergency medical dispatch within a collaborative process and in a way that identifies and addresses any negative impacts of such requests on patients and other participants within the prehospital healthcare system.

Should you wish to discuss the issues raised in this letter, or move forward with the meetings as proposed, please contact Dan Burch, SJCEMSA Administrator, by phone at 209-468-6818 or by email at dburch@sjgov.org.

Regards,



Dan Burch
EMS Administrator



Greg Diederich
Director Health Care Services, Director

cc: Members of the Board of Supervisors
Monica Nino, County Administrator
J. Mark Myles, County Counsel



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

October 4, 2016

Board of Supervisors
San Joaquin County
44 N. San Joaquin Street
Stockton, CA 95202


Honorable Supervisors:

On Easter morning in the City of Tracy, there was a significant delay of an ambulance response and the Tracy Fire Department paramedics being dispatched to a skilled nursing facility. Initially the 9-1-1 call came in the patient being "short of breath," which under the current policy (Policy 3202) does not require a response from paramedics in the South County Fire Authority. After nearly 10 minutes without a response from American Medical Response (AMR), a second 9-1-1 call was received stating the patient transitioned from being "short of breath" to "not breathing" which under the policy does provide for a response from fire paramedics to render medical services.

Following that incident, the Tracy City Manager and the Tracy Fire Chief met with the San Joaquin County Emergency Medical Services Agency (SJC EMS Agency) Administrator and the San Joaquin County Health Services Care Director. At the meeting, the Easter morning incident and concerns with the policy (Policy 3202) that prevented the Fire Department paramedics from initially responding to the incident were discussed. The County representatives committed to reviewing City staff's concerns. Within 45 days, a new draft Policy 3202 was issued that further restricted the Tracy Fire Department paramedics' ability to respond to medical emergencies. After two additional meetings with the County Administrator, SJC EMS Agency and the Health Services Care Director, County Staff continues to be adamant that the Tracy Fire Department will not be allowed to respond to all medical emergencies within the City of Tracy's jurisdiction.

The Tracy City Council, on behalf of the Tracy community, provides the Fire Department with the resources and the direction to provide first responder paramedic services to the community to increase service levels and to augment the county contract ambulance service by providing a quicker response and a second paramedic on emergencies. The SJC EMS Agency has stated that they do not recognize the increased service levels and that the City of Tracy resources are dispatched as if paramedics are not assigned to the fire engines. Paramedics on fire engines in the City of Tracy have been credited with saving numerous lives and the County's failure to recognize and utilize the fire based paramedic first responder services has shown to have a negative impact on public safety within the Tracy community. The City of Tracy believes the county protocols should be the floor and not the ceiling for determining service levels.

Since the Easter morning incident, there have been several additional medical emergencies that have occurred within the City of Tracy in which the Fire Department paramedics were not

Think Inside the Triangle™ 

October 4, 2016

Page 2 of 2

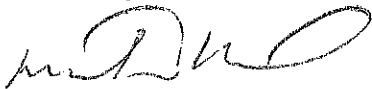
dispatched. The contract ambulance service within San Joaquin is overtaxed and is only able to meet their response time goals between 85 and 90 percent of the time. This is an unacceptable standard for Tracy, given we have highly skilled, certified Advanced Life Support personnel that can reach the scene of an emergency within 6 minutes, 90 percent of the time. The City of Tracy is also confident that the County EMS Agency is misapplying and even amending national dispatch protocols in a manner that has been detrimental to the Tracy community. The City of Tracy Fire Department paramedic services is the safety-net for long ambulance response times. The under-categorized dispatch determinants and the County's reluctance to allow the City to use the safety-net are unacceptable and will not be tolerated by this Council or the public.

Before there is another medical emergency that results in the Tracy Fire Department not being dispatched, we urge the Board of Supervisors to take immediate action to allow Tracy Fire Department paramedics to be dispatched to all medical emergencies within its jurisdiction. From a public policy perspective, we are asking to be able to provide services at a level our residents expect and pay for through their local tax dollars. Given we have been working at this with the County for more than 6 months, and with the likelihood of additional medical emergencies within that timeframe, the policy needs to be fixed immediately.

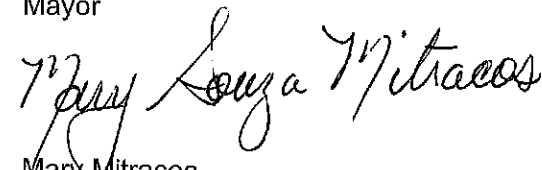
^{we} I have attached a staff report from the City Council's recent workshop that addressed this issue. The staff report goes into detail about the City's frustration with the policy development process, what appears to be the pre-determined outcome, and the weaknesses in the County EMS Agency's arguments concerning their reluctance to make the needed changes to the policy.

We look forward to hearing back from the Board within the near future. This is an extremely important issue that requires immediate attention.

Sincerely,



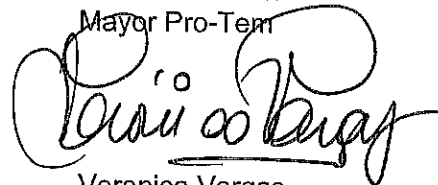
Michael Maciel
Mayor



Mary Mitracos
Council Member



Robert Rickman
Mayor Pro-Tem



Veronica Vargas
Council Member



Nancy Young
Council Member

Attachment

AGENDA ITEM 11.A

REQUEST

APPOINT AN APPLICANT TO THE PLANNING COMMISSION FROM THE COMMISSION'S ELIGIBILITY LIST

EXECUTIVE SUMMARY

There is a vacancy on the Planning Commission due to Commissioner Rhodesia Ransom being elected to serve on the City Council effective December 6, 2016. An eligibility list was created during the last Planning Commission recruitment. Council confirmation of the appointment from the eligibility list to the Planning Commission is requested.

DISCUSSION

There is a vacancy on the Planning Commission due to Commissioner Rhodesia Ransom being elected to serve on the City Council effective December 6, 2016. The last time appointments were made to the Planning Commission was March 15, 2015. At that time the subcommittee consisting of Mayor Maciel and Council Member Young nominated one applicant to fill a vacancy on the Planning Commission and recommended four applicants be placed on an eligibility list. Resolution 2004-152 (Attachment A), includes direction on the "Selections Process for Appointee Bodies," and also states if there are multiple qualified candidates, the subcommittee can recommend the Council establish an eligibility list that can be used to fill vacancies that might occur in the following 12 months. Council confirmed the subcommittee's nomination and the creation of an eligibility list.

At this time, Council can either appoint from the eligibility list to fill the vacancy on the Planning Commission to serve the remainder of a term commencing on December 7, 2016, and expiring on March 31, 2018, or direct staff to open a new recruitment. If a new recruitment is opened, Council would need to determine how to proceed with regard to the applicants on the eligibility list.

STRATEGIC PLAN

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

FISCAL IMPACT

None.

RECOMMENDATION

That Council approves the subcommittee's recommendation to appoint Jacy Krogh to the Planning Commission to serve the remainder of a term, which will commence on December 7, 2016, and expire on March 31, 2018.

Prepared by: Adrienne Richardson, Deputy City Clerk

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

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment A – Resolution 2004-152
Attachment B - Eligibility List

RESOLUTION 2004-152

REVISING RESOLUTION NO. 2004-089 ESTABLISHING THE COUNCIL SELECTION PROCESS, AND DEFINING RESIDENCY REQUIREMENTS, FOR APPOINTEE BODIES (GOVERNMENT CODE §54970 ET SEQ. LOCAL APPOINTEE OFFICERS)

WHEREAS, Council Policy D-5 was adopted by Resolution 2002-434 on October 15, 2002, which established a selection process for appointee bodies, and

WHEREAS, A variety of terms are used to define residency for the purposes of eligibility for appointment to various Appointee bodies and a method to verify residency has not been established, and

WHEREAS, Council wishes to define the terms and identify methods by which to verify residency and to incorporate those definitions into the selection process, and

WHEREAS, The definitions established herein shall apply to all boards and commissions to which the City Council appoints members unless the Bylaws of the board or commission specifically define otherwise, and

WHEREAS, Revisions to Resolution No. 2004-089 were considered and approved by the City Council on May 18, 2004 as set forth below.

NOW, THEREFORE, the Tracy City Council hereby resolves as follows:

A. SELECTION PROCESS FOR APPOINTEE BODIES:

1. On or before December 31st of each year, the clerk shall prepare an appointment list of all regular and ongoing boards, commissions and committees that are appointed by the City Council of the City of Tracy. The list shall contain the following information:
 - a. A list of all appointee terms which will expire during the next calendar year, with the name of the incumbent appointee, the date of the appointment, the date the term expires and the necessary qualifications for the position.
 - b. A list of all boards, commissions and committees whose members serve at the pleasure of the Council and the necessary qualifications of each position.
 - c. The list of appointments shall be made available to the public for a reasonable fee that shall not exceed actual cost of production. The Tracy Public Library shall receive a copy of the list.
2. Whenever a vacancy occurs in any board, commission or committee, whether due to expiration of an appointee's term, resignation, death, termination or other causes, a special notice shall be posted in the office of the City Clerk, The Tracy Public Library, the City website, and in other places as directed within twenty (20) days after the vacancy occurs. Final

appointment to the board, commission or committee shall not be made by the City Council for at least ten (10) working days after the posting of the notice in the Clerk's office. If Council finds an emergency exists, the Council may fill the unscheduled vacancy immediately.

3. Appointments shall be made for the remainder of the term created by the vacancy except as follows:
 - a. If appointee will fill an un-expired term with six months or less remaining, the appointment shall be deemed to be for the new term.
 - b. If the vacancy is filled by an emergency appointment the appointee shall serve only on an acting basis until the final appointment is made pursuant to section 3.
4. The council shall use the following selection process to provide an equal opportunity for appointment to a board, commission or committee:
 - a. Mayor (or designee) and a selected Council member will review applications, interview applicants and recommend a candidate for appointment to the board, commission or committee.
 - b. If the interview subcommittee determines there are multiple qualified candidates, the subcommittee can recommend the Council establish an eligibility list that can be used to fill vacancies that occur in the following twelve (12) months.
 - c. At the interview subcommittee's discretion, the chair (or designee) of the board, committee or commission for which a member will be appointed, can participate in the interviews.
5. In the event there are not two or more applicants than vacancies on any board, commission or committee, the filing deadline may be extended by staff.
6. An individual already serving on a City of Tracy board, committee or commission may not be appointed to serve on an additional City of Tracy board, committee, or commission concurrently.

B. DEFINITION OF RESIDENCY REQUIREMENTS:

1. The following definitions shall be used to determine whether residency requirements are met for boards and commissions to which the Tracy City Council appoints members:
 - a. Tracy Planning Area means the geographical area defined in the City of Tracy General Plan and any amendments thereto.
 - b. City of Tracy means within the city limits of the City of Tracy.

- c. Citizen means a resident of the City of Tracy.
 - d. Tracy School District means the geographical area served by the Tracy Unified School District.
 - e. Sphere of Influence shall be the geographical area approved by the Local Agency Formation Commission (LAFCo) of San Joaquin County and any amendments thereto.
2. Residency, as defined above and as set forth in the applicable bylaws for each board or commission, shall be verified annually by the City Clerk. The residency must be verifiable by any of the following means:
- a. Voter registration,
 - b. Current California Driver's License or Identification,
 - c. Utility bill information (phone, water, cable, etc.),
 - d. Federal or State tax returns.
3. Members of boards or commissions shall notify the City Clerk in writing within thirty (30) days of any change in residency. If the change in residency results in the board member or commissioner no longer meeting the residency requirements, the member shall tender their resignation to the City Clerk who shall forward it to the City Council.


The foregoing Resolution 2004-152 was passed and adopted by the Tracy City Council on the 18th day of May, 2004, by the following vote:

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



Mayor

ATTEST:



City Clerk

Planning Commission Eligibility List – February 29, 2016

On February 29, 2016, a Council Subcommittee interviewed 11 applicants to fill two term expirations on the Planning Commission. Although the applicants below were not appointed to the Planning Commission, they were placed on the Eligibility List for a one year period in the following order:

Eligibility Order	Applicant Name
1.	Jacy Krogh
2.	Danny Ball
3.	Kevin Evans
4.	Carol Blevins

AGENDA ITEM 11.B

REQUEST

CONSIDER A RESOLUTION AMENDING CITY COUNCIL POLICY ON FILLING CITY COUNCIL VACANCIES

EXECUTIVE SUMMARY

On December 6, 2016, the City Council discussed filling the vacancy created by the election of former-Council Member Rickman to Mayor. Council also discussed amendments to the existing policy on filling city council vacancies, including requiring applicants to respond to questions in writing and/or during an interview and having the applicants who are tied with the highest number of votes to respond to additional questions from Council. This item presents the amendments discussed by Council for adoption.

DISCUSSION

A vacancy in the City Council was created due to the election of Council Member Rickman to the Mayor's seat. During the December 6, 2016 City Council meeting, Council considered whether to fill the City Council vacancy by special election or appointment, and if by appointment, determine the details of the process to be used.

The City Council considered the existing policy on filling council vacancies, adopted in 2014 by Resolution 2014-180, and directed staff to make changes to the policy to require that applicants respond to questions in writing, verbally during an interview with Council, or both. In addition, Council directed staff to amend the policy to allow Council to present additional questions to any applicants who are tied with the highest number of votes. The proposed amendments to the policy are redlined in Attachment A.

FISCAL IMPACT

There is no fiscal impact associated with this item.

STRATEGIC PLAN

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

RECOMMENDATION

That the City Council adopt a resolution amending the Council policy regarding filling City Council vacancies as set forth above.

Prepared by: Nora Pimentel, CMC, City Clerk

Reviewed by: Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

Attachment:

A. City Council Policy on Filling City Council Vacancies with proposed changes

CITY COUNCIL POLICY ON FILLING CITY COUNCIL VACANCIES

I BACKGROUND

The process for filling City Council vacancies (other than for an elective Mayor) is set forth in Government Code section 36512(b), which provides that:

If a vacancy occurs in an elective office provided for in this chapter, the City Council shall, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy. The special election shall be held on the next regularly established election date not less than 114 days from the call of the special election. A person appointed or elected to fill a vacancy holds office for the unexpired term of the former incumbent.

State law does not prescribe any procedure for selection of appointees. Therefore, the City Council may choose any selection method it desires.

II. POLICY

The following procedures will be used by the City Council to fill a City Council vacancy if the City Council chooses to fill such a vacancy by appointment rather than by special election:

A. Schedule

At the earliest possible time after a vacancy occurs, the City Council shall adopt a time schedule:

1. Setting a time and date by which any qualified person interested in being appointed shall submit an application;
2. Setting a time and date by which questions for the applicants may be submitted by the public; and
3. Setting a date or dates on which applicants will be interviewed by the City Council at a public meeting.

B. Applications

The application of a person interested in being appointed to the City Council shall state background, qualifications and why he or she wishes to be appointed. In addition to completing an application any person applying for the vacancy shall be required to file with the City Clerk the following additional documents:

1. A Nomination Form containing valid signatures of at least 20 registered voters of the City of Tracy. The fact that a voter has signed nomination papers for more than one applicant shall not invalidate the signature; and
2. A completed Statement of Economic Interests (Form 700) provided by the Fair Political Practices Commission.

C. Disclosure of Applications

Following the deadline set by the City Council for the submittal of applications, copies of all applications and the names of the applicants shall be filed in the City Clerk's office and made public. No information shall be disclosed prior to the close of the application deadline.

D. Questions from the Public

Questions for or concerning applicants may be submitted in writing by the public to the City Clerk. Following the deadline set by the City Council for the submittal of questions, all such questions shall be forwarded to City Council Members, who may use them in the applicant interviews.

E. ~~Advance~~ Questions for Applicants

The City Council, ~~by motion,~~ may choose to present questions in advance of the interviews to the applicants and may choose to require applicants to ~~either answer all~~ such questions at the interviews ~~and/or~~ provide written responses to ~~all~~ such questions prior to the interviews. ~~Proposed advance Q~~uestions may be suggested by ~~the public,~~ individual City Council Members or may be drafted by an ad hoc committee of the City Council appointed by the Mayor for that purpose.

F. City Council Interviews

Applicant interviews shall be conducted in a public meeting, which may be televised and recorded. All applicants will be asked to respond to the same or standard questions approved by a majority Council vote and any other questions individual City Council members may ask of a particular applicant. The order of interviews will be based on a random drawing. At the time and date set for applicant interviews, each applicant shall be interviewed separately and shall be given the opportunity to make a brief statement concerning his or her qualifications and to answer ~~any question(s) approved by previously submitted to the applicant by~~ the City Council. Thereafter, each City Council Member may question each applicant on any subject he or she feels is relevant to that applicant's qualifications to sit on the City Council. Based on the time available and the number of candidates, the City Council, by majority vote, may require a time limit on interviews, limit the number of questions to be asked, and limit the time to receive answers from each applicant.

G. Voting Procedure

The person to fill the City Council vacancy shall be selected from all applicants by the following process of elimination:

1. If one or two applicants exist:

- a. each City Council Member shall vote for one applicant; and
 - b. the applicant who receives a majority vote shall be appointed to fill the vacancy.
2. If three or more applicants exist:
- a. each City Council Member shall vote for two applicants; and
 - b. all applicants receiving the least number of votes (including no votes) shall be eliminated; and
 - c. subsequent votes shall be taken with each City Council Member voting for two applicants until one or two applicants remain; and
 - i. In the event of a tie between two or more applicants with the highest number of votes, Council may ask those applicants to respond to additional questions. Council may also choose to resolve a tie between two or more applicants with the highest number of votes, by any method approved by a majority vote.
 - d. each City Council Member shall then vote for one applicant and the applicant who receives a majority vote shall be appointed to fill the vacancy.
3. If no applicant receives a majority vote, the City Council may adopt such other procedures to fill the vacancy as it deems appropriate.
4. Notwithstanding the voting procedure described above, at any time during the appointment process, the City Council in its discretion may abandon the process and call a special election to fill the vacancy.
5. If no applicant receives a majority vote within 60 days of the commencement of the vacancy, the City Council shall call a special election to fill the vacancy.

H. Appointment by the City Council

The appointment to fill the vacancy shall be made by resolution of the City Council.

RESOLUTION 2016 - _____

AMENDING CITY COUNCIL POLICY FOR FILLING CITY COUNCIL VACANCIES

WHEREAS, State law provides that if a vacancy occurs in the City Council, the Council shall, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy, and

WHEREAS, State law does not prescribe any procedure for selection of appointees. Therefore, the City Council may choose any selection method it desires, and

WHEREAS, The City Council adopted a policy regarding filling City Council vacancies on October 21, 2014 via Resolution 2014-180, and

WHEREAS, the City Council wishes to amend that policy to allow applicants to respond to questions selected by Council in writing and/or verbally during an interview with the City Council and to allow Council to ask applicants tied with the highest number of votes additional questions, if they desire to do so.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Tracy that it hereby adopts the attached amended policy regarding filling City Council vacancies.

The foregoing Resolution _____, was passed and adopted by the City Council of the City of Tracy on the 20th day of December, 2016, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk