

Tuesday, December 1, 2020, 7:00 P.M.

Tracy City Hall, 333 Civic Center Plaza, Tracy

Web Site: www.cityoftracy.org

THIS REGULAR MEETING WILL BE CONDUCTED PURSUANT TO THE PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDER N-29-20 WHICH SUSPENDS CERTAIN REQUIREMENTS OF THE RALPH M. BROWN ACT

RESIDENTS ARE STRONGLY ENCOURAGED TO PARTICIPATE REMOTELY AT THE DECEMBER 1, 2020 MEETING

Remote Access to City of Tracy Council Meeting:

In accordance with the guidelines provided in Executive Order N-29-20 on social distancing measures, the City of Tracy will allow for remote participation at the upcoming City Council meeting on Tuesday, December 1, 2020.

As always, the public may view the City Council meetings live on the City of Tracy's website at www.CityofTracy.org or on Channel 26. To view from the City's website, select "Watch Live Council Meetings" from the drop down menu "Select an Online Service" at the top of the City's homepage. You will be directed to the "Council Meeting Videos" page where you may select the video for the appropriate date under "Upcoming Events."

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

Remote Public Comment:

*Public comment, limited to 250 words or less, submitted via email **will be accepted for agenda items before the start of the Council meeting at 7:00 p.m.** Please send an email to publiccomment@cityoftracy.org and identify the item you wish to comment on in your email's subject line.*

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

- *Comments via:*
 - **Phone** by dialing (209) 831-6010, or
 - **Online by visiting** <https://cityoftracyevents.webex.com> and using the following **Event Number:** 126 636 9597 and **Event Password:** TracyCC
 - ***If you would like to participate in the public comment anonymously***, you may submit your comment via phone or in WebEx by typing "Anonymous" when prompted to provide a First and Last Name and inserting Anonymous@example.com when prompted to provide an email address.

- *Protocols for submitting comments by **phone**:*
 - *If you wish to discuss an item on the “Consent Calendar” identify the item when calling in. All requests to discuss an item on the “Consent Calendar” must be submitted before the Mayor announces that the time to submit such a request has expired.*
 - *Identify the item you wish to comment on to staff when calling in. Comments received by phone will be accepted for the “Items from the Audience/Public Comment” and “Regular Items” portions of the agenda.*
 - *Comments received by phone for the “Items from the Audience/Public Comment” portion of the agenda must be received by the time the Mayor opens that portion of the agenda for discussion.*
 - *Comments received by phone on each “Regular Item” will be accepted until the Mayor announces that public comment for that item is closed.*

- *Protocols for commenting via WebEx:*
 - *If you wish to comment on the “Consent Calendar”, “Items from the Audience/Public Comment” or “Regular Agenda” portions of the agenda:*
 - *Listen for the Mayor to open that portion of the agenda for discussion, then raise your hand to speak by clicking on the Hand icon on the Participants panel to the right of your screen.*
 - *If you no longer wish to comment, you may lower your hand by clicking on the Hand icon again.*
 - *Comments for the “Consent Calendar” “Items from the Agenda/Public Comment” or “Regular Agenda” portions of the agenda will be accepted until the public comment for that item is closed.*

- *The total allotted time for public comment will be as follows:*
 - *Consent Calendar: **10 minutes***
 - *Items from the Audience: **15 minutes***
 - *Regular Items: **10 minutes***

Comments received by publiccomment@cityoftracy.org, phone call, or on Webex outside of the comment periods outlined above will not be included in the record.

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

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

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

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

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

Full copies of the agenda are available on the City's website: www.ci.tracy.ca.us

CALL TO ORDER
PLEDGE OF ALLEGIANCE
INVOCATION
ROLL CALL

1. CONSENT CALENDAR

- 1.A. APPROVAL OF NOVEMBER 10, 2020 SPECIAL MEETING MINUTES, NOVEMBER 17, 2020, CLOSED SESSION AND REGULAR MEETING MINUTES
- 1.B. ADOPT THE SAN JOAQUIN CONTINUUM OF CARE AS THE PRIMARY ORGANIZATION THROUGH WHICH THE CITY OF TRACY WILL WORK TO DEVELOP SOLUTIONS TO HOMELESSNESS AND ACKNOWLEDGE AND SUPPORT THE PROGRAM ADMINISTRATOR FOR HOMELESS INITIATIVES POSITION AS THE HOMELESS COORDINATOR FOR SAN JOAQUIN COUNTY
- 1.C. APPROVAL OF REAL PROPERTY PURCHASE AGREEMENT BETWEEN THE CITY OF TRACY AND STANLEY BOERSMA AND GEURTJE J. BOERSMA, AND WAHID TADROS AND JULIE TADROS FOR THE EXPANSION OF DETENTION BASIN 2B LOCATED AT THE TERMINUS OF MISSION COURT NEAR VALPICO ROAD (APN 246-130-05), AND AUTHORIZE AN APPROPRIATION OF \$160,000 FROM PLAN C DRAINAGE FUND (F322) TO CIP 76066

- 1.D. APPROVE AN INITIAL TWO-YEAR PROFESSIONAL SERVICES AGREEMENT WITH TERRACARE ASSOCIATES, NOT TO EXCEED \$900,000 ANNUALLY, FOR LANDSCAPE, PARK AND CHANNELWAY MAINTENANCE SERVICES FOR THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT AND COMMUNITY FACILITY DISTRICTS AND AUTHORIZE THE CITY MANAGER TO EXECUTE ANY EXTENSIONS AND MAKE MINOR AMENDMENTS TO THE AGREEMENT
2. ITEMS FROM THE AUDIENCE
3. REGULAR AGENDA
 - 3.A. DISCUSS CITY'S RESPONSE TO COVID-19 (VERBAL REPORT)
 - 3.B. ADOPT A RESOLUTION OF NECESSITY AUTHORIZING THE INITIATION OF EMINENT DOMAIN PROCEEDINGS TO ACQUIRE REAL PROPERTY FOR THE CONSTRUCTION OF DETENTION BASIN 3A, AUTHORIZE THE DEPOSIT OF \$765,000 WITH THE STATE OF CALIFORNIA CONDEMNATION DEPOSIT FUND (RONNOCO PROPERTIES OF TRACY II, L.P., APN 240-090-02), AND APPROPRIATE THE FUNDS FROM ELLIS STORM DRAIN FUND (F332) AND PUBLIC BUILDINGS FUND (F334)
 - 3.C. CONSIDER APPROVING A COMMUNITY WORKFORCE TRAINING AGREEMENT (PROJECT LABOR AGREEMENT) WITH SAN JOAQUIN BUILDING TRADES COUNCIL THAT WOULD APPLY TO CERTAIN CONSTRUCTION CONTRACTS AWARDED BY THE CITY AND A LOCAL HIRING POLICY TO BE INCLUDED IN ALL BID REQUESTS FOR CITY CONSTRUCTION CONTRACTS
 - 3.D. APPROVING AN AMENDMENT TO THE EMPLOYMENT AGREEMENT BETWEEN JENNY HARUYAMA AND THE CITY OF TRACY RELATING TO COMPENSATION AND BENEFITS TO AUTHORIZE COST OF LIVING ADJUSTMENTS PROVIDED TO EMPLOYEES COVERED BY THE DEPARTMENT HEAD COMPENSATION AND BENEFIT PLAN
 - 3.E. APPROVING AN AMENDMENT TO THE EMPLOYMENT AGREEMENT BETWEEN LETICIA RAMIREZ AND THE CITY OF TRACY RELATING TO COMPENSATION AND BENEFITS TO AUTHORIZE COST OF LIVING ADJUSTMENTS PROVIDED TO EMPLOYEES COVERED BY THE DEPARTMENT HEAD COMPENSATION AND BENEFIT PLAN
 - 3.F. DISCUSS AMENDING THE COUNCIL CODE OF CONDUCT TO ADDRESS CAMPAIGN ACTIVITIES AND PROVIDE DIRECTION TO STAFF
4. ITEMS FROM THE AUDIENCE
5. STAFF ITEMS
6. COUNCIL ITEMS
7. ADJOURNMENT

November 10, 2020, 6:00 p.m.

Tracy City Hall, 333 Civic Center Plaza, Tracy

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

Due to the COVID-19 emergency, the regular meeting was conducted pursuant to the provisions of the Governor's Executive Order N-29-20 which suspends certain requirements of the Ralph M. Brown Act. Residents participated remotely via email, phone and WebEx during the meeting.

1. Mayor Rickman called the meeting to order at 6:00 p.m.
2. Roll call found Council Member Arriola, Mayor Pro Tem Young, and Mayor Rickman present. Council Member Ransom arrived at 6:18 p.m. Council Member Vargas joined the meeting remotely after roll call.
3. ITEMS FROM THE AUDIENCE – Robert Tanner congratulated the future Council and shared concerns from residents about how bad fireworks were on Halloween night. Mr. Tanner hoped the future Council will stop the selling of all fireworks in the City of Tracy, and make all fireworks illegal.
4. DISCUSSION ITEMS
 - 4.A PUBLIC HEARING TO CONSIDER APPLICATIONS FOR AN AMENDMENT TO THE NORTHEAST INDUSTRIAL SPECIFIC PLAN AND A DEVELOPMENT REVIEW PERMIT FOR AN INDUSTRIAL BUILDING AND ASSOCIATED SITE IMPROVEMENTS ON AN APPROXIMATELY 86-ACRE AREA SOUTH OF E. GRANT LINE ROAD, EAST OF SKYLARK WAY, AND WEST OF CHRISMAN ROAD (ASSESSOR'S PARCEL NUMBERS 250-020-93, 250-020-80, 250-020-81, AND 250-020-95). APPLICANT IS HPA, INC. AND PROPERTY OWNER IS PROLOGIS, L.P. – APPLICATION NUMBERS SPA20-0005 AND D20-0017; AND A COMMUNITY BENEFIT MEMORANDUM OF UNDERSTANDING BETWEEN PROLOGIS, L.P. AND THE CITY OF TRACY

Kimberly Matlock, Associate Planner, and Andrew Malik, Assistant City Manager provided the staff report and Powerpoint presentation.

Randall Bradley, Fire Chief stated the Fire Department is supportive of the project but wanted to go on record as saying that this building is tall and exceeding 75 feet changes it from a suburban fire protection model to an urban fire protection model and goes into high-rise. The amount of personnel required for high-rise firefighting exceeds the capability of most suburban fire agencies. If we continue down this path and have buildings that exceed 75 feet it will change the fire protection. Chief Bradley responded to questions from Council.

Al Harandi, Investment Officer at Prologis provided a presentation and responded to questions.

Mayor Rickman opened the public hearing.

The following speakers from various labor unions shared their experiences, the positive effects of the project and expressed their support for the project: Victor Chao – retired union electrician, Pete Butler – National Electrical Contractors Association, Luis Hernandez – Labor Local 73, Juan Orozo – Operating Engineers Local 3, Gorgina Halaufia – IBW Local 595, Ron Green – Sheetmetal Worker Local 104 and veteran, Connie Viera – Sheetmetal Worker, Manny Chin – Local 73 International Union of North America and veteran, and Carlos Bedolla Jr. – Labors Local 73.

Jason Lindsey, Ironworkers Local 378 stated it was time Council adopted a policy that will support careers with benefits, adding Council has the ability to set the tone of the conversation when developers come to town.

Jason Gallia, Ironworkers Local 378 spoke about the apprenticeship program and requested giving the chance for the developer to make it an even better project just by reaching out to some of the other trades that are not involved.

Glenn Loveall, Ironworkers Local 378 encouraged a continuance of this project to a future date as applicants have not completely lived up to their commitment to work closely with all interested parties to develop a project that is reflective of our community's priorities.

Nichole Geohring, Associated Builders and Contractors encouraged the developer to allow all workers to have the opportunity to work on the project.

Mayor Rickman closed the public hearing.

City Council questions and comments followed.

Mayor Pro Tem Young referred to the Community Benefit Memorandum of Understanding and wanted to make sure that the funds that are earmarked go towards the multi purpose gymnasium and not to be for other use. Mayor Pro Tem Young stated it is important to lock down the intent so it does not become challenged in the future. Council Member Ransom seconded the request.

City Council questions and comments continued.

Council Member Vargas requested the records of last 12 months of training for Fire to make sure that this Council is assured that our personnel is able and ready to attend to the needs of a building of this magnitude. Council Member Vargas also requested staff follow up with the Fire Department to see what our Fire Department is working on to be able to assist buildings of this height and because the Fire Chief put on the record their concerns. Council Member Arriola seconded the request.

Adrienne Richardson, City Clerk read the title of proposed Ordinance 1299.

ACTION: Motion was made by Council Member Ransom and seconded by Council Member Arriola to waive the reading of the full text and introduce **Ordinance 1299**, an ordinance of the City of Tracy approving an amendment to the

maximum building height and the minimum building setback in the Northeast Industrial Specific Plan. Roll call found all in favor; passed and so ordered.

ACTION: Motion was made by Council Member Ransom and seconded by Council Member Arriola to adopt **Resolution 2020-184** to approve a Development Review Permit for an approximately 99-foot tall, 1,355,618 square foot industrial building and associated site improvements on an approximately 86-acre area south of E. Grant Line Road, East of Skylark Way, and West of Chrisman Road (Assessor's Parcel Numbers 250-020-93, 250-020-80, 250-020-81, and 250-020-95). Roll call vote found all in favor; passed and so ordered.

ACTION: Motion was made by Council Member Ransom and seconded by Council Member Arriola to adopt **Resolution 2020-185** to approve a Community Benefit Memorandum of Understanding (MOU) between the City of Tracy and Prologis, L.P. for the Development of or funding for a Multi-Use Gymnasium or similar recreational amenity.

Mayor Pro Tem Young requested a friendly amendment to remove the language from the resolution: *similar recreational amenity*. Council Member Ransom seconded the amendment. Council Member Arriola opposed the amendment. The friendly amendment did not pass.

City Council discussion continued.

Council Member Ransom changed her vote to no.

Council Members Arriola, Vargas and Mayor Rickman in favor of approving a Community Benefit Memorandum of Understanding (MOU) between the City of Tracy and Prologis L.P. for the development of or funding for a Multi-Use Gymnasium or similar recreational amenity; passed and so ordered. Council Member Ransom and Mayor Pro Tem Young opposed.

4.B PUBLIC HEARING TO CONSIDER INTRODUCING AN ORDINANCE APPROVING AN AMENDMENT TO THE DEVELOPMENT AGREEMENT WITH TRACY HILLS PROJECT OWNER, LLC AND TRACY PHASE I, LLC FOR THE TRACY HILLS PROJECT LOCATED AT THE SOUTHWEST CORNER OF CORRAL HOLLOW ROAD AND TRACY HILLS DRIVE, APPLICATION NUMBER DA20-0001

Andrew Malik, Assistant City Manager provided the staff report.

Mike Souza, Project Manager, Tracy Hills provided a presentation and responded to Council questions.

Mayor Rickman opened the public hearing.

There was no public comment.

Mayor Rickman closed the public hearing.

City Council comments and questions followed.

Frederik Venter, Kimley Horn Consultant responded to Council's questions regarding traffic analysis.

Robert Armijo, City Engineer responded to Council's questions.

City Council discussion and questions continued.

ACTION: Motion was made by Council Member Ransom and seconded by Mayor Pro Tem Young to end discussion in order to call for the question. Council Member Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Members Arriola and Vargas opposed.

Adrienne Richardson, City Clerk read the title of proposed Ordinance 1300.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Ransom to waive the reading of the full text and introduce **Ordinance 1300**, an ordinance of the City of Tracy approving the First Amendment to that certain Development Agreement Amendment by and between The City of Tracy and the Tracy Hills Project Owner, LLC and Tracy Phase 1, LLC, Application Number DA20-0001. Roll call found Council Members Arriola, Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas did not vote.

4.C PUBLIC HEARING TO CONSIDER APPROVING THE TRACY HILLS PHASE 1B/1C PROJECT, WHICH INCLUDES APPROVING A GENERAL PLAN AMENDMENT, INTRODUCING AN ORDINANCE APPROVING A TRACY HILLS SPECIFIC PLAN AMENDMENT, APPROVING A LARGE-LOT VESTING TENTATIVE SUBDIVISION MAP, AND APPROVING A SMALL-LOT VESTING TENTATIVE SUBDIVISION MAP TO CREATE 432 SINGLE-FAMILY RESIDENTIAL LOTS AND 74 OTHER PARCELS LOCATED ON APPROXIMATELY 310 ACRES IN THE VICINITY OF TRACY HILLS DRIVE, WEST OF PHASE 1A. THE APPLICANT IS JOHN PALMER. APPLICATION NUMBERS GPA19-0001, SPA19-0002, TSM18-0007 AND TSM18-0006

Scott Claar, Senior Planner, provided the staff report and responded to City Council questions.

John Palmer, Tracy Hills Project Manager provided information about rezoning and land use.

Mayor Rickman opened the public hearing.

There was no public comment.

Mayor Rickman closed the public hearing.

City Council questions and comments followed.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Arriola to adopt **Resolution 2020-186** to approve a General Plan Amendment for Tracy Hills Phase 1B/1C Application Number GPA19-0001. Roll call found Council Members Arriola, Ransom, Vargas and Mayor Pro Tem Young in favor; passed and so ordered. Mayor Rickman opposed.

Adrienne Richardson, City Clerk read the title of proposed Ordinance 1301.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Arriola to waive the reading of the full text and introduce **Ordinance 1301**, an ordinance of the City of Tracy approving an amendment to the Tracy Hills Specific Plan for the Tracy Hills Phase 1B/1C Project Application Number SPA19-0002. Roll call found all in favor; passed and so ordered.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Arriola to adopt **Resolution 2020-187** to approve a Large Lot Vesting Tentative Subdivision Map for the Tracy Hills Phase 1B/1C Project to create 69 parcels and 9 lots of various sizes on approximately 310 acres located West of Phase 1A in the vicinity of Tracy Hills Drive, Application Number TSM18-0007. Roll call found Council Members Arriola, Ransom, Vargas and Mayor Pro Tem Young in favor; passed and so ordered. Mayor Rickman opposed.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Arriola to adopt **Resolution 2020-188** to approve a Small Lot Vesting Tentative Subdivision Map for the Tracy Hills Phase 1B Project to create 432 single-family residential lots, a park site, and approximately 70 other parcels on approximately 310 acres located West of Phase 1A in the Vicinity of Tracy Hills Drive, Application Number TSM18-0006. Roll call found Council Members Arriola, Ransom, Vargas and Mayor Pro Tem Young in favor; passed and so ordered. Mayor Rickman opposed.

4.D PUBLIC HEARING TO CONSIDER APPROVING A REVISION TO THE TRACY HILLS KT PROJECT, WHICH INCLUDES INTRODUCING AN ORDINANCE APPROVING A TRACY HILLS SPECIFIC PLAN AMENDMENT AND APPROVING A VESTING TENTATIVE SUBDIVISION MAP TO INCREASE THE NUMBER OF LOTS IN THE TRACY HILLS KT PROJECT FROM 185 TO 214, LOCATED ON APPROXIMATELY 45 ACRES EAST OF CORRAL HOLLOW ROAD IN THE VICINITY OF TRACY HILLS DRIVE

Scott Claar, Senior Planner provided the staff report.

John Palmer, Tracy Hills Project Manager provided information regarding the project.

Mayor Rickman opened the public hearing.

There was no public comment.

Mayor Rickman closed the public hearing.

City Council questions and comments followed.

Adrienne Richardson, City Clerk read the title of the proposed Ordinance 1302.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Ransom to waive the reading of the full text and introduce **Ordinance 1302**, an ordinance of the City of Tracy approving an amendment to the Tracy Hills Specific Plan for the Tracy Hills KT Project Application Number SPA20-0008. Roll call found all in favor; passed and so ordered.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Ransom to adopt **Resolution 2020-189** to approve a Vesting Tentative Subdivision Map for the Tracy Hills KT Project to create approximately 214 single-family residential lots, two commercial parcels, and various other parcels, including a linear park and HOA recreation area, consisting of approximately 45 acres located east of Corral Hollow Road in the vicinity of Tracy Hills Drive, Application Number TSM20-0002. Roll call found all in favor; passed and so ordered.

4.E PUBLIC HEARING TO INTRODUCE AN ORDINANCE RESTRICTING THE LOCATION OF TOBACCO RETAILERS

Bill Dean, Assistant Development Services Director and Leticia Ramirez, City Attorney, provided the staff report

Mayor Rickman opened the public hearing.

Robert Tanner did not support “grandfathered in” and spoke about a smoke shop that has opened near Tracy High stating he has received calls requesting that the smoke shop be closed and not be so close to the high school.

Mayor Rickman closed the public hearing.

City Council questions and comments followed.

Leticia Ramirez, City Attorney stated staff would explore signage issues.

Adrienne Richardson, City Clerk read the title of the proposed Ordinance 1303.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Ransom to waive the reading of the full text and introduce **Ordinance 1303**, an ordinance of the City of Tracy, to amend Chapter 10.08 “Zoning Regulations” of the Tracy Municipal Code to add a new Section 10.08.3194 “Tobacco Retail Uses” to establish location restrictions on tobacco retailers. Roll call found all in favor; passed and so ordered.

5. COUNCIL ITEMS – Mayor Pro Tem Young wished veterans a happy Veterans Day, thanked veterans for their service, and announced that November 10 is the 245th birthday for the Marine Corp.

Council Member Ransom wished veterans a happy Veterans Day.

Council Member Arriola thanked veterans as we celebrate Veterans Day, and asked about the PLA item. Jenny Haruyama, City Manager responded the PLA item is scheduled for November 17, 2020.

Council Member Vargas sent good wishes to our veterans. Council Member Vargas requested an item for discussion early next year regarding a Civil Search program – Community Emergency Response Team, create an Adhoc Committee that will educate people about disasters, impact of environmental or natural disasters, and an opportunity to have civil participation. Council Member Arriola seconded the request.

Mayor Rickman thanked veterans for their service and announced there will be a video for Veterans Day at 11:00 a.m. on November 11, 2020. Mayor Rickman wished happy Birthday to the Devil Dogs and his mother-in-law.

6. ADJOURNMENT – Time: 10:09 p.m.

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

The above agenda was posted at the Tracy City Hall on November 5, 2020. The above are action minutes. A recording is available at the office of the City Clerk.

ATTEST:

Mayor

City Clerk

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

November 17, 2020, 6:15 p.m.

Tracy City Hall, 333 Civic Center Plaza, Tracy

1. CALL TO ORDER – Mayor Rickman called the meeting to order at 6:18 p.m. for the purpose of a closed session to discuss the items outlined below.

2. ROLL CALL – Roll call found Council Member Vargas, Mayor Pro Tem Young and Mayor Rickman present.

Council Members Arriola and Ransom arrived at 6:21 p.m.

3. ITEMS FROM THE AUDIENCE – There was no public comment.

4. CLOSED SESSION

a. Personnel Matter (Gov. Code § 54957)

Public Employee Appointment, Employment, Evaluation of Performance, Discipline, or Dismissal

Position Title: City Attorney

b. Personnel Matter (Gov. Code § 54957)

Public Employee Appointment, Employment, Evaluation of Performance, Discipline, or Dismissal

Position Title: City Manager

5. RECESS TO CLOSED SESSION - Motion was made by Council Member Vargas and seconded by Council Member Ransom to recess the meeting to closed session at 6:21 p.m. Roll call vote found all in favor; passed and so ordered.

6. RECONVENE TO OPEN SESSION – The meeting reconvened to open session at 6:42 p.m.

7. REPORT OF FINAL ACTION – There was no report of final action.

8. ADJOURNMENT – Time: 6:42 p.m.

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

The agenda was posted at City Hall on November 12, 2020. The above are action minutes.

ATTEST:

Mayor

City Clerk

November 17, 2020, 7:00 p.m.

City Hall, 333 Civic Center Plaza, Tracy

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

Due to the COVID-19 emergency, the regular meeting was conducted pursuant to the provisions of the Governor's Executive Order N-29-20, which suspends certain requirements of the Ralph M. Brown Act. Residents participated remotely via email, phone and WebEx during the meeting.

Mayor Rickman called the meeting to order at 7:00 p.m.

Mayor Rickman led the Pledge of Allegiance.

Pastor Tim Heinrich, Crossroads Baptist Church offered the invocation.

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

1. CONSENT CALENDAR – Following the removal of consent items 1.H, 1.I, and 1.J by Council Member Vargas, 1.K by Jamie Roja, I.N by Mateo Bedolla, and 1.O by Jenny Haruyama, City Manager, motion was made by Mayor Pro Tem Young and seconded by Council Member Arriola to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
 - 1.A APPROVAL OF OCTOBER 20, 2020 CLOSED SESSION AND REGULAR MEETING MINUTES – **Minutes were adopted**
 - 1.B APPROVE THE PLACEMENT OF TWO (2) BENCHES WITH PLAQUES DONATED BY TRACY ROTARY AND SUNRISE ROTARY CLUBS IN THE PUBLIC RIGHT OF WAY IN DOWNTOWN TRACY PER CITY STANDARD POLICY AND PROCEDURES – **Resolution 2020-190** approved the placement of the two benches with plaques donated by Tracy Rotary and Sunrise Rotary.
 - 1.C ADOPT A RESOLUTION AMENDING THE CITY OF TRACY MASTER EMPLOYEE PAY SCHEDULE TO CONFIRM THE PAY RATES FOR CITY OF TRACY ESTABLISHED POSITIONS – **Resolution 2020-191** amended the City of Tracy Master Employee Pay Schedule.
 - 1.D APPROVE THE WATER SUPPLY DEVELOPMENT AND OPERATING AGREEMENT WITH THE SOUTH SAN JOAQUIN IRRIGATION DISTRICT AND RESCIND RESOLUTION NO. 2000-168 – **Resolution 2020-192** approved the Water Supply Development and Operating Agreement.
 - 1.E APPROVE AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF TRACY AND VANDERMYDEN MADDUX LAW CORPORATION FOR CONFIDENTIAL WORKPLACE INVESTIGATION SERVICES INCREASING THE NOT TO EXCEED AMOUNT BY \$100,000 FOR A TOTAL NOT TO EXCEED AMOUNT OF \$200,000 – **Resolution 2020-193** approved Amendment No. 3 to the Professional Services Agreement with Vandermyden Maddux Law Corporation.

- 1.F. WAIVE SECOND READING AND ADOPT ORDINANCE 1298, AN ORDINANCE OF THE CITY OF TRACY APPROVING AN AMENDMENT TO THE TRACY HILLS SPECIFIC PLAN FOR THE TRACY HILLS VILLAGE 7C PROJECT APPLICATION NUMBER SPA20-0003 – Ordinance 1298 was adopted.
- 1.G. WAIVE SECOND READING AND ADOPT ORDINANCE 1299, AN ORDINANCE OF THE CITY OF TRACY AMENDING THE MAXIMUM BUILDING HEIGHT AND THE MINIMUM BUILDING SETBACK IN THE NORTHEAST INDUSTRIAL SPECIFIC PLAN – Ordinance 1299 was adopted.
- 1.L. APPROVE AMENDMENT NO. 4 TO THE PROFESSIONAL SERVICES AGREEMENT WITH PENNINO MANAGEMENT GROUP FOR ADDITIONAL GRANT, RESEARCH, AND FUNDING SERVICES, FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$164,665 – Resolution 2020-194 approved Amendment No. 4 to the Professional Services Agreement with Pennino Management Group.
- 1.M. APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH BURKE WILLIAMS SORENSEN LLP FOR SPECIAL COUNSEL SERVICES TO CONDUCT LABOR NEGOTIATIONS WITH MULTIPLE EMPLOYEE GROUPS FOR A NOT-TO-EXCEED AMOUNT OF \$100,000 – Resolution 2020-195 approved a Professional Service Agreement with Burke Williams Sorensen LLP.
- 1.H. WAIVE SECOND READING AND ADOPT ORDINANCE 1300, AN ORDINANCE OF THE CITY OF TRACY APPROVING THE FIRST AMENDMENT TO THAT CERTAIN DEVELOPMENT AGREEMENT AMENDMENT BY AND BETWEEN THE CITY OF TRACY AND THE TRACY HILLS PROJECT OWNER, LLC AND TRACY PHASE 1, LLC, APPLICATION NUMBER DA20-0001

Council Member Vargas pulled the item stating the Developer is doing their job to make sure they are doing the best deal possible for themselves, and Council should have an opportunity to do better for our city's interest, and directed questions to staff. Council Member Vargas requested Council to table the Development Agreement for a final approval and let the next seated Council negotiate the agreement.

Andrew Malik, Assistant City Manager and Robert Armijo, City Engineer responded to Council Member Vargas's questions.

Robert Tanner believed Council should not vote on 1.H, stating it does not make sense to increase the number of houses before doing anything with the roads.

Mateo Bedolla stated he was opposed to some provisions of the proposed ordinance due to lack of infrastructure, traffic flow, congestion, no sidewalks and bike lanes, and relying only on intersection improvements. Mr. Bedolla was also opposed to the swap of widening the southern portion of Corral Hollow for the widening of the northern portion first because it is not in the original plan.

Mike Souza spoke about the timing of the improvements, provided clarifying comments regarding infrastructure and responded to questions.

City Council comments and questions followed.

ACTION: Motion was made by Council Member Vargas to not approve the item and to delay to further discussion. Motion failed due to lack of second.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Arriola to waive the reading of the full text and adopt **Ordinance 1300**, an Ordinance of the City of Tracy approving the First Amendment to that certain Development Agreement Amendment by and between the City of Tracy and the Tracy Hills Project Owner, LLC and Tracy Phase I, LLC – Application Number DA20-0001. Roll call found Council Members Arriola, Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas opposed.

1.I. WAIVE SECOND READING AND ADOPT ORDINANCE 1301 AN ORDINANCE OF THE CITY OF TRACY APPROVING AN AMENDMENT TO THE TRACY HILLS SPECIFIC PLAN FOR THE TRACY HILLS PHASE 1B/1C PROJECT APPLICATION NUMBER SPA19-0002

Council Member Vargas pulled the item to ask about the conditions of approval for road improvements, infrastructure for the project.

Robert Armijo, City Engineer responded to Council questions.

There was no public comment.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Arriola to waive the reading of the full text and adopt **Ordinance 1301**, an ordinance of the City of Tracy approving an amendment to the Tracy Hills Specific Plan for the Tracy Hills Phase 1B/1C Project – Application Number SPA19-0002. Roll call found all in favor; passed and so ordered.

1.J. WAIVE SECOND READING AND ADOPT ORDINANCE 1302 AN ORDINANCE OF THE CITY OF TRACY APPROVING AN AMENDMENT TO THE TRACY HILLS SPECIFIC PLAN FOR THE TRACY HILLS KT PROJECT APPLICATION NUMBER SPA20-0008

Council Member Vargas pulled the item to ask about the conditions of approval for the road improvements, infrastructure and what are those triggers.

Robert Armijo, City Engineer responded to Council questions.

There was no public comment.

City Council comments followed.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Arriola to waive the reading of the full text and adopt **Ordinance 1302**, an Ordinance of the City of Tracy approving an amendment to the Tracy Hills Specific Plan for the Tracy Hills KT Project – Application Number SPA20-0008. Roll call found all in favor; passed and so ordered.

1.K. WAIVE SECOND READING AND ADOPT ORDINANCE 1303 AN ORDINANCE OF THE CITY OF TRACY AMENDING CHAPTER 10.08 "ZONING REGULATIONS" OF THE TRACY MUNICIPAL CODE TO ADD A NEW SECTION 10.08.3194 "TOBACCO RETAIL USES" TO ESTABLISH LOCATION RESTRICTIONS ON TOBACCO RETAILERS

Leticia Ramirez, City Attorney provided the staff report and responded to questions.

Jaime Roja representing the National Association of Tobacco Outlet, pulled the item for confirmation that the City of Tracy will be mirroring SB793 - statewide flavor ban with exemptions of hookah, premium cigars and loose leaf tobacco, and no further bans will be included.

Zaher Nozindani, Tracy business owner spoke about the effects of the ban of flavored tobacco and hookah.

Robert Tanner referred to a comment made at the previous meeting regarding the lease for the tobacco shop that is within the 600 feet of Tracy High and asked about the length of the lease and when that store can be removed.

Ash Zindani urged Council to vote no on the ban on flavored tobacco.

Adrienne Richardson, City Clerk announced emails from Jamal Nagi, Rima Khoury and Thomas Briant were received regarding the item but exceeded the 250-word limit. The comments were forwarded to City Council and will be on the website.

City Council comments and questions followed.

ACTION: Motion was made by Council Member Ransom and seconded by Council Member Arriola to waive the reading of the full text and adopt **Ordinance 1303**, an Ordinance of the City of Tracy amending Chapter 10.08 "Zoning Regulations" of the Tracy Municipal Code to add a new Section 10.08.3194 "Tobacco Retail Uses" to establish location restrictions on tobacco retailers. Roll call found all in favor; passed and so ordered.

1.N. APPROVE THE FIRST AMENDMENT TO THE DEFERRED IMPROVEMENT AGREEMENT FOR TRACY HILLS – PHASE 1A, AND AUTHORIZE THE CITY CLERK TO FILE THE FIRST AMENDMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER

Robert Armijo, City Engineer provided the staff report.

Mateo Bedolla pulled the item for clarification on how much it had to do with the 2019 Settlement Agreement.

There was no further comment from the public.

ACTION: Motion was made by Council Member Ransom and seconded by Council Member Arriola to adopt **Resolution 2020-196** approving the First Amendment

to the Deferred Improvement Agreement for Tracy Hills – Phase 1A, and authorizing the City Clerk to file the First Amendment with the Office of the San Joaquin County Recorder. Roll call found all in favor; passed and so ordered.

- 1.O. AUTHORIZE THE EAST BAY COMMUNITY ENERGY AUTHORITY TO ACCEPT A NUCLEAR POWER ELECTRICITY ALLOCATION FROM PG&E TO CREATE A CARBON FREE OPTION FOR ELECTRICITY CONSUMERS IN THE CITY OF TRACY – **Jenny Haruyama, City Manager removed the item from the agenda.**

2. ITEMS FROM THE AUDIENCE – Robert Tanner spoke about the political signs that are still up after the election, and suggested charging the candidate campaigns.

Manpreet Shahi asked about the process to establish a \$500 fine for folks who have been throwing garbage on streets, parks and other places, and what Council is doing to make sure our parks are safe after dark and suggested installing solar lights and CCTV cameras in all parks.

Ruben Aguilar expressed concerns regarding increased amount of high-speed traffic especially at the intersection of Isabel Virginia and Hillcrest Drive, and requested speed bumps on Hillcrest Drive approaching Isabel Virginia Drive, and a flashing red light on the stop sign.

3. REGULAR AGENDA

- 3.A DISCUSS CITY'S RESPONSE TO COVID-19 (VERBAL REPORT)

Jenny Haruyama, City Manager provided an update and presentation on the City's response to COVID-19.

Neil Prescott, Patriot Coalition of America Citizens stated COVID is not the only thing that can harm us at this time, and spoke about the effects on small businesses and mental health, and asked about the numbers of people recovering from this disease.

Dan Evans, Patriot Coalition of American Citizens spoke about small business owners pleading for their livelihoods, shut downs are hurting people and the economy, and we need to allow people to take precautions and open up.

Scott Jacobson stated the measures being taken with vaccines changes the game, now is time to stand up for the health of the community in addition to battling COVID. Mr. Jacobson added the balance has turned in favor of hysteria against common sense and safe practices to keep these small businesses open. Spoke about small businesses failing and impact on the community.

Victor Chao stated we are heading toward quarter of a million dead people, and all we have to do is wear a mask and social distance. Mr. Chao suggested wearing medical bracelets that say do not take me to the hospital or doctor

because COVID is not serious. The way to open businesses is to get this thing under control.

City Council comments and questions followed.

Mayor Rickman spoke about becoming a sanctuary city. Mayor Rickman wanted to see what Councils thoughts are on what's going on in some cities.

Council Member Ransom responded to Mayor Rickman that if he is looking for support to have a discussion on sanctuary, with the caveat of the understanding that it is not her personal position, she would support that.

Council Member Vargas also asked Mayor Rickman if he was looking for discussion for sanctuary city for businesses. Council Member Vargas stated she would be open to conversation to see if there is anything more that the City could be doing.

City Council accepted the report.

3.B CONDUCT PUBLIC HEARING TO CONSIDER AMENDMENT TO THE SAN JOAQUIN COUNTY MULTI-SPECIES HABITAT CONSERVATION AND OPEN SPACE PLAN DEVELOPMENT FEE TO INCREASE THE FEE FOR 2021

Kimberly Matlock, Associate Planner, City of Tracy and Steve Mayo, Senior Regional Planner, SJCOG, Inc., provided the staff report.

Mayor Rickman opened the public hearing.

Neil Prescott wanted to know about what the fees are for and why they go to San Joaquin Council of Governments.

Steve Dial, San Joaquin Council of Governments responded to Mr. Prescott's questions.

Mayor Rickman closed the public hearing.

City Council questions and comments followed.

ACTION: Motion was made by Council Member Ransom and seconded by Council Member Vargas, to adopt **Resolution 2020-197** amending Development Fees for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan for 2021. Roll call found all in favor; passed and so ordered.

Mayor Rickman called for a recess at 9:56 p.m.

Mayor Rickman reconvened the meeting at 10:15 p.m.

3.C RECEIVE UPDATE ON NEGOTIATIONS REGARDING A PROJECT LABOR AGREEMENT WITH THE SAN JOAQUIN BUILDING TRADES COUNCIL THAT WOULD APPLY TO CERTAIN PUBLIC CONSTRUCTION CONTRACTS AWARDED BY THE CITY AND PROVIDE DIRECTION TO STAFF

Leticia Ramirez, City Attorney and Julian Gross, Esq. RPLG provided the staff report.

Michael Mark, Financial Secretary/Treasurer of San Joaquin Building Trade responded to the staff report regarding negotiation of a Community Workforce and Training Agreement, and also responded to questions.

Jolene Kramer, Weinberg Roger & Rosenfeld representing the San Joaquin County Building and Construction Trades Council responded to the staff report regarding negotiation of a Community Workforce and Training Agreement and also responded to questions.

The following speakers shared their experiences, and expressed their support for a Project Labor Agreement as presented: Manuel Zapata, Pete Butler – National Electrical Contractors Association of Northern California, Glen Loveall – Ironworkers Union Local 378, Alicia Mijares – Sheet Metal Workers Local 104, Kiana Dizon – Sheet Metal apprentice, Raul Hernandez – San Joaquin Building Trades, Gorgina Haluafia – International Brotherhood of Electrical Workers, Ron Green – Sheet Metal Workers Local 104 and veteran, Victor Chao – retired union electrician and veteran, Juan Perez – International Brotherhood of Electrical Workers IBEW Local 595, Tim Robertson – North Valley Labor Federation, Christina Fugazi – Stockton Councilwoman.

Miles Ostraco, apprentice with ABC Norcal shared his concerns regarding putting the Project Labor Agreement into effect, stating it is unfair to be excluded and negatively affects people too.

Nicole Goehring, Associated Builders and Contractors shared her concerns regarding the agreement stating the trades are not willing to negotiate anything and supported the City. Ms. Goehring suggested thinking of a way to carve out all of the Tracy companies from the PLA and Tracy apprentices from the PLA so they all have the ability to work.

Adrienne Richardson, City Clerk announced that from October 29 through November 17, 2020, 97 individuals emailed the same letter urging Council to support a Tracy Community Workforce and Training Agreement. City Council received all emails.

Eric Christen, Executive Director, Coalition for Fair Employment in Construction requested Council to reject the PLA agreement.

Council questions and discussion followed.

Ms. Kramer shared concerns about being able to have an agreement that the BTC can enter into, and reaching an agreement that is agreeable to both sides and the City accepting the agreement as proposed. Ms. Kramer suggested

Council take a close look at the proposed agreement to address the concerns of the City Council.

Ms. Ramirez summarized City Council's consensus on the policy questions:

1. Threshold for PLA – \$2 million project amount/threshold should trigger application of PLA.
2. Cost Control
 - i Reject the inclusion of 10% of subcontract dollar value can be performed without PLA coverage.
 - ii Include a City option to re-bid in the event the bids come back over 25% above engineers' estimate.
3. Terms of Non-Union Contractor Participation/Core Workers
 - a) Accept the Building Trades Council's proposal that non-union contractors are prohibited from using any current crew members unless either the contractor or the current crew member is from Tracy.
 - b) Accept the Building Trades Council's proposal that in order to be eligible to work, current crew members must have worked at least 4000 hours in the craft; meet safety standards; and be on contractor's payroll for 90 of previous 120 days.
4. Local Hiring
 - a) Include language to allow Tracy residents from state-approved apprenticeship programs that are not affiliated with unions to work on PLA projects.
 - b) Establish Tracy Resident hiring goals for each contractor of 25% of all work hours, and 25% of apprentice hours for new local apprentices.
5. Modular Construction:
 - a) Include opportunity to have a discussion about the modular construction issue.
6. Technical Provisions
 - (a) Include an exemption for cases where application of the PLA would void an equipment warranty.
 - (b) Require that the City have a right to become a party to all arbitrations that affect the City's financial or policy interests.
 - (c) Not to require indemnification of the City in cases of litigation brought against the City based on the PLA.

Ms. Ramirez stated staff has marching orders in talking to Trade Council and trying to finalize an agreement that Council can take action on.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Vargas to prepare a Project Labor Agreement in accordance with Council's consensus. Roll call found all in favor, passed and so ordered.

- 3.D DISCUSS AMENDING THE COUNCIL CODE OF CONDUCT TO ADDRESS CAMPAIGN ACTIVITIES AND PROVIDE DIRECTION TO STAFF – Item not heard due to late hour.

4. ITEMS FROM THE AUDIENCE – None
5. STAFF ITEMS – None
6. COUNCIL ITEMS – Council Member Vargas requested an agenda item to create policy on how Development Agreements are negotiated to give tools to staff to better serve our community and the city's interest. Council Member Arriola seconded the request. Council Member Vargas asked to bring back the agenda of October 15, 2019 when we have a budget to revisit all the fire stations (construction) and where we are at. Jenny Haruyama, City Manager responded the Fire Station Financing Plan will be coming back to Council. Council Member Vargas wished everyone a happy Thanksgiving, and asked when is the next Adhoc Committee meeting for finance. Ms. Haruyama responded a meeting can be scheduled within the next few months because the Council workshop is coming up and will be addressing the sustainability fiscal plan.

Council Member Ransom requested a discussion to get Council up to speed on the JPA. Council Member Vargas seconded the request. Council Member Ransom wished everyone a happy Thanksgiving.

Council Member Arriola wished everyone a happy Thanksgiving.

Mayor Pro Tem Young wished everyone a happy Thanksgiving, and asked about the update on the homeless and the warming center. Ms. Haruyama stated an update on the grant status was sent about a week ago. The City received one grant from United Way for \$20,000, and is waiting to hear back from two outstanding grants from the County and COC. Anticipating the County award would be approximately \$300,000. Total submission was approximately \$1.5 million. Ms. Haruyama stated staff hoped to get half of that and will continue to update Council.

Mayor Rickman wished everyone happy Thanksgiving, and urged everyone to support local businesses.

ADJOURNMENT – Time: 1:04 a.m. Date: November 18, 2020

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

The above agenda was posted at the Tracy City Hall on November 12, 2020. The above are action minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk

December 1, 2020

AGENDA ITEM 1.B

REQUEST

ADOPT THE SAN JOAQUIN CONTINUUM OF CARE AS THE PRIMARY ORGANIZATION THROUGH WHICH THE CITY OF TRACY WILL WORK TO DEVELOP SOLUTIONS TO HOMELESSNESS AND ACKNOWLEDGE AND SUPPORT THE PROGRAM ADMINISTRATOR FOR HOMELESS INITIATIVES POSITION AS THE HOMELESS COORDINATOR FOR SAN JOAQUIN COUNTY

EXECUTIVE SUMMARY

At its October 6, 2020 meeting, the Tracy City Council reviewed and approved a response letter to the San Joaquin County Civil Grand Jury's report, "Homelessness in San Joaquin County". Council also directed staff to return with two follow up items. As part of the response to the Grand Jury's Recommendation 3.2, Council directed staff to return with a resolution for adoption, recognizing the San Joaquin Continuum of Care (SJCoC) as the primary organization through which the City of Tracy will work to develop solutions to homelessness. Recommendation 3.3 required further analysis and staff was directed to return to Council with clarification with respect to support for the County position of Program Administrator for Homeless Initiatives.

This report recommends Council adopt a resolution formally recognizing the San Joaquin Continuum of Care as the primary organization through which the City of Tracy will work with the County and other cities to develop solutions to end homelessness and for Council to receive clarifying information to the Grand Jury's Recommendation 3.3 regarding support for the County Program Administrator for Homeless Initiatives.

DISCUSSION

At its October 6, 2020 meeting, the Tracy City Council reviewed and approved a response letter to the 2020 San Joaquin County Civil Grand Jury's report, "Homelessness in San Joaquin County". Recommendations R3.2 and R3.3 required further action from Council.

In response to the Grand Jury's Recommendation 3.2, "*By December 30, 2020, the Cities of Tracy, Manteca, Lathrop, Ripon, and Escalon adopt the San Joaquin Continuum of Care as the primary organization through which the County and cities work together to develop solutions to homelessness*", Council directed staff to return with a resolution for adoption recognizing the SJCoC as the primary organization through which the City of Tracy will work with the County and other cities in the county to develop solutions to homelessness. The City is committing to attend and participate in meetings as well as coordinating with homeless service providers throughout the county (via the SJCoC) with the intent of collaboratively developing solutions to homelessness county-wide. Attached to this report is a draft resolution for Council's consideration.

In response to the Grand Jury's Recommendation 3.3, "*By December 30, 2020, the Cities of Tracy, Manteca, Lathrop, Ripon, and Escalon in open session officially*

acknowledge and support the Program Administrator for Homeless Initiatives position as the homeless coordinator for San Joaquin County”, staff reached out to both the Grand Jury Staff Secretary and the San Joaquin County Administrator’s Office for clarification on what action would demonstrate “support” for the position.

The Grand Jury’s Secretary referred staff back to the first paragraph in Section 7 of the report:

7.0 Non-Entitlement Cities

Tracy, Manteca, Lathrop, Ripon, and Escalon are all non-entitlement cities. All five have a homelessness policy, but they vary in degree. None of the five cities offered to contribute toward funding of the Program Administrator for Homeless Initiatives, nor have they adopted San Joaquin Continuum of Care as the primary organization through which San Joaquin County and the various cities work together to develop solutions to homelessness.

From this response, staff understood that the Grand Jury was recommending the City commit funding for the County position. Staff then reached out the County Administrator’s office to get an estimate of what the financial ask would be. Staff was advised that the County did not have any plans to make a funding request from the City of Tracy for the Program Administrator Program.

Based in this information, staff recommends drafting a letter to the Grand Jury advising the City Council has, via resolution, 1) formally recognized the SJCoC, as the lead agency for homelessness in the County, 2) acknowledges and supports the Program Administrator for Homeless Initiatives position as the Homeless Coordinator for San Joaquin County and 3) should any future funding requests be received from the County for the Program Administrator position, staff will return to Council for its consideration and direction.

STRATEGIC PLAN

This is a routine operational item and is not related to any of the Council Strategic Priorities.

FISCAL IMPACT

These is no fiscal impact associated with adopting a resolution recognizing the SJCoC as the primary organization through which the City of Tracy will develop solutions to homelessness and acknowledging and supporting the Program Administrator position as the Homeless Coordinator for San Joaquin County. Any future fiscal impact will be dependent upon City Council’s direction provided to staff. Implementation of any strategies proposed by the SJCoC or request for financial support for the Program Administrator position will be brought back for City Council consideration and will include a fiscal impact summary specific to each.

RECOMMENDATION

That the City Council adopt a resolution recognizing the San Joaquin Continuum of Care as the primary organization through which the City of Tracy will work with the County

Agenda Item 1.B
December 1, 2020
Page 3

and other cities to develop solutions to homelessness and acknowledging and supporting the Program Administrator position as the Homeless Coordinator for San Joaquin County.

Prepared by: Midori Lichtwardt, Assistant City Manager

Reviewed, and Approved by: Jenny Haruyama, City Manager

RESOLUTION _____

ADOPTING THE SAN JOAQUIN CONTINUUM OF CARE AS THE PRIMARY ORGANIZATION THROUGH WHICH THE CITY OF TRACY WILL WORK TO DEVELOP SOLUTIONS TO HOMELESSNESS AND ACKNOWLEDGING AND SUPPORTING THE PROGRAM ADMINISTRATOR FOR HOMELESS INITIATIVES POSITION AS THE HOMELESS COORDINATOR FOR SAN JOAQUIN COUNTY

WHEREAS, The San Joaquin Continuum of Care (SJCoC) is a regional strategic planning body made up of a broad range of volunteer stakeholders, which provides leadership and stewardship of resources, as well as facilitates community planning, design, and implementation of programs critical to ending homelessness in San Joaquin County; and

WHEREAS, The Tracy City Council recognize the need for collaboration between local stakeholders including but not limited to nonprofit providers, advocates, people who have experienced homelessness, local government leaders, mental health workers, business leaders, and law enforcement, to coordinate services, reduce duplication and bridge gaps in service; and

WHEREAS, The Tracy City Council affirm their shared desire to strengthen the relationship between the County, the cities within San Joaquin County, and the SJCoC, formalize the process of collaborating on a regional plan to address homelessness in San Joaquin County, and provide consultation to City staff in seeking the wide range of expertise available through the San Joaquin Continuum of Care.

WHEREAS, In a further demonstration of the City's desire to work collaboratively with County partners, the Tracy City Council acknowledges and supports the Program Administrator for Homeless Initiatives position as the Homeless Coordinator for San Joaquin County.

NOW, THEREFORE, BE IT RESOLVED That the Tracy City Council does hereby adopt the San Joaquin Continuum of Care as the primary organization through which the City of Tracy will work to develop solutions to homelessness and acknowledges and supports the Program Administrator for Homeless Initiatives position as the Homeless Coordinator for San Joaquin County

The foregoing Resolution _____ was adopted by the Tracy City Council on the 1st day of December, 2020 by the following votes:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

December 1, 2020

AGENDA ITEM 1.C

REQUEST

APPROVAL OF REAL PROPERTY PURCHASE AGREEMENT BETWEEN THE CITY OF TRACY AND STANLEY BOERSMA AND GEURTJE J. BOERSMA, AND WAHID TADROS AND JULIE TADROS FOR THE EXPANSION OF DETENTION BASIN 2B LOCATED AT THE TERMINUS OF MISSION COURT NEAR VALPICO ROAD (APN 246-130-05), AND AUTHORIZE AN APPROPRIATION OF \$160,000 FROM PLAN C DRAINAGE FUND (F322) TO CIP 76066

EXECUTIVE SUMMARY

This agreement is for the purchase of real property by the City of Tracy for the expansion of Detention Basin 2B at the terminus of Mission Court, north of Valpico Road.

DISCUSSION

The expansion of Detention Basin 2B is an approved Capital Improvement Project (CIP 76066) with an estimated cost of \$4,400,000. The project is funded from ISP South, Infill, and Plan C Drainage Area fees.

Expansion of Detention Basin 2B requires the procurement of rights-of-way from certain real property owned by the Boersma and Tadros families. Associated Right of Way Services, Inc. of Pleasant Hill, California, was hired by the City to provide acquisition services for the subject project. The property consists of a 4.62 acre portion of an 11.29 acre property. An appraisal was performed for the City by Trentin Krauss, MAI. An offer was made to the property owner. A negotiated price of \$1,700,000 was arrived at by the parties. The purchase price is a fair and reasonable amount. Should Council approve this purchase, the transaction will be completed through an escrow.

By negotiating this agreement, the City will save the cost of pursuing eminent domain proceedings, the required attorney's fees, and the potential of having to pay even more than the amount agreed upon to settle the dispute.

Staff recommends City Council approve the purchase agreement. A copy of the purchase agreement is on file in the Office of the City Clerk.

This detention basin is considered in the November 2012 Citywide Storm Drainage Master Plan Mitigated Negative Declaration. No additional CEQA documentation is required.

STRATEGIC PLAN

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

FISCAL IMPACT

CIP 76066 is an approved Capital Improvement Project with an available budget of \$1,542,000. An appropriation of \$160,000 from Plan C Drainage Fund (F322) will be needed to complete the land purchase.

RECOMENDATION

Staff recommends that City Council, by resolution, approve the real property purchase agreement between the City of Tracy and Stanley Boersma, Geurte J. Boersma, Wahid Tadros and Julie Tadros, for the expansion of Detention Basin 2B located at the terminus of Mission Court, near Valpico Road, and authorize an appropriation of \$160,000 from Plan C Drainage Fund (F322).

Prepared by: Ilene Macintire, PE, Senior Civil Engineer

Reviewed by: Robert Armijo, PE, City Engineer / Assistant Development Services Director
Karin Schnaider, Finance Director
Andrew Malik, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

Attachment A – Purchase Agreement

GRANTOR: BOERSMA & TADROS
PROJECT: DETENTION BASIN 2B EXPANSION

APN: 246-130-05

**CITY OF TRACY
AGREEMENT FOR PURCHASE OF PROPERTY**

This Agreement is based on the following facts:

- A. Owner owns real property located in the City of Tracy, known as APN 246-130-05;
- B. City wishes to construct a Project on the Owner's real property identified above, and will require a portion of said real property.

Now, therefore, the Parties agree:

1. Definitions. In this Agreement:

City means the City of Tracy, a municipal corporation, and its officers, employees, agents and contractors.

Project means the City's Detention Basin 2B Expansion Project.

Grantor, or Property Owner, means **STANLEY BOERSMA AND GEURTJE J. BOERSMA, HUSBAND AND WIFE AS JOINT TENANTS, AS TO AN UNDIVIDED 1/2 INTEREST; AND WAHID TADROS AND JULIE TADROS, TRUSTEES OF THE WAHID AND JULIE TADROS LIVING TRUST DATED OCTOBER 17, 2017, AS TO AN UNDIVIDED 1/2 INTEREST.**

Property means the real property to be acquired by the City, consisting of a 4.62 acre portion of a larger parcel of real property owned by Grantor, known as APN 246-130-05. The Property is more particularly described in the Grant Deed attached hereto as Attachment 1.

Escrow or Escrow Account means the escrow account established by the City at Stewart Title of California, Inc., Company, 809 A Sylvan Avenue, Suite 101, Modesto, CA 95350, Escrow No. 01180-184708.

2. Grant Deed. In consideration of the terms in this Agreement, Grantor shall deposit in Escrow a *Grant Deed* suitable for recordation and conveying the Property from Grantor to City. The Property must be free and clear of all liens, leases, encumbrances, recorded or unrecorded, assessments and taxes, except for any exceptions to title identified in the title report which are acceptable to City. (It is Grantor's responsibility to clear any title exceptions not acceptable to City.) The form of the Grant Deed shall be substantially as set forth in Attachment 1, with Exhibits A (Legal Description) and B (Plat Map) attached.

3. Purchase.

A. Consideration. City shall pay the sum of ONE MILLION SEVEN HUNDRED THOUSAND DOLLARS and no/100 (\$1,700,000.00) to the Escrow Account as consideration for the Property.

B. Deductions. City may deduct and pay from the consideration any amount necessary to satisfy any liens, bond demands and delinquent taxes due in any year except the year in which this escrow closes, together with penalties and interest, and/or delinquent and unpaid non delinquent assessments, which may have become a lien at the close of escrow.

C. Current taxes. Taxes for the tax year in which this escrow closes shall be cleared and paid in the manner required by Revenue and Taxation Code Section 5086 if unpaid at the close of escrow.

D. Escrow and title charges. City agrees to pay all escrow, recording and title insurance charges, if any, incurred in this transaction.

E. Clear title. Close of escrow for this transaction is contingent upon the title company receiving deeds of reconveyance from any deed of trust or mortgage holder trustees and beneficiaries.

4. City's Indemnification. City shall indemnify, defend, and hold harmless Grantor from and against all claims, causes of action, damages, liabilities, cost and expenses (including reasonable attorney fees and costs), arising from or related to City's use and exercise of City's rights under this Agreement, except as to action, damages, liabilities or costs due to Grantor's negligence or willful misconduct.

5. Right of Possession and Use. City's right of possession and use of the Property, including the right to remove and dispose of improvements, and install and connect utilities, shall commence on the date the amount of funds as specified in Section 3.A herein are deposited into the escrow controlling this transaction. The consideration shown in Section 3.A includes, but is not limited to, full payment for the possession and use from that date, including interest and damages if any.

6. Notice to successors. If Grantor sells, conveys or assigns any property interest encumbered by this Agreement before the City exercises its rights, Grantor shall notify the successor or assignor of the rights and obligations under this Agreement.

7. Escrow Instructions. Grantor authorizes City to prepare and file escrow instructions in accordance with this Agreement on behalf of both parties.

8. Hazardous Wastes. The acquisition price of the Property reflects the fair market value of the Property without the presence of contamination. If the Property is found to be contaminated by the presence of hazardous waste which requires mitigation under Federal or State law, the City may elect to recover its clean-up costs from those who caused or contributed to the contamination. Grantor shall further indemnify, defend, save and hold harmless the City from any and all claims, costs and liability, including reasonable attorney's fees, for any damage, injury or death to persons or property arising directly or indirectly from or connected with the existence of toxic or hazardous material on the property, save and except claims, costs or litigation arising through the sole willful misconduct of the City.

9. No Leases. Grantor warrants that there are no oral or written leases on all or any portion of the Property exceeding a period of one month. Grantor agrees to hold City harmless and reimburse City for any of its losses and expenses occasioned by reason of any lease of the Property held by a tenant for a period exceeding one month.

10. Release of All Claims. This is intended as a full and complete release of all or any claims that either party has against the other and is in full settlement of any and all such claims and intends to and does hereby release all of said persons, firms, associations and corporations of and from any and all liability of any nature whatsoever for all claims or causes of action including those for all consequences, effects and results of any loss, injury or damage, whether the same are now

known or unknown to the undersigned, expected or unexpected by the undersigned, or have already appeared or developed or may now be latent or may in the future appear or develop.

The parties acknowledge that they each have been informed of and are familiar with the provisions of California Civil Code Section 1542 which provides:

"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or releasing party."

Further, the parties mutually waive the provisions of California Civil Code Section 1542, and further waive any right they might have to voice said provisions now or in the future with respect to the releases set out in this Compromise and Release. The parties recognize and acknowledge that factors which have induced them to enter into this Compromise and Release may turn out to be incorrect or different to what they have previously anticipated, and the parties expressly assume the risks and further expressly assume the risk of this waiver of California Civil Code section 1542.

11. Remedies for Breach. In the event of a breach of this Agreement by Grantor, City is entitled to pursue any and all remedies available to it against Grantor, including, without limitation, claims for all damages attributable to Grantor's breach, and specific performance of this Agreement.

12. Miscellaneous.

A. Authority to sign; Approval of City. Grantor and the signatories represent and warrant that the signatories to this Agreement are authorized to enter into this Agreement to convey real property and that no other authorizations are required to implement this Agreement on behalf of Grantor.

Grantor understands that this Agreement is subject to the approval of City, and this Agreement shall have no effect unless and until the Council approves it.

B. Counterparts Signature. This Agreement may be executed in counterparts, each of which shall be an original, but all counterparts shall constitute one agreement.

C. Specific Performance. In the event of Grantor's breach of this Agreement, City shall be entitled to pursue any and all remedies available to it, including, without limitation, claims for damages attributable to Grantor's breach, and specific performance of this Agreement.

D. Entire Agreement. The parties have here set forth the whole of their agreement. The performance of this Agreement constitutes the entire consideration for the Property and shall relieve City of all further obligations or claims on this account or on account of the location, grade, construction or operation of the proposed Project.

E. Binding on Successors and Assigns. This Agreement shall be binding on and inure to the benefit of the respective heirs, successors and assigns of the parties.

[Signatures on the following page]

GRANTOR: BOERSMA & TADROS
PROJECT: DETENTION BASIN 2B EXPANSION

APN: 246-130-05

The parties have executed this Agreement the last date written below.

CITY OF TRACY:

By: _____

Title: _____

Date: _____

Approved as to Form:

By: _____

Title: _____

GRANTOR/PROPERTY OWNER(S):

By: Stanley Boersma
Stanley Boersma

Date: 9-22-2020

By: Geurtje J. Boersma
Geurtje J. Boersma

Date: 9-22-2020

By: Wahid Tadros, Trustee
Wahid Tadros

Date: 9-28/2020

By: Julie Tadros, Trustee
Julie Tadros

Date: 9-28-2020

Attachment:

- 1 Form of Grant Deed, including Exhibits A (Legal Description) and B (Plat Map)

RECORDING REQUESTED BY:
Stewart Title of California, Inc.
809 A Sylvan Avenue, Suite 101
Modesto, CA 95350

WHEN RECORDED MAIL TO:
City of Tracy
Attn: Adrienne Richardson, City Clerk
333 Civic Center Plaza
Tracy, CA 95376

APN: 246-130-05 (portion of)

Space Above This Line for Recorder's Use

This document is exempt from the payment of a recording fee pursuant to Government Code § 27383 and §6103, and exempt from Documentary Transfer Tax pursuant to California Revenue and Taxation Code Section 11922

GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

STANLEY BOERSMA AND GEURTJE J. BOERSMA, HUSBAND AND WIFE AS JOINT TENANTS, AS TO UNDIVIDED 1/2 INTEREST; AND WAHID A. TADROS AND JULIE TADROS, TRUSTEES OF THE WAHID AND JULIE TADROS LIVING TRUST DATED OCTOBER 17, 2017, AS TO AN UNDIVIDED 1/2 INTEREST

hereby grant(s) to the **CITY OF TRACY, A MUNICIPAL CORPORATION** the real property more particularly described in Exhibit "A" attached hereto and made a part hereof.

SIGNED:

By: Stanley Boersma
Stanley Boersma

Date: 9-22-2020

By: Geurtje J. Boersma
Geurtje J. Boersma

Date: 9-22-2020

By: Wahid A. Tadros, Trustee
Wahid A. Tadros, Trustee

Date: 9-28-2020

By: Julie Tadros, Trustee
Julie Tadros, Trustee

Date: 9-28-2020

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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

STATE OF CALIFORNIA
COUNTY OF Contra Costa

On this 22nd day of September, 2020 before me, Nicole Kutchai, a Notary Public in and for the State of California, personally appeared Stanley Boersma, proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS MY HAND AND OFFICIAL SEAL the day and year first above written.

Nicole Kutchai, Notary Public
NOTARY PUBLIC



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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

STATE OF CALIFORNIA
COUNTY OF Contra Costa

On this 22nd day of September, 2020, before me, Nicole Kutchai, a Notary Public in and for the State of California, personally appeared Geurtje J. Boersma, proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS MY HAND AND OFFICIAL SEAL the day and year first above written.

Nicole Kutchai, Notary Public
NOTARY PUBLIC



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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

STATE OF CALIFORNIA
COUNTY OF Orange

On this 28 day of September, 2020, before me, Keyrah Truszkowski, a Notary Public in and for the State of California, personally appeared Wahid A. Tadros, Trustee, proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS MY HAND AND OFFICIAL SEAL the day and year first above written.

NOTARY PUBLIC



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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

STATE OF CALIFORNIA
COUNTY OF Orange

On this 28 day of September, 2020 before me, Keyrah Truszkowski, a Notary Public in and for the State of California, personally appeared Julie Tadros, Trustee, proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS MY HAND AND OFFICIAL SEAL the day and year first above written.



NOTARY PUBLIC



CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in the real property (APN 246-130-05) conveyed by FEE Dated _____, 2020 from Stanley Boersma and Geurtje J. Boersma, husband and wife as joint tenants, as to undivided 1/2 interest; and Wahid Tadros and Julie Tadros, Trustees of the Wahid and Julie Tadros Living Trust Dated October 17, 2017, as to undivided 1/2 interest to the City of Tracy, a Municipal Corporation by the within instrument, the provisions of which are incorporated by this reference as though full set forth in this Certification, is hereby accepted by the City Clerk on behalf of the City Council of the City pursuant to authority conferred by resolution of the City Council adopted on August 06, 1968 and the City consents to be recorded hereby its duly authorized officer.

Dated: _____

CITY OF TRACY

By: _____

Its: _____

**LEGAL DESCRIPTION
DETENTION BASIN 2B EXPANSION
EXHIBIT A**

THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF TRACY,
COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, DESCRIBED AS
FOLLOWS:

A PORTION OF PARCEL "C", AS SHOWN UPON THAT CERTAIN PARCEL MAP,
FILED FOR RECORD DECEMBER 7, 1978 IN BOOK 7 OF PARCEL MAPS AT
PAGE 6, SAN JOAQUIN COUNTY RECORDS, AND MORE PARTICULARLY
DESCRIBED AS FOLLOWS:

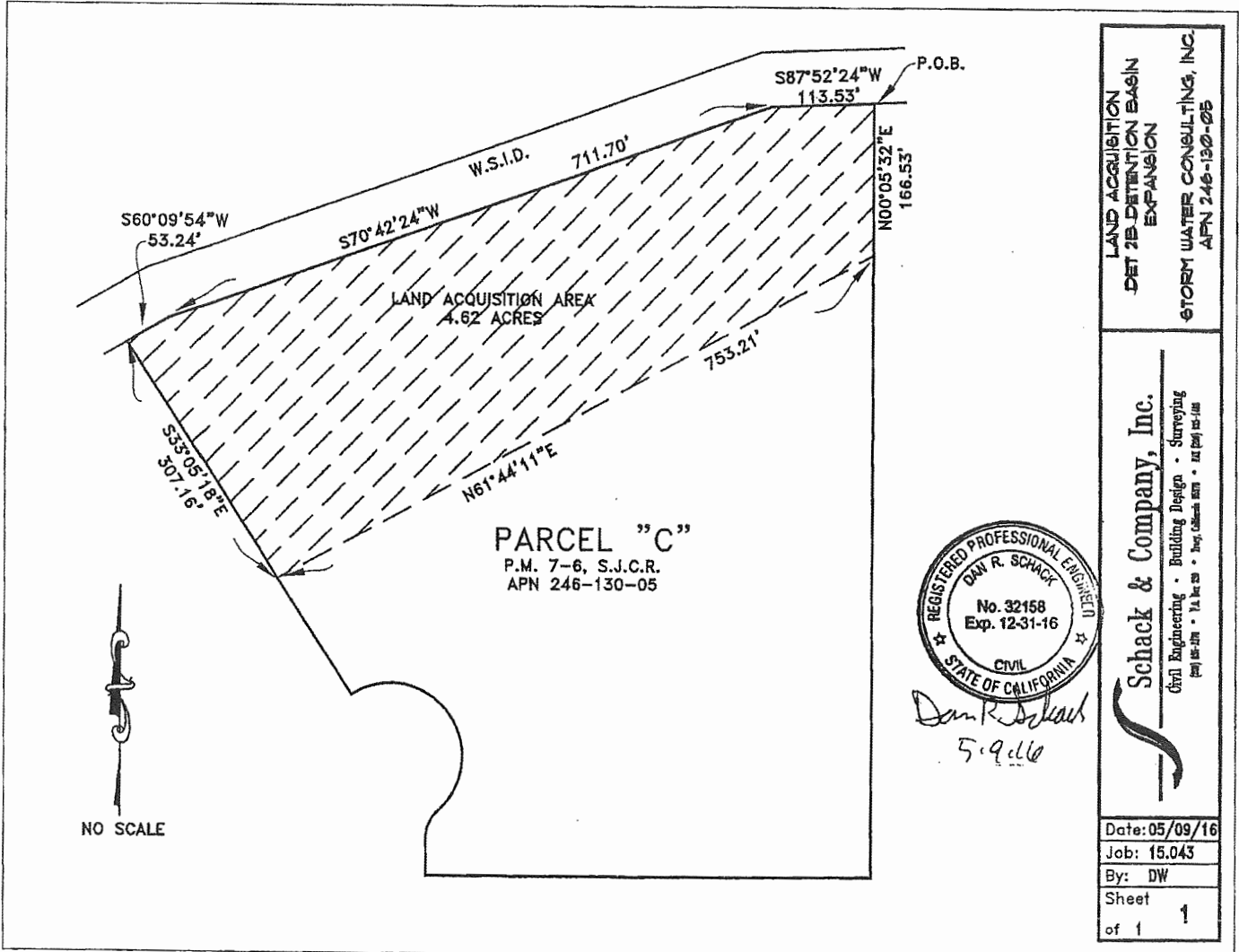
BEGINNING AT THE NORTHEAST CORNER OF SAID PARCEL "C"; THENCE
SOUTH 87 DEGREES 52 MINUTES 24 SECONDS WEST, ALONG THE
NORTHERLY LINE OF SAID PARCEL "C", 113.53 FEET TO A POINT; THENCE
SOUTH 70 DEGREES 42 MINUTES 24 SECONDS WEST, ALONG THE
NORTHERLY LINE OF SAID PARCEL "C", 711.70 FEET TO A POINT; THENCE
SOUTH 60 DEGREES 09 MINUTES 54 SECONDS WEST, 53.24 FEET TO THE
NORTHWEST CORNER OF SAID PARCEL "C"; THENCE SOUTH 33 DEGREES 05
MINUTES 18 SECONDS EAST, ALONG THE WESTERLY LINE OF SAID PARCEL
"C", 307.16 FEET TO A POINT; THENCE NORTH 61 DEGREES 44 MINUTES 11
SECONDS EAST, 753.21 FEET TO THE EAST LINE OF SAID PARCEL "C";
THENCE NORTH 00 DEGREES 05 MINUTES 32 SECONDS EAST, ALONG THE
EAST LINE OF SAID PARCEL "C", 166.53 FEET TO THE POINT OF BEGINNING.

CONTAINING 4.62 ACRES, MORE OR LESS



Don R. Schack
5-9-16

EXHIBIT A



Dan R. Schack
 5.9.16

LAND ACQUISITION
 DET 2B DETENTION BASIN
 EXPANSION
 STORM WATER CONSULTING, INC.
 APN 246-130-05

Schack & Company, Inc.
 Civil Engineering • Building Design • Surveying
 (916) 442-2171 • 14400 29th • Tracy, California 95376 • (916) 442-1166

Date:	05/09/16
Job:	15.043
By:	DW
Sheet	1
of 1	

EXHIBIT A

RESOLUTION 2020-_____

APPROVING REAL PROPERTY PURCHASE AGREEMENTS BETWEEN THE CITY OF TRACY AND STANLEY BOERSMA AND GEURTJE J. BOERSMA, AND WAHID TADROS AND JULIE TADROS FOR THE EXPANSION OF DETENTION BASIN 2B LOCATED AT THE TERMINUS OF MISSION COURT NEAR VALPICO ROAD (APN 246-130-05), AND AUTHORIZING AN APPROPRIATION OF \$160,000 FROM PLAN C DRAINAGE FUND (F322) TO CIP 76066

WHEREAS, The expansion of Detention Basin 2B is an approved Capital Improvement Project, and

WHEREAS, The expansion of Detention Basin 2B require procurement of 4.62 acres of additional land, and

WHEREAS, The City Consultant, Associated Right of Way Services, Inc. of Pleasant Hill, California, in coordination with the City staff, negotiated with the property owners to secure right of way from the Boersma and Tadros families, and

WHEREAS, The City has negotiated a purchase agreement with the property owners in the amount of \$1,700,000, and

WHEREAS, CIP 76066 is an approved Capital Improvement Project with an available budget of \$1,542,000, an appropriation of \$160,000 from Plan C Drainage Fund (F322) will be needed to complete the land purchase;

NOW, THEREFORE BE IT RESOLVED, That City Council of the City of Tracy hereby approves the real property purchase agreement between the City of Tracy and Stanley Boersma, Geurte J. Boersma, Wahid Tadros and Julie Tadros, for the expansion of Detention Basin 2B located at the terminus of Mission Court, near Valpico Road, and authorizes an appropriation of \$160,000 from Plan C Drainage Fund (F322).

The foregoing Resolution 2020-_____ was adopted by the Tracy City Council on the 1st day of December 2020 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

APPROVE AN INITIAL TWO-YEAR PROFESSIONAL SERVICES AGREEMENT WITH TERRACARE ASSOCIATES, NOT TO EXCEED \$900,000 ANNUALLY, FOR LANDSCAPE, PARK AND CHANNELWAY MAINTENANCE SERVICES FOR THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT AND COMMUNITY FACILITY DISTRICTS AND AUTHORIZE THE CITY MANAGER TO EXECUTE ANY EXTENSIONS AND MAKE MINOR AMENDMENTS TO THE AGREEMENT

EXECUTIVE SUMMARY

Tracy Consolidated Landscape Maintenance District (LMD) has 42 zones comprised of approximately 220 acres of landscaping including turf, shrubs and groundcover in numerous parks, medians, streetscapes and channelways. Additionally, the City's two Community Facility Districts (CFD) are estimated to have 20 acres of park landscaping when completed. The City requested proposals from qualified contractors for landscape maintenance services for these areas in August of 2020. After review of those proposals and subsequent interviews, staff is recommending Council approve a Professional Services Agreement (PSA) with Terracare Associates, LLC (TCA).

DISCUSSION

The LMD, which currently consists of 42 distinct zones, and two recently formed CFDs that service Tracy Hills and Ellis, rely primarily on special assessments collected through the tax roll to fund maintenance of the landscaped portions of these areas. The LMD/CFDs now cover approximately two thirds of the City. Care for the landscaping and parks within the remaining older core of the City is funded through the General Fund. The authority for collecting special assessments for these services is set forth in the Landscape & Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code and The Mello-Roos Community Facilities Act of 1982.

Management and oversight of the LMD and CFDs operations resides in the Public Works Department. The associated tasks for these operations are performed by a combination of both in-house and contracted services. Among the contracted services within the LMD/CFDs are basic landscape maintenance services such as mowing, edging, and shrub and groundcover care.

On August 28, 2020, staff issued a Request for Proposals (RFP) for landscape, park, and channelway maintenance in the LMD and CFDs. The RFP provided specific information regarding various minimum requirements of the PSA, including but not limited to such items as permits and licenses, bond and insurance requirements, work schedules, meetings with staff, site inspections, scope of services, and City directives. Updates to the previous PSA for these services were made in an effort to address

previous shortcomings in services. A mandatory pre-proposal conference and tour was conducted on September 28, 2020, for all interested consultants.

Staff received a total of four proposals: the incumbent MCE Corporation, TCA, Pride Industries, and BrightView Landscape Services. Staff evaluated the proposals and conducted interviews with three of the four proposers and concluded that TCA was the most responsive to the City's needs. After detailed discussions with the TCA, the scope of work for the PSA (Attachment A) was negotiated with a not-to-exceed amount of \$900,000 per year. Language within the agreement provides for the option to adjust service levels according to funding, have TCA perform clean-up work, and minor landscape renovation or improvement projects as requested by the City.

The intent of the proposed PSA is to provide a level of maintenance that will result in an attractive and desirable appearance of City landscaping and parks while balancing the funding available from the respective sources. TCA will be using its own means and methods and agrees to maintain all designated areas to the City's stated standards. Three types of services levels for the LMD are set forth in the proposed PSA. Service Level 'A' represents the highest level of care and has the characteristics described in Attachment A. Service Level 'B' represents the same basic maintenance tasks as Service Level 'A', but on a less frequent schedule, and Service Level 'C' is further reduced in services and frequencies. Service Levels are based on funding availability. In addition to the LMD zone maintenance, the proposed consultant will also be required to maintain the channelways within the zones. The two current CFDs' areas in Tracy Hills and Ellis have established maintenance agreements with their respective Owner Associations. The PSA includes services to adhere to those specific agreements.

TCA is part of the Monarch Landscape organization. They have been providing services to municipalities for 20 years with full service and large-scale park maintenance. Some of their current clients include the cities of Dublin, Pomona, Lafayette, Atherton and other Bay Area cities. Two years ago, TCA created a Municipal Division to better serve municipalities and their unique needs.

Upon Council approval, the initial term of the PSA will be from January 1, 2021 through December 31, 2022. Upon recommendation from the Public Works Director, the City Manager may extend the agreement in any combination of years but not to exceed five total years in extensions – for a total possible agreement length of seven years. As the City accepts new development and landscaping, there will be a need for TCA to serve those new areas. Therefore, staff is requesting Council to authorize the City Manager to amend the agreement to serve these areas and to make other minor amendments as needed.

STRATEGIC PLAN

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

FISCAL IMPACT

The PSA will be primarily funded by the LMD (271) and CFD (272 & 273). Other funding sources include Storm Drain Fund (541) and General Fund (101). Sufficient funds exist in the fiscal year 20/21 budget to fund this contract.

RECOMMENDATION

Staff recommends Council approve an initial two-year Professional Services Agreement with Terracare Associates, Inc. for landscape, park and channelway maintenance services, not to exceed \$900,000 annually, for the Tracy Consolidated Landscape Maintenance District and Community Facility Districts and authorize the City Manager to execute any extensions and make any minor amendments to the agreement.

Prepared by: Robin Kloepfer, Management Analyst II

Reviewed by: Don Scholl, Public Works Director
Karin Schnaider, Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Jennifer D. Haruyama, City Manager

ATTACHMENTS

Attachment A – Professional Services Agreement
Attachment B – Augmentation Request Form

CITY OF TRACY
PROFESSIONAL SERVICES AGREEMENT WITH
TerraCare Associates, Inc
for
2021-2022 Landscape, Parks and Channelway Maintenance Agreement

This Professional Services Agreement (**Agreement**) is entered into between the City of Tracy, a municipal corporation (**City**), and Terracare Associates, LLC is a wholly owned subsidiary of Monarch Landscaping, Inc, a California corporation (**Consultant**). City and Consultant are referred to individually as “Party” and collectively as “Parties.”

Recitals

A. City desires to retain Consultant to perform landscape maintenance services for specially funded areas of the city.

B. On August 28, 2020 the City issued a Request for Proposals (RFP) for the 2021-2022 Landscape, Parks and Channelway Maintenance Agreement (**Project**). On October 7, 2020 Consultant submitted its proposal for the Project to the City. City has determined that Consultant possesses the skills, experience and certification required to provide the services.

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

D. This Agreement is being executed pursuant to Resolution No. 2020-_____ approved by Tracy City Council on December 1, 2020.

Now therefore, the Parties mutually agree as follows:

1. Scope of Work. Consultant shall perform the services described in Exhibit “A” attached and incorporated by reference. The services shall be performed by, or under the direct supervision of, Consultant’s Authorized Representative: Kris Dasso. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit “A,” nor shall Consultant use or replace any subcontractor or subconsultant, without City’s prior written consent. A failure to obtain the City’s prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

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

2.1 Term. The initial term of this Agreement shall begin on January 1, 2021 and end on December 31, 2022 unless terminated in accordance with Section 6.

2.2 Option to Extend: This Agreement may be extended for an additional five years by the City Manager following a written determination that Consultant has satisfactorily met all the requirements of this Agreement.

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

3.1 Not to Exceed Amount. Consultant's total compensation under this Agreement shall not exceed \$900,000 annually. Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the total compensation amount provided in this section without the City's prior written approval.

3.2 Invoices. Consultant shall submit monthly invoice(s) to the City that describe the period of services based on the established rate and on completion of work for each individual Landscape Maintenance District Zone, Channelway and Community Facilities District area.

3.2.1 Consultant's failure to submit invoice(s) in accordance with these requirements may result in the City rejecting said invoice(s) and thereby delaying payment to Consultant. Any invoice that is deemed to not be paid-in-full by the City will require Consultant to resubmit a corrected invoice.

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

3.4 Inflationary Increase. If the term of this Agreement is extended in accordance with Section 2.2, and the City determines that the Consultant has satisfactorily performed under this Agreement, Consultant may submit a written request to the City to increase the established rates in Exhibit "B". The rates may be increased by the lesser of (1) three percent (3%), or (2) the annual percentage increase of the Local Consumer Price Index (CPI) for "All Urban Consumers" for the San Francisco-Oakland-San Jose Area. Following the City's receipt of a written request for an increase to the rates, City and Contractor will enter into an amendment to this Agreement reflecting the adjustment to the rates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Termination. It is agreed and understood that if the Consultant fails to perform the work as specified herein, City shall have the right to suspend or terminate the Agreement pursuant to the following conditions:

6.1 City will compile a list of work that does not meet the Scope of Services and Statement of Service Work Levels, as set forth in Exhibit "A" and meet with Consultant to discuss and attempt to correct issue(s).

6.2 City will issue a written notice of non-compliance with the terms of the Scope of Services and Statement of Service Work Levels, as set forth in Exhibit "A" and action(s) necessary to bring the work into compliance with the Scope of Services and Statement of Service Work Levels

6.3 If Consultant fails to bring the work into compliance with the Scope of Services and Statement of Service Work Levels, as set forth in Exhibit "A," within 30 days of receipt of the written notice, as provided above in this Section 6.2, City will provide Consultant with 30 days' prior written notice to suspend or terminate the Agreement and shall have the right to use the bond or

deposit amount to cause the uncompleted work to be performed by its own forces and/or by a third party in accordance with Section 6 – Bond or Deposit of the Scope of Services in Exhibit “A”.

Upon termination, Consultant shall give the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant for this Agreement. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

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

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

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

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

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

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

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

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

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

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

11. Rebates, Kickbacks, or Other Unlawful Consideration. Consultant warrants that this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For breach of this warranty, City shall have the right, in its sole discretion, to terminate this Agreement without liability; to pay only for the value of the

work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

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

To City:

To Consultant:

Don Scholl Public Works Director City of Tracy 520 S. Tracy Blvd Tracy, CA 95376	
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With a copy to:
City Attorney
333 Civic Center Plaza
Tracy, CA 95376

13. Miscellaneous.

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

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

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

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

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

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

13.6.1 Prevailing Wage Laws. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates; employment of apprentices (§ 1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors and subcontractors (§1777.1) and the performance of other

requirements on “public works” and “maintenance” projects. If the services being performed under this Agreement are part of a “public works” or “maintenance” project, as defined in the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. These prevailing rates are on file with the City and are available online at <http://www.dir.ca.gov/DLSR>. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents, harmless from any and all claims, costs, penalties, or interests arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

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

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

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

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

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

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

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

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

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

[SIGNATURES ON FOLLOWING PAGE]

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

City of Tracy

Consultant

By: _____
Title: _____
Date: _____

Brian Henoge
By: BRIAN HENOGE
Title: CEO
Date: 11/9/2020

Federal Employer Tax ID No. _____

Attest:

Adrienne Richardson, City Clerk

[Note: Depending on type of entity, more than one signature may be required. See Instructions for Agreements §§A.5.c and C.2.b.]

Approved as to form:

Leticia Ramirez, City Attorney

[Signature]
By: Angela EHA
Title: CFO
Date: 11/9/2020

Exhibits:

- A Scope of Service
- B Compensation

EXHIBIT “A”

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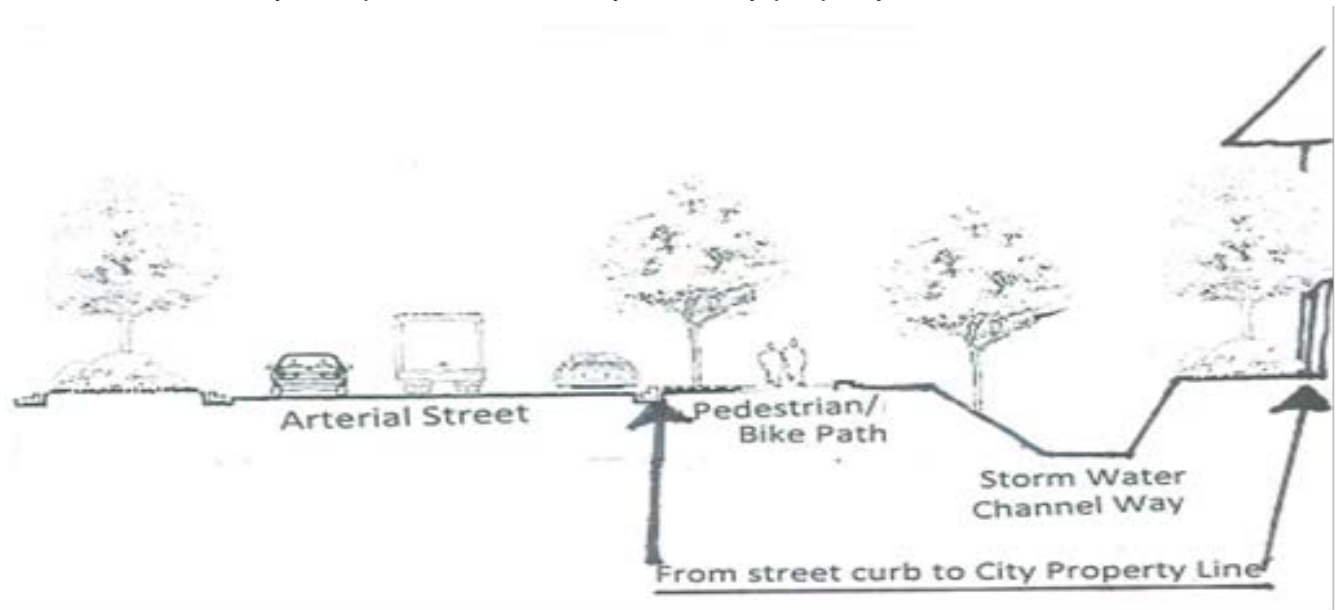
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Section 5 - Service Level 'Ellis Park System'

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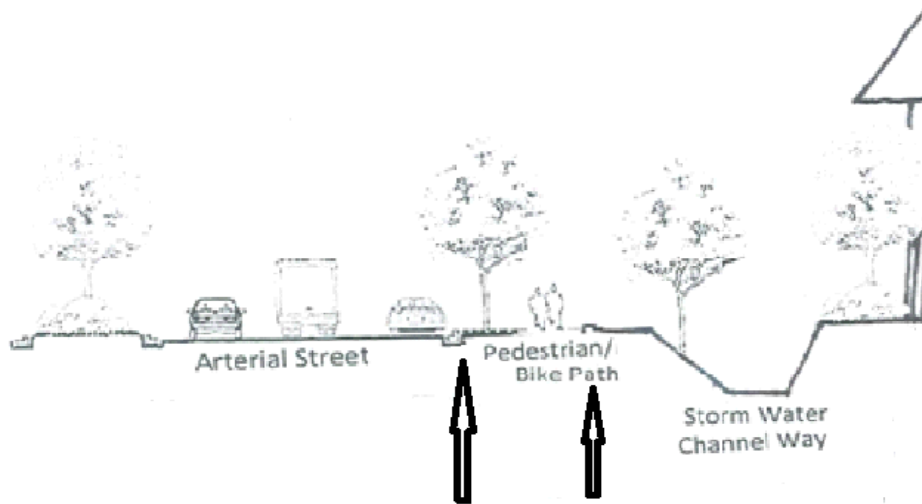
SECTION 1 - DEFINITIONS

1. Area – The City will be divided into two (2) areas; north of Schulte and south of Schulte at the Union Pacific Railroad tracks. North Tracy services 130 acres while South Tracy services 109 acres (including planned future development).
2. Channelway – Exposed channelway from City property line to face of curb.



3. CITY – City's *authorized* representative
4. Cobble – Permanent hardscape appearing as deliberately placed river rock or stone
5. Community Facility Districts – specially funded area referred to as "CFD"
6. Dredge – The periodic removal of sediments and debris from the bottom of the channelways and culvert entrance/exit to assure reasonable unobstructed conveyance of storm water.
7. Ellis Development – Housing development that has a specially established maintenance manual for level of care.
8. Extra Services – Requested services beyond the current Scope of Services contained within the Agreement (separate from "New Area"). Cost to be determined based upon contracted labor rate plus materials.
9. General Cleanup – Removal of debris, litter, refuse, trimmings, clippings, branches, cores, tools and equipment, or any obstruction not part of the designed landscape plan

10. Hardscape - Non-living landscape in the public right-of-way that provides aesthetic and functional benefits to the public such as pedestrian/bike paths, stamped concrete, and cobble
11. IPM – Integrated Pest Management techniques for weed and pest control. Includes the use of cultural techniques, biological controls and pesticides to manage/prevent infestations and reduce pesticide usage
12. Landscape Maintenance District - specially funded area referred to as “LMD”
13. Median – The dividing area, either hardscaped (such as cobble or concrete) or landscaped, between opposing lanes of traffic and include turning lanes
14. Mow Strip – Grass area between curb and pedestrian/bike path
15. New Area – Existing area not included in AGREEMENT, either by error or new development resulting in additional landscaping and improvements added to the agreement (not renovations of existing area)
16. Pest Control – Includes the control of vertebrate pests, insects, diseases and fungi. IPM guidelines and practices are to be utilized
17. PSA – Professional Services Agreement
18. Planter Strip – Non-grass area between curb and pedestrian/bike path
19. Public Right-of-Way Area (RoW) - not considered private property which the City owns and is accessible to the public for travel either by walking, bicycling, or driving
20. Shrubs/Groundcover – Area consisting of shrubs and/or other living groundcover, other than lawn or trees
21. Streetscape – Any combination of turf, trees, shrubs, and groundcover, along or within, a public right-of-way street
22. Safety Cleanup – Trimming of shrubs, groundcovers or trees that are obstructing path of travel; vehicular/pedestrian lines of vision to safety traffic signs and control signals; removal of hazards such as glass or other harmful debris within children’s play areas and parks; keeping sidewalks free from slime/algae
23. Service Level “A”: – The highest standard of maintenance.
24. Service Level “B”: – Second highest standard of maintenance
25. Service Level ‘C’: - Lowest level of standard maintenance
26. Tracy Hills Development – Housing development that has a specially established maintenance manual for level of care.
27. Transit Channelway Corridor – Inner edge of pedestrian/bike path to face of curb, but still within the channelway



28. Turf or Lawn – Irregular or regular shaped grass area

29. Zone – Geographic area within the LMD

SECTION 2 – SUMMARY DESCRIPTION OF WORK

A. General Scope Summary

The work required to provide consistent landscape and parks landscaping maintenance predominantly within Zones 1-43, non-LMD areas along Grant Line Road, Eleventh Street, and Valpico Road and CFD parks. The successful Consultant will furnish all labor, appropriate equipment, materials, disposal and supervision to perform landscape maintenance as described herein.

B. Maintenance Standard Summary

It is the intent of the AGREEMENT to establish a level of maintenance that will present an attractive and desirable landscape appearance at all times. This will be accomplished by keeping plants, lawn, and other vegetation in a healthy, well-kept, safe state at all times.

The work required for this AGREEMENT consists of RoW and parks landscaping maintenance. To accomplish the City's objective, services will include, but are not limited to, the following:

1. Fertilizing and aerating
2. Trimming, pruning, training of shrubs
3. Pest and disease control
4. Mowing, edging, aerating, dethatching
5. Weed control including herbicide applications

6. Debris and litter removal including removal of hazardous items and debris in park playground areas on a weekly basis
7. Leaf pick-up
8. Climbing vine and groundcover maintenance
9. Ensure proper pedestrian and vehicle clearance
10. Keeping all gutters, curbs, turn lane noses, parking lots, and pedestrian/bike paths adjacent to Agreement areas free of weeds, trash, leaves, and other debris
11. Removing fallen tree limbs, dead plant material, and any other debris from landscaped areas
12. Providing weekly written report from the Contractor's Landscape Supervisor describing the deficiencies of work not performed
13. Providing updates on City's internal service request system within two business days of notification on work orders assigned to Consultant by City

SECTION 3 – PERMITS AND LICENSES

The Consultant shall procure all permits and licenses, pay all charges and fees, and give all notices necessary and incidental for the performance of the work, and shall obtain such permits, licenses, and other authorizations in sufficient time to prevent delays of the work. In the event that the City has obtained permits, licenses, or other authorizations applicable to the work, the Consultant shall comply with the provisions of said permits, licenses and other authorizations.

1. **City Business License** – Prior to beginning any service that shall be furnished under this specification, the Consultant shall secure the appropriate Business License from the City of Tracy. Business License information may be obtained at <https://cityoftracy.org/?navid=78> or by calling (209) 826-1827.
2. **Contractor's License** – If the Consultant is furnishing any labor or service including installation or maintenance, the Consultant shall possess the appropriate California Contractor's license. The appropriate Contractor's License is that specified in this request, or if not specified, that which is otherwise required by law, and qualifies the Consultant to do business in the State of California.
3. **C-27 – Landscaping License** - A landscape contractor constructs, maintains, repairs, installs, or subcontracts the development of landscape systems and facilities for public and private gardens and other areas which are designed to aesthetically, architecturally, horticulturally, or functionally improve the grounds within or surrounding a structure or a tract or plot of land. In connection therewith, a landscape contractor prepares and grades plots and areas of land for the

installation of any architectural, horticultural and decorative treatment or arrangement.

4. **Qualified Applicators License** – person [business] who has qualified by examination in one or more pest control categories to supervise the pesticide applications made by a pest control business licensed pursuant to sections 11701 to 11709, inclusive, of the Food and Agricultural Code, and who is responsible for safe and legal operations under such license

SECTION 4 - GENERAL PREVAILING RATE OF PER DIEM WAGES

The work contemplated by this contract is a public work subject to prevailing wages under California Labor Code Section 1770 *et. seq.* The successful Consultant will be required to pay not less than the prevailing rate of per diem wages as determined by the California Department of Industrial Relations in effect on the date the work is performed.

SECTION 5 - PRE-WORK CONFERENCE

Subsequent to the execution of the project, the City shall designate a date and time for pre-work conference. The Consultant will, at the pre-work conference, present:

1. A project schedule
2. List of contacts for managerial staff including a 24-hour contract assigned to the project.
3. A list of material suppliers upon request from City
4. Traffic control plan required in accordance with CMUTCD, Title 13, SB 198 and CAL/OSHA

SECTION 6 – BOND OR DEPOSIT

Consultant performance of the Agreement shall be secured by way of Consultant issuing a bond or a cash deposit equal to six months of service. City shall be entitled to use the bond or deposit amount to cause the uncompleted work to be performed by its own forces and/or by a third party. Within 30 days after termination of the Agreement, if no uncured default exists, Consultant will be refunded any unused balance of the deposited amount without interest.

SECTION 7 - QUANTITIES

The estimate of work to be performed is approximate only and was given as a basis for the comparison of proposals. The City does not expressly or by implication agree that the actual amount of work will correspond therewith, but reserves the right to increase or decrease the amount of any portion of the work or to omit portions of the work that may be deemed reasonably necessary by the City to conform with the standards contained in the Agreement or within fiscal constraints.

Where area of vegetation has been modified, quantities may be adjusted, and compensation modified accordingly.

SECTION 8 – WORK HOURS

Normal working hours shall be between 7:00 a.m. and 5:00 p.m. Monday through Friday. No work shall be done on the weekends, holidays, and before or after these specified hours, unless otherwise approved by the City's authorized representative. Any approval of a modification by the City will be considered as a temporary change to the schedule.

SECTION 9 – SOLICITATION OF WORK / OUTSIDE WORK

Consultant is prohibited from using any of its crew, including direct or line level supervisory staff, assigned to perform work under the Agreement, to solicit or perform work for private parties outside of the City Agreement during the hours, including lunch and break times, that they are scheduled to be executing any part of the City Agreement. Consultant's equipment and/or vehicles assigned to executing any part of the City Agreement may not be used for any residential or commercial work outside of the City Agreement at any time within City limits during the hours of work scheduled under the City Agreement, including lunch and other breaks.

SECTION 10 - PRESERVATION OF PROPERTY AND UTILITIES

A. General

Due care shall be exercised to avoid damage to existing roadway improvements or facilities, utility facility, adjacent property, and roadside trees and shrubbery

B. Provider Responsible to Replace Plant Material

The Consultant shall replace at the same size and shape, at Consultant's own expense, any lawn, groundcover, trees, shrubs, or other plant materials requiring

replacement through negligent acts resulting from Consultant's failure to provide maintenance in accordance with the provision herein. All plant materials replaced or provided by the Consultant shall be warranted by the Consultant to be of good quality, healthy, and disease-free for one year from the date of planting. Plant materials not replaced by established date given by the City will be replaced by the City and the cost of labor and materials deducted from Consultant's monthly payment.

All existing pipes, conduits, sewer drains, curbs, surveying monuments, valve boxes, irrigation parts, pedestrian/bike paths, and other structures and amenities shall be carefully protected from damage by the Consultant, and in case of damage, the damage shall be immediately reported to the City who shall oversee the restoration at the Consultant's expense.

C. Utilities

The Consultant is required to take due precautionary measures to protect the existing improvements and any other utilities, irrigation system components, structures, or amenities found at the site. Consultant shall be responsible to protect existing storm drain systems free from any landscaping material and shall not deposit any landscaping material into existing storm drain system. If Consultant deposits landscaping material into existing storm drain system, the material will need to be removed by the Consultant immediately. Should the Consultant fail to remove the materials, the City will perform the removal at the Consultant's expense.

SECTION 11 - DUST AND NOISE CONTROL

At all times, the Consultant shall comply with the City's Dust Control and Noise Ordinances. (Sections 7.24.010 and 4.12.810 respectively in the Tracy Municipal Codes)

The Consultant shall be responsible for furnishing all labor, materials, tools, equipment, and incidentals for doing all work involved in controlling and preventing the formation of an airborne dust nuisance by watering as required by the City, to treat the site of the work in such a manner that it will confine dust particles to the immediate surface of the work.

The Consultant shall make every reasonable effort to control noise generated as a result of this landscape maintenance to the satisfaction of the City. Use of power equipment shall be limited to between the hours of 7:00 a.m. and 5:00 p.m. unless otherwise authorized by the City.

SECTION 12 - DISPOSAL OF MATERIAL

Unless otherwise specified, all materials shall become property of the Consultant and disposed of by the Consultant at the Consultant's expense. Consultant shall be responsible for disposing all excess materials in a safe and legal manner. No material shall be placed on private property or public property without prior approval from the City and the property owner. The Consultant shall not allow any refuse to be disposed upon paved streets or into the City's storm drain system.

Consultant shall take all clippings and refuse to the Tracy Material Recovery Facility (MRF) and Solid Waste Transfer Station at 30703 South MacArthur Drive and/or use the refuse disposal services of Tracy Disposal to be included in the composting of yard waste per City Franchise Agreement. The Service Provider shall be charged prevailing dumping fees at the Tracy MRF.

SECTION 13 – WORK ORDER SYSTEM

The Consultant shall be required to access, respond to, and update customer requests on the City's internal service request system. Each request will be closed by the City's representative following the review and approval of the service performed.

If the requested work is outside of the scope of normal services herein identified, the Consultant must provide the City a written proposal and get City approval for the extra work prior to initiating the task (Section 15 – Provision for Extra Work). If the requested work is within the scope of normal services, the Consultant will remedy the item as prioritized by the City.

SECTION 14 - PROGRESS MEETINGS AND REPORTS

A. Work Program

1. Each month, the Consultant shall provide a schedule with the days of the week and work to be performed at all locations.
2. The Consultant shall perform the work in accordance with the schedule and will immediately notify the City if the scheduled work that cannot be performed. The notification will include a new date of completion (no more than seven business days) for the task and no additional cost will be assessed to the City.
3. The Consultant will attend weekly progress meetings and other meetings that will be scheduled by the City. City reserves the right make changes to frequency and location of meetings.

B. Form Submittals

The Consultant will submit the following forms to the City as specified below:

1. Work Schedule: A monthly work schedule calendar will be submitted to the City by the Consultant's Supervisor.
2. Pesticide Application Record: All legally required local and State pesticide related reporting remains the responsibility of the Consultant. A copy of all legally required forms shall be submitted to the County and a copy to the City's authorized representative on a monthly basis. Additionally, notification to the City's representative is required 72 hours prior to any pesticide application.
3. Notification of Problem or Repair: Notification shall be submitted to the City's authorized representative immediately of the discovery of a problem or needed repair via email or City work order system.
4. Certified Payroll Records – Consultant must submit certified payroll records electronically directly to the Department of Industrial Relations (DIR) and furnish the City with certified payroll records. The City will not forward records on the Consultant' behalf to the DIR.

SECTION 15 - PROVISIONS FOR EXTRAS

No extra work of any kind will be considered unless a separate estimate is given in writing for said work and the estimate is approved in writing by the Public Works Director or designee before the work is commenced. Verbal authorizations will not be permitted.

SECTION 16 – INSPECTION AND CORRECTIVE WORK

The Consultant shall perform the work described herein to the satisfaction of the City. The City may make inspections of the work at any time and request the Consultant make corrections to any work that does not meet the standards outlined in this Scope of Service and Statement of Work Service Levels. If corrective work is required, the City shall provide the Consultant with a written list of items that need correcting, and the Consultant shall make the necessary corrections within the time frame established by City. If the corrections are not made, the City shall deduct those applicable portions, pro-rata as determined by the City, from the Consultant's payment to be performed by its own forces and/or by a third party. Unless otherwise negotiated, billing adjustments for incomplete or uncorrected work shall be permanent retention of 100% of the estimated monthly cost for the work not corrected or completed.

Repeated failures to provide services at the standards stated in these specifications, or failure to respond to requests for corrective work, may result in the termination of the Agreement.

SECTION 17 – ACCEPTABILITY OF WORK PERFORMED

All work must be reasonably acceptable to the City, or Consultant shall re-perform the work until it is acceptable, at no further cost to the City. There shall be a weekly meeting at Boyd Service Center (BSC) or on-site with Consultant and a City representative, to certify the accomplishment of work. Any specific problem area which does not meet the conditions of the specifications set forth herein will be called to the attention of the Consultant along with action required to satisfy the specifications.

SECTION 18 – WORKFORCE, SAFETY, WORKMANSHIP, SUPERVISION, AND DAMAGES

- A. Consultant shall provide sufficient labor at all times to carry out the project properly and shall ensure that fully experienced competent licensed workers (if applicable) who are skilled in the type of work required are employed. Consultant shall ensure that supervision is provided at all times while any work under this contract is being performed. If, in the judgment of the CITY, any person is incompetent or disorderly, Consultant shall promptly remove such person from the work for the duration of the contract.
- B. The Consultant shall take all necessary precautions for the safety of employees on the workforce to prevent accidents or injury to persons on, about, or adjacent to the premises where the work is being performed. The Consultant shall provide and properly maintain at all times as required by the conditions and progress of the work, all necessary safeguards for the protection of workers and the public and shall post appropriate signs warning against hazards created by such features of landscape maintenance. All work to be done in accordance with CMUTCD, Title 13, SB 198 and CAL/OSHA.
- C. Where landscaping maintenance may create potential or known hazards on streets or roads and to persons traveling them, Consultant shall obtain at its own expense, and place whatever signs, lights, barricades, or other safety devices as necessary to prevent accidents, injuries, or damages, consistent with the City, County, and CMUTCD (Traffic Control Handbook). An annual traffic control plan for encroachment in the right-of-way, including an obstruction to pedestrian and bicycle traffic, for review and approval by the City.
- D. All operations will be conducted so as to provide maximum safety for the public, City staff, and Consultant.
- E. The Consultant's Supervisor will have control of all work crews assigned to perform work under this AGREEMENT.

- F. The Consultant's Supervisor or Foreman is to be assigned to this project only and is to be available to the City during working hours.
- G. If Consultant damages any property belonging including landscaping, irrigation, equipment, trees, etc. to the City, the City may either retain from the money due to Consultant an amount sufficient to repair the damage or require Consultant to repair the damage to the satisfaction of the City at Consultant's cost.
- H. Replacement of all plant materials, shrubs, ground cover, mulch, pebble, bark, and/or other materials or amenities due to Consultant's negligence shall be the responsibility of the Consultant and should be replaced within 10 days of damage, unless plant material is unavailable. Damage to irrigation system components shall be immediately repaired with City approval of repairs.
 - a. Any damage to plant material by rodents that have been neglected to be controlled by Consultant shall be replaced by Consultant, at same size and shape, at no additional cost to the City.
 - b. If Consultant is unable to complete repair, work will be performed by City forces and deducted from monthly payment for services.
- I. Plants that are destroyed by vandalism or due to no fault of the Consultant, shall be the responsibility of the City. Consultant must notify City via work order system or email immediately.

SECTION 19 - STORAGE OF MATERIALS

A location for staging and storing of equipment and trucks shall be located within 50 miles of Tracy city limits. Consultant will notify the City of location and/or changes to location.

SECTION 20 - PERSONNEL QUALIFICATIONS AND CONDITIONS

A. CONSULTANT'S EMPLOYEES

1. The Consultant shall employ sufficient, properly trained personnel, to perform all of the work outlined in this AGREEMENT. This shall include pesticide applications by an individual possessing a Qualified Applicator License with the appropriate categories.
2. The Consultant's employees assigned to this contract shall be well groomed and dressed in a uniform that clearly identifies the employee's name and company. The Consultant shall provide sufficient supervisory personnel that can represent the Consultant at all times.
3. The Consultant's equipment shall also be easily identified as such and in good working manner.

B. STAFFING REQUIREMENTS

1. Consultant shall provide, at all times, adequate and expert managerial and administrative supervision for its employees in the service area. Consultant agrees that all persons working for or on behalf of Consultant whose duties bring them upon the premises shall obey the rules and regulations that are established by the City and shall comply with the reasonable directions of its officers.
2. Consultant shall have a minimum of one supervisor/foreman assigned to the City of Tracy with a designated back up. The City must be notified within 24 hours of any change in supervision. Notification must include who the new supervisor/foreman is and provide contact information, even if on temporary basis (ie vacation or sick days).

SECTION 21 - CLEANING

- A. The Consultant shall perform general and safety cleanup at all times.
- B. Upon completion of any work, and before leaving site for remainder of the day, the Consultant shall remove remaining excess materials, waste, rubbish, debris, and any construction and installation equipment from the premises.
- C. Any dirt or stains caused by the work shall be properly removed.
- D. No debris shall be forced to the street or catch basins/drainage inlets by blowing equipment or by any other means.
- E. Consultant will clean pedestrian/bike paths, roadways, and any other areas littered or soiled by its maintenance operations and/or equipment.
- F. All equipment should be cleaned on a regular basis to

SECTION 22 - WORKMANSHIP

- A. Consultant is required to furnish all equipment, supplies, and materials to accomplish required maintenance to meet City objectives. The City may determine that additional maintenance is required to meet the standards set forth in the AGREEMENT and will issue directives for additional action.
- B. Work shall be performed by a skilled landscape worker and supervised by a competent supervisor with experience and technically trained in landscape maintenance work in accordance to industry standards.
- C. Pest Control
 1. When maintaining City landscapes, the Consultant, after consulting the City, shall manage pest problems utilizing IPM guidelines and techniques through prevention and treatment using physical, mechanical and biological controls as the first measure of treatment when possible. The least toxic

pesticide practical for the control of the target pest shall be used only after alternative treatment methods or products have been determined to be unfeasible. An IPM program should be presented to the City and any changes must be notified and approved before becoming effective. Note: The City is currently working on limiting the use of RoundUp.

2. The City and the Consultant shall work to implement progressive IPM principles and practices in an effort to minimize the use of pesticides. These programs include setting acceptable thresholds of infestations and a process for determining the best prevention or treatment method for a given pest while adjusting treatments as necessary to prevent resistance.
 3. The Consultant shall be responsible for the selection and proper application of pesticides. All applications must be done under the supervision of a licensed Q.A.L. The Consultant shall obtain a signed pest control recommendation from a California Pest Control Adviser (PCA) prior to any application. A copy of all recommendations as well as all pesticide use reports will be supplied to the City and the County on a monthly basis.
 4. Any property damage, injuries or illnesses resulting from the use of such pesticides will be the responsibility of the Consultant and will be replaced within 14 days or post soil remediation.
 5. When required by law, label or regulation, areas to be treated shall be posted in a by the Consultant. The postings shall be removed per product label, State, and County requirements.
- D. Irrigation.
1. The City is responsible for controller and irrigation scheduling, programming and repairs. The City will provide a schedule of irrigation that is conducive to the maintenance schedule proposed.
 2. The Consultant shall report over watering or lack of watering/plant water stress to the City.
 3. Consultant will report to the City any malfunction, poor system performance, or damage of the irrigation systems in any City maintenance area immediately including damaged done by Consultant.
 4. City will notify Consultant of any changes to irrigation schedule.
- E. Replace any broken tree stakes and repair any loose tree ties as needed.
- F. Any maintenance vehicles regularly used by the Consultant, or those persons representing the Consultant's company, shall be in proper working order and in a good state of repair. Vehicles shall clearly present the Consultant's company sign on both front doors which include the company name and telephone number of the local office. Vehicles will also be equipped with traffic warning beacon lights per Title 13, Article 21 and CMUTCD. Vehicles shall be kept reasonably clean and professional in appearance.

SECTION 23 – EXTRA WORK

- A. Extra work will not be performed without prior approval by the City unless a condition exists wherein it appears there is an immediate safety concern, danger of injury to Consultant, City staff, public, or damage to property.
- B. Cost to be determined based upon contracted labor rate plus materials. Material are not exceed 10% of actual cost.

SECTION 24 – AUTHORIZED REPRESENTATIVES

Regional Vice President – Julian Stewart
Municipal Region Manager – Matt Rogers
Branch Manager – Kris Dasso
Account Manager – Victor Arreloa

STATEMENT OF WORK FOR SERVICE LEVELS

SECTION 1 - STANDARDS OF PERFORMANCE

- A.** It is agreed that the intent of this Agreement is to provide a level of maintenance that will result in an attractive and desirable appearance of City landscaping at all times. Consultant, utilizing its own means and methods, agrees to maintain all designated areas covered by this Agreement at the levels indicated by the City. The City shall be the sole judge as to the adequacy of maintenance and adherence to the Agreement provisions.
- B.** Consultant's proposed means and methods shall cover all labor, material and standards for landscape, maintenance, and mechanical workmanship to be employed in the work called for by the City. Work or materials of a minor nature which may not be specifically mentioned, but which may be reasonably assumed as necessary for the completion of this work to meet City objectives, shall be performed by the Consultant and included in this Agreement.
- C.** All materials and equipment furnished by the Consultant shall be safe, high grade, appropriate, and free from defects and imperfections, in order to provide maximum efficiency and productivity unless otherwise hereinafter specified. Workmanship shall be in accordance with the best standard practices.
The Consultant shall, at all times, furnish and maintain equipment necessary to perform all of the work under any resulting contract.
- D.** If the Consultant is unable to complete the work within the time schedule established, the City shall deduct the applicable portions, pro-rata, from the payment to the Consultant.

Section 2 - Service Level A

Service Level 'A' represents the highest standard of maintenance and care in terms of maintaining and promoting landscaping that visibly has the following characteristics:

A. Turf Areas

1. General Use Standard

- a. All turf areas will support their designed uses – informal play, sports, picnics, and other park activities.
- b. Turf will be healthy with an even surface and uniform, deep green color.
- c. Turf will not exhibit bare spots.
- d. Turf will be pest-free. See Section 'B' - Disease and Pest Control for Service Level A
- e. All litter and debris should be removed before any work is performed.

2. Mowing

- a. Mow a minimum of one (1) time per week in spring, summer and fall seasons and as needed during winter to maintain a neat and uniform appearance.
- b. Height of cut (in inches) for grasses is no more than three (3") inches for cool-season turf.
- c. Mowing patterns shall be changed each week where practicable and appropriately sized equipment used to avoid creating ruts and compaction tracks.
- d. Scalping is not acceptable

3. Edging

- a. Complete site edging of tree wells with care to avoid striking trunk or buttress roots of tree, curbs, sidewalks, planter beds, buildings, sprinklers, valve boxes, meter boxes, etc. shall be performed to insure the site looks completely groomed.
- b. Care should be taken to ensure that sprinkler heads are trimmed around if needed to provide maximum water coverage. Such action must be reviewed and approved by the City prior to implementation.

4. Aeration

- a. Minimum of two (2) times per year for general use areas and three (3) time per year in open park turf or as needed to maintain standards.

5. Weeds

- a. Turf will be maintained at an acceptable level of weed control as determined by the City.

6. Reseeding or Sod Replacement

- a. Reseeding or sod replacement shall be done on an as needed basis as determined by the City to meet standards. Contractor should be updating City every six (6) month with condition of turf.

7. Fertilizer

- a. Apply at least three (3) applications per year from February through October.
- b. All applications to be balanced fertilizer approve by City. Micro-nutrient applications may be required.
- c. No application of fertilizers containing additives or materials that will stain is allowed.
- d. Annual soil fertility tests will be performed before any application.

B. Disease and Pest Control

1. Turf and landscaping shall be disease and pest free. Any signs of stress or damage to turf or planting materials and/or a direct bother to the public or its safety, shall be corrected by utilizing one of the three (3) steps indicated:

- a. Integrated Pest Management - withholding any controls until such time as pests demonstrate damage to plant materials, or become a demonstrated irritant or safety concern to the public, such as in the case of vertibrates, wasps, ants, etc.
- b. Preventative - a scheduled chemical or cultural program designed to prevent significant damage.
- c. Corrective - application of chemical or mechanical controls designed to eliminate observed problems.

C. Planter Beds, Ground Covers, Shrubs and Vines

1. General Standard

- a. Fertilization, and cultivation (when applicable) shall be adjusted to serve the requirements of the plant species.
- b. Shall be healthy, attractive plants that lend variety and interest to the landscape.
- c. Planter beds, ground covers, and shrubs will be maintained to provide secondary functions such as barriers or dust and erosion control.
- d. Ensure vegetation doesn't create an inhabitable or hiding area. If requested by City, elevation of the canopy may be required at specific locations to improve site security
- e. Climbing vines shall be well-trimmed and kept a minimum of two (2) feet and maximum of four (4) feet below the top of walls.
 - i. Where climbing vines already reach top of walls, the City and property owner shall be consulted as to whether trimming to top of wall is desired so as not to interfere with growth that is now extending to property owner's side of wall or fence.

2. Removal

- a. The City shall be notified of any failed or damaged plant materials by the end of every work week. City will then authorize any removal or replacement of non-contractor damaged plants.
- b. Litter and debris shall be removed at time of service or per request of the City.

3. Weed Control

- a. All effort shall be made to ensure planter beds are weed free at all times.

4. Trimming

- a. All shrubs shall be pruned as needed to meet the intent of the landscape design. Ground cover shall be edged as needed to keep plant growth from extending beyond curbs, sidewalks, buildings, and turf areas. Ground cover in medians will not be allowed to extend beyond the curb or sidewalk.

5. Fertilizer

- a. Apply at least two (2) applications per year from February through October.
- b. All applications to be balanced fertilizer approved by City. Micro-nutrient applications may be required.
- c. No application of fertilizers containing additives or materials that will stain is allowed.
- d. Annual soil fertility tests will be performed before any application.

D. Trees

1. General Standards

- a. Primary care of City trees is provided by the City's Urban Forestry Division. Any concerns should be relayed to the City representative to discuss with the appropriate division.

2. Weed Control

- a. Mechanical grass trimming around trees shall be accomplished in a way that will not scar the trunk or buttress roots in any way.
- b. All plant material shall be kept a minimum of two (2) feet way from base of trunk.

3. Mulching

- a. Bark mulch will be placed around tree and maintained on an as needed basis.
- b. Well defined radius around the tree, free of weeds and turf – minimum two (2) foot radius, maintaining one to two (1-2) inch clearance from the base of the trunk.

- ii. Trimming
 - a. Trees are to be trimmed so that all traffic control devices and signs are clearly visible to approaching drivers. Keep all traffic lanes, bike paths and walkways cleared of encroaching plant material. Any trimming shall adhere to industry standards for tree and shrub pruning. Clearance heights shall be maintained at least to the heights noted below:
 - i. Pedestrian paths – eight (8) feet
 - ii. Bike paths – twelve (12) feet
 - iii. Roadways/vehicle lanes – fourteen (14) feet

5. Staking

- a. Repairs should be made to stakes for young trees until roots are firmly established, especially in wind prone areas. Once firmly established, stakes should be removed, per direction from City, with no protrusion above ground. Trees must be straight.
- b. Ties on the stakes should be checked periodically to ensure they stay intact and are adjusted properly.

6. Damage Notification

- a. All damaged trees should be reported to the City immediately

E. Paved & Unpaved Surfaces

- 1. Paved surfaces may include sports courts, pathways, parking lots and other areas topped with asphalt, pavers, concrete or rubberized playground surfacing.
- 2. Pathways, parking lots and other paved areas will be free of sand, debris and litter, so at no time it detracts from the look or safety of the area.
- 3. Sand, decomposed gravel and other material shall be removed from sidewalks.
- 4. All court surfaces shall be pest-free, as defined in Section B Disease and Pest Control to include weed control.
- 5. Litter and debris should be removed on a weekly basis including playground areas.
- 6. Playground areas shall be kept weed free.

F. Channelways

- 1. Remove all debris, growth and potential obstructions to encourage water flow.
- 2. Ensure vegetation does not create an inhabitable or inviting area. If requested by City, elevation of the canopy may be required at specific locations to improve site security.
- 3. All above descriptions of care are applicable to channelways if amenity exist within the Zone (ie 'Section A – Turf Areas')

SECTION 3 – SERVICE LEVEL ‘B’

Service Level ‘B’ represents less frequent maintenance than Service Level ‘A’ and service applications based upon less funding availability in each specific zone. Consultant may be asked to make recommendations as to minimum services that can be provided to maintain and promote reasonably healthy and aesthetically pleasing landscaping within budget allowances for zones. Service Level ‘B’ maintained landscaping will have the following characteristics:

A. Turf Areas

1. General Use Standard

- a. All turf areas will support their designed uses – informal play, sports, picnics, and other park activities.
- b. Turf will be healthy, semi-uniform in appearance and exhibit green growth.
- c. Turf will have limited bare spots.
- d. All efforts should be made to reduce weed and pest count.
- e. All litter and debris should be removed before any work is performed.

2. Mowing

- a. Mow a minimum of one (1) time every other week in spring, summer and fall seasons and as needed during winter for a neat appearance.
- b. Height of cut (in inches) for grasses is no more than three (3) inches.
- c. Mowing patterns shall be changed each week where practicable and appropriately sized equipment used to avoid creating ruts and compaction tracks.
- d. Scalping is not acceptable

3. Edging

- a. Complete site edging of trees wells with care to avoid striking trunk of tree, curbs, sidewalks, beds, buildings, sprinklers, valve boxes, meter boxes, etc. shall be performed to ensure the site looks groomed and complete.
- b. Care should be taken to ensure that sprinkler heads are trimmed around if needed to provide maximum water coverage. Such action must be reviewed and approved by the City prior to implementation.

4. Aeration

- a. Minimum of once (1) per year for general use areas and two (2) times per year in park open turf areas or as needed to maintain standard.

5. Weeds

- a. All attempts will be made to reduce the amount of weeds in the turf to an acceptable level as determined by the City.

6. Reseeding or Sod Replacement

- a. Reseeding or sod replacement shall be done with permission from the City with as extra work. Consultant should be updating City every six (6) month with condition of turf.

7. Fertilizer

- a. Apply at least two (2) applications per year from February through October.
- b. All applications to be balanced fertilizer approve by City. Micro-nutrient applications may be required.
- c. No application of fertilizers containing additives or materials that will stain is allowed.
- d. Annual soil fertility tests will be performed before any application.

B. Disease and Pest Control

1. Turf and landscaping shall be disease and pest free. Any signs of stress or damage to turf or planting materials and/or a direct bother to the public or its safety shall be corrected by utilizing one of the three (3) steps indicated:

- a. Integrated Pest Management - withholding any controls until such time as pests demonstrate damage to plant materials, or become a demonstrated irritant or safety concern to the public, such as in the case of vertebrates, wasps, ants, etc.
- c. Preventative - a scheduled chemical or cultural program designed to prevent significant damage.
- c. Corrective - application of chemical or mechanical controls designed to eliminate observed problems.

C. Planter Beds, Ground Covers, Shrubs and Vines

1. General Standard

- a. Fertilization, and cultivation (when applicable) shall be adjusted to serve the requirements of the plant species.
- b. Shall be healthy, attractive plants that lend variety and interest to the landscape.
- c. Planter beds, ground covers, and shrubs will be maintained to provide secondary functions such as barriers or dust and erosion control.
- e. Ensure vegetation doesn't create an inhabitable or hiding area. If requested by City, elevation of the canopy may be required at specific locations to improve site security.
- d. Climbing vines shall be well-trimmed and kept a minimum of two (2) feet and maximum of four (4) feet below the top of walls.

- i. Where climbing vines already reach top of walls, the City and property owner shall be consulted as to whether trimming to top of wall is desired so as not to interfere with growth that is now extending to property owner's side of wall or fence.

2. Removal

- a. The City shall be notified of any failed or damaged plant materials by the end of every work week. City will then authorize any removal or replacement of non-contractor damaged plants.
- d. Litter and debris shall be removed at time of service or per request of the City.

3. Weed Control

- a. Beds shall be weeded at a minimum of twice a month.

4. Trimming

- a. All shrubs shall be pruned as needed to meet the intent of the landscape design. Ground cover shall be edged as needed to keep plant growth from extending beyond curbs, sidewalks, buildings, and turf areas. Ground cover in medians will not be allowed to extend beyond the curb or sidewalk.

D. Trees

1. General Standards

- a. Primary care of City trees is provided by the City's Urban Forestry Division. Any concerns should be relayed to the City representative to discuss with the appropriate division.

2. Weed Control

- a. Mechanical grass trimming around trees shall be accomplished in a way that will not scar the buttress roots or trunk in any way.
- b. All plant material shall be kept a two (2) feet way from base of trunk.

3. Mulching

- a. Bark mulch will be placed around trees and maintained twice a year.
- b. Well defined radius around the tree, free of weeds and turf – minimum two (2) foot radius, maintaining one to two (1-2) inch clearance from the base of the trunk.

2. Trimming

- e. Trees are to be trimmed so that all traffic control devices and signs are clearly visible to approaching drivers. Keep all traffic lanes, bike paths and walkways cleared of encroaching plant material. Any trimming shall adhere to industry standards for tree and shrub pruning. Clearance heights shall be maintained at least to the heights noted below:

- i. Pedestrian paths – eight (8) feet
- ii. Bike paths – twelve (12) feet
- iii. Roadways/vehicle lanes – fourteen (14) feet

5. Staking

- a. Repairs should be made to stakes for young trees until roots are firmly established, especially in wind prone areas. Once firmly established, stakes should be removed, per direction from City, with no protrusion above ground. Trees must be straight.
- b. Ties on the stakes should be checked periodically to ensure they stay intact and are adjusted properly.

6. Damage Notification

- a. All damaged trees should be reported to the City immediately

E. Paved & Unpaved Surfaces

1. Paved surfaces may include sports courts, pathways, parking lots and other areas topped with asphalt, pavers, concrete or rubberized playground surfacing.
2. Pathways, parking lots and other paved areas will be free of sand, debris and litter, so at no time it detracts from the look or safety of the area.
3. Sand, decomposed gravel and any loose materials shall be removed from sidewalks.
4. All court surfaces shall be pest-free, as defined in Section B Disease and Pest Control to include weed control.
5. Litter and debris should be removed on a schedule day including playgrounds areas.
6. Playground areas shall be kept weed free.

F. Channelways

1. Remove all debris, growth and potential obstructions to encourage water flow.
2. Ensure vegetation does not create an inhabitable or inviting area. If requested by City, elevation of the canopy may be required at specific locations to improve site security.
3. All above descriptions of care are applicable to channelways if amenity exist within the Zone (ie 'Section A – Turf Areas')

SECTION 4 – SERVICE LEVEL ‘C’

Service Level ‘C’ represents less frequent maintenance than Service Level ‘B’ and service applications based upon less funding availability in each specific zone. Consultant may be asked to make recommendations as to minimum services that can be provided to maintain and promote reasonable healthy and aesthetically pleasing landscaping within budget allowances for zones. Service Level ‘C’ maintained landscaping will have the following characteristics:

A. Turf Areas

1. General Use Standard

- a. All turf areas will support their designed uses – informal play, sports, picnics, and other park activities.
- b. Turf will be healthy, semi-uniform in appearance and exhibit green growth.
- c. All litter and debris should be removed before any work is performed.

2. Mowing

- a. Mow a minimum of once (1) a month in spring, summer and fall seasons and as needed during winter for a neat appearance.
- b. Height of grasses shall not exceed no more than six (6) inches.
- c. Mowing patterns shall be changed between mowings where practicable and appropriately sized equipment is used to avoid creating ruts and compaction tracks.
- d. Scalping may be anticipated and thus must be reviewed with City prior to starting the mowing cycle.

3. Edging

- a. Complete site edging of trees wells at the time of mowing and with care to avoid striking trunk of tree, curbs, sidewalks, planter beds, buildings, sprinklers, valve boxes, meter boxes, etc. shall be performed to insure the site looks groomed and complete.
- b. Care should be taken to ensure that all sprinkler heads are trimmed to provide maximum water coverage. Such action must be reviewed and approved by the City prior to implementation.

4. Aeration – any aeration will be at the City’s direction as extra work.

5. Weeds

- a. Minimize with at least one application of selective pre-emergent per year to control broadleaf weeds, weed grasses and sedges
- b. Any additional pre- or post-emergent applications will be at the City’s direction as extra work.

6. Reseeding or Sod Replacement

- a. Reseeding or sod replacement shall be done with permission from the City as extra work. Contract should be updating City every six (6) month with condition of turf.

7. Fertilizer – any fertilization will be at the City’s direction as extra work.

B. Disease and Pest Control

1. Any signs of stress or damage to turf or planting materials and/or a direct bother to the public or its safety shall be corrected by utilizing one of the three (3) steps indicated:

- a. Integrated Pest Management - withholding any controls until such time as pests demonstrate damage to plant materials, or become a demonstrated irritant or safety concern to the public, such as in the case of wasps, ants, gophers, etc.
- b. Preventative - a scheduled chemical or cultural program designed to prevent significant damage.
- c. Corrective - application of chemical or mechanical controls designed to eliminate observed problems.

C. Planter Beds, Ground Covers, Shrubs and Vines

1. General Standard

- a. Shall be healthy, attractive plants that lend variety and interest to the landscape.
- b. Planter beds, ground covers, and shrubs will be maintained to provide secondary functions such as barriers or dust and erosion control.
- c. Ensure vegetation doesn’t create an inhabitable or hiding area. If requested by City, elevation of the canopy may be required at specific locations to improve site security.
- d. Climbing vine trimming will be directed by the City as extra work.

2. Removal

- a. The City shall be notified of any failed or damaged plant materials by the end of every work week. City will then authorize any removal or replacement of non-contractor damaged plants.
- c. Litter and debris shall be removed at time of service or per request of the City.

3. Weed Control

- a. Beds shall be weeded at a minimum of once a month.

4. Trimming

- a. All shrubs shall be pruned as needed to meet the intent of the landscape design. Ground cover shall be edged as needed to keep plant growth from

extending beyond curbs, sidewalks, buildings, and turf areas. Ground cover in medians will not be allowed to extend beyond the curb or sidewalk.

D. Trees

1. General Standards

- a. Primary care of City trees is provided by the City's Urban Forestry Division. Any concerns should be relayed to the City representative to discuss with the appropriate division.

2. Weed Control

- a. Mechanical grass trimming around trees shall be accomplished in a way that will not scar buttress roots the trunk in any way.
- b. All plant material shall be kept a two (2) feet way from base of trunk.

1. Mulching – will be directed by the City as extra work

2. Trimming

- a. Trees are to be trimmed so that all traffic control devices and signs are clearly visible to approaching drivers. Keep all traffic lanes, bike paths and walkways cleared of encroaching plant material. Any trimming shall adhere to industry standards for tree and shrub pruning. Clearance heights shall be maintained at least to the heights noted below:
 3. Pedestrian paths – eight (8) feet
 4. Bike paths – twelve (12) feet
 5. Roadways/vehicle lanes – fourteen (14) feet

5. Staking

- a. Notify the City if any staking or removal needs occur.
- b. Ties on the stakes should be checked periodically to ensure they are intact adjusted properly.

6. Damage Notification

- a. All damaged trees should be notified to the City immediately

E. Paved & Unpaved Surfaces

1. Paved surfaces may include sports courts, pathways, parking lots and other areas topped with asphalt, pavers, concrete or rubberized playground surfacing.
2. Pathways, parking lots and other paved areas will be free of sand, debris and litter, so at no time it detracts from the look or safety of the area.
3. Sand, decomposed gravel and any loose material shall be removed from sidewalks.
4. Litter and debris should be removed on a schedule day including playgrounds
5. Playground areas shall be kept weed free.

F. Channelways

1. Remove all debris, growth and potential obstructions to encourage water flow.
2. Ensure vegetation does not create an inhabitable or inviting area. If requested by City, elevation of the canopy may be required at specific locations to improve site security and will be extra work.
3. All above descriptions of care are applicable to channelways if amenity exist within the Zone (i.e. 'Section A – Turf Areas')

SECTION 5 – SERVICE LEVEL ‘ELLIS PARK SYSTEM’

Service Level ‘ELLIS PARK SYSTEM’ represents the highest standard of maintenance and care in terms of maintaining and promoting landscaping that visibly has the following characteristics. This is outline of service. Follow the more conservative recommendation. An additional maintenance manual is included that may require additional work. Applicable sections of the manual must be adhered to when performing work.

A. Turf Areas

1. Weed-free at all times.
2. Free from pests (including vertebrates) and disease.
3. Nourished adequately to promote healthy and flourishing foliage with a minimum of fertilization of every three months.
4. Aerate a minimum twice per year.
5. A maximum height of 3” year-round and mowed a minimum of every week during the active growing season and with the borders neatly edged in order to maintain a well-manicured appearance at all times.
6. Trash is picked up in parks areas prior to mowing and as needed.
7. Re-seeding or re-sodding shall be completed as needed to meet standard.
8. Landscaping around sprinkler heads is trimmed as necessary to assure landscape does not impede operations of sprinklers, allowing sprinklers to provide maximum water coverage.
9. Grass and weeds are kept two feet away from the base of trees. Grass should be no more than 6” from trunk in all directions. Herbicides must be approved by City.
10. Pathways, parking lots, and other paved areas are free from clippings, cores, debris, and litter at a minimum of once per week.

B. Groundcover, Shrubs, Hedges

1. All ground covers, shrubs and hedges are trimmed, pruned, or otherwise maintained to achieve desired form.
2. Groundcover shall be kept 6” inches from the base of trees and out of shrub canopies.
3. Weed free at all times (Non-selective post-emergent weed control will not be used in any groundcover or shrub area where a minimum of 75% of that area is covered with approved plant material unless such application is performed via a targeted ‘swabbing’ method).
4. Nourished adequately to promote healthy and flourishing foliage.
5. Growth is restricted from encroaching on other plant material (unless otherwise indicated by City or Maintenance Manuel), pedestrian/bike paths, or other adjacent areas.

6. Hose off all plant material as needed to remove accumulated dirt. Monthly during summer. This must be reviewed with City prior to implementation so as to assure adherence to Tracy Municipal Code.
7. Safe and attractive.
8. Free from dead, diseased, or damaged plants, branches or foliage. Replant material in timely manner with same size, condition a variety of remaining healthy vegetation.
9. Landscaping around sprinkler heads is trimmed as necessary to assure landscape does not impede operations of sprinklers, allowing sprinklers to provide maximum water coverage.
10. Free from trash and debris.
11. Free from pests, including rodents and snails.

C. Miscellaneous

1. Additional clarification can be found Attachment 1 - 'Ellis Maintenance and Operations Manual' excerpts. Full copy of manual will be provided upon request.
2. Plant materials are trimmed and pruned so that all traffic control devices and signs are clearly visible to approaching drivers. Keep all traffic lanes, bike paths and walkways cleared of encroaching plant material. Any trimming shall adhere to industry standards for tree and shrub pruning. Clearance heights shall be maintained at least to the heights noted below:
 - i. Pedestrian paths – eight (8) feet
 - ii. Bike paths – twelve (12) feet
 - iii. Roadways/vehicle lanes – fourteen (14) feet
3. All gutters, curbs, mailbox areas, median noses and turn pockets, parking lots, and pedestrian/bike paths in or adjacent to Agreement areas must be free of weeds, trash, leaves, and other debris.
4. Sidewalks will be free of slime/algae and blown off once a week.
5. Leaves, paper, weeds, fallen tree limbs, and any other debris will be removed from landscaped areas and disposed of off-site as needed.
6. General and safety clean-up in all park areas including in and around play areas.
7. Play areas including courts are to be kept free of weeds and debris.
8. Any damage discovered (upon entering work area) must be immediately reported to City staff via online reporting system with photo.

Landscape Maintenance Services 2017-2019 Amendment No 2. Ellis Maintenance and Operations Manual

ELLIS OPERATION AND MAINTENANCE MANUAL

LAWNS

The Lawns require mowing, trimming and irrigation. Periodic operations (aeration, fertilizing, etc.) are also required to maintain the health of the lawns.



MAINTENANCE SUGGESTIONS

Keep all mowers and edgers sharp at all times, so as to cut the grass tips rather than "tear" them off. All lawns adjacent to walks, curbs, headers, shrub areas and walls should be edged in a neat appearance by trimming. All clippings should be removed from turf areas and either vacuumed, swept or blown off walks and roadways and should be disposed of off-site in an approved manner at an approved dump site the same day mowing takes place. "Weed-eaters" or similar equipment should not be used around trees or shrubs. Trees that are located in lawn areas should have the lawn removed a minimum of six inches (6") from the trunk in all directions. Install bark or mulch in the tree well.

Mowers, blowers and anything else used for maintaining the lawns must be cleaned before performing maintenance on any lawn areas so as not to bring weeds from other projects.

Periodically replenish the soil nutrients with fertilizer to promote healthy and abundant lawn and plant growth.

Removal of all weeds should be a continuous program. Periodically apply herbicides, insecticides and pesticides to control the spread of weeds and undesirable plant growth.

TIMETABLE

Lawns should be mowed and edged weekly or as recommended for the type of lawn. Soil fertilizer for the lawn should be applied not less than every three months.

**Landscape Maintenance Services 2017-2019
Amendment No 2.
Attachment A – Ellis Maintenance and Operations Manual**

ELLIS OPERATION AND MAINTENANCE MANUAL

SHRUBS-GRASSES-GROUNDCOVER

Shrubs, Grasses and Groundcover are ornamental in nature and are used to beautify bare and exposed areas of the structures and landscape with color and texture.



MAINTENANCE SUGGESTIONS

All plant material should be maintained in a healthy, vigorous condition. Systematically prune these plants to maintain their naturalistic form allowing them to grow against and into one another thus eventually achieving a mass appearance. Overly ornamental forms of pruning, (formal hedging, "poodle-cutting", etc.) is not recommended. Hose off all plant material as needed to remove accumulated dirt.

Any trees, shrubs, grasses and groundcover that appear to have more than one-half (1/2) of their foliage in declining state should be addressed immediately. Check plant for over-watering or drainage problems and repair any problems prior to plant replacement. Replacement plants should be of a size, condition and variety of the removed plant.

TIMETABLE

Plant materials should be pruned every three months or as needed. All plant material should be checked monthly for any breakage or damage, special watering needs, etc. and treated as necessary. Hose off all plant material as needed to remove accumulated dirt, at least monthly during the dry summer months.

Landscape Maintenance Services 2017-2019 Amendment No 2. Attachment A – Ellis Maintenance and Operations Manual

ELLIS OPERATION AND MAINTENANCE MANUAL

TREES

Trees add height and color to the landscaping environment. Healthy trees provide a natural source of beauty and shade and, with many species, photosynthesize oxygen back into the environment.



MAINTENANCE SUGGESTIONS

Maintain all trees in a healthy condition at all times. Tree stakes and ties should be checked at least monthly and corrected as needed. Following sound arboricultural practices and the advice of an arborist, remove all surface roots that may be growing near and that may cause damage to walls, walkways or building foundations. Topping of trees is not recommended.

CONTACT

Park Pacific (Representative): (888) 460-7275
Iron Age Designs (Manufacturer): (877) 487-0488

TIMETABLE

Each week, inspect the trees for any damage or special water needs and treat as necessary. Tree stakes and ties should be checked at least quarterly and corrected as needed. Quarterly inspections should also occur to determine the need for pruning, thinning and tree removal, and to discover evidence of any surficial roots that may cause damage to any building foundation, patio wall footing, walkway, curb/gutter, driving surfaces, construction feature, drainage feature or irrigation component.

**Landscape Maintenance Services 2017-2019
Amendment No 2.
Attachment A – Ellis Maintenance and Operations Manual**

ELLIS OPERATION AND MAINTENANCE MANUAL

LANDSCAPE MAINTENANCE

MONTHLY

Task Name	Frequency
Irrigation Booster Pumps	Inspect Irrigation Booster Pumps for Proper Operation
Irrigation Control Valves	Inspect Irrigation Control Valves for Leaks and Proper Operation
Irrigation System	Inspect Irrigation System for Leaks and Proper Operation - Adjust as Needed
Irrigation Timeclocks	Inspect Irrigation Control Timeclock for Proper Operation
Lawns	Inspect Lawns for Irrigation Needs, Appearance and Problems - Clean Equipment Before Use
Shrubs-Grasses-Groundcover	Inspect Shrubs, Grasses and Groundcover for Appearance and Health
Trees	WEEKLY - Inspect For Damage or Special Water Needs

QUARTERLY

Task Name	Frequency
Trees	Inspect Trees for Overgrowth and/or Root Problems

ANNUALLY

Task Name	Frequency
Irrigation Booster Pumps	Perform Annual Pump and Motor Maintenance
Irrigation System	Perform Annual Irrigation System Audit

SECTION 6 – SERVICE LEVEL ‘TRACY HILLS PARK SYSTEM’

Service Level ‘TRACY HILLS PARK SYSTEM’ represents the highest standard of maintenance and care in terms of maintaining and promoting landscaping that visibly has the following characteristics. This is outline of service. Follow the more conservative recommendation. An additional maintenance manual is included that may require additional work. Applicable sections of the manual must be adhered to when performing work.

A. Turf Areas

1. Weed-free at all times.
2. Free from pests (including vertebrates) and disease.
3. Nourished adequately to promote healthy and flourishing foliage with a minimum of fertilization of every three months.
4. Aerate a minimum twice per year.
5. Seasonally, lawn should be cut between 1 ½ to 2 inches with a maximum height of 2 ½ to encourage deep rooting.
6. Edging borders neatly edged in order to maintain a well-manicured appearance at all times with bi-weekly during active growing season. Twice per month from October to March.
7. Mowing patterns shall be changed each week to avoid ruts and compaction tracks.
8. Trash is picked up in parks areas prior to mowing and as needed.
9. Re-seeding or re-sodding shall be completed as needed to meet standard.
10. Landscaping around sprinkler heads is trimmed as necessary to assure landscape does not impede operations of sprinklers, allowing sprinklers to provide maximum water coverage.
11. Grass is to be kept two feet away from the base of trees. Grass should be no more than 6” from trunk in all directions. Herbicides must be approved by City.
12. Pathways, parking lots, and other paved areas are free from clippings, cores, debris, and litter at a minimum of once per week.

B. Groundcover, Shrubs, Hedges

1. All ground covers, shrubs and hedges are trimmed, pruned, or otherwise maintained to achieve desired form.
2. Groundcover shall be kept 6” inches from the base of trees and out of shrub canopies.
3. In no-mow area, grass will reach a height of eight to ten inches. String trim if needed and NEVER remove more than 1/3 leaf blade.
4. Weed free at all times (Non-selective post-emergent weed control will not be used in any groundcover or shrub area where a minimum of 75% of that area is covered with approved plant material unless such application is performed via a targeted ‘swabbing’ method).
5. Nourished adequately to promote healthy and flourishing foliage.

6. Growth is restricted from encroaching on other plant material (unless otherwise indicated by City or Maintenance Manual), pedestrian/bike paths, or other adjacent areas.
7. Hose off all plant material as needed to remove accumulated dirt. Monthly during summer.
8. Safe and attractive.
9. Free from dead, diseased, or damaged plants, branches or foliage. Replant material in timely manner with same size, condition a variety of remaining healthy vegetation.
10. Free from trash and debris.
11. Free from pests, including rodents and snails.
12. Vines will not be allowed to grow over walls and/or fences. For the first three years, train vines a minimum of four times per year.
13. Landscaping around sprinkler heads is trimmed as necessary to assure landscape does not impede operations of sprinklers, allowing sprinklers to provide maximum water coverage.

C. Miscellaneous

1. Additional clarification can be found in Attachment 1 - 'Tracy Hills Maintenance and Operations Manual' excerpts. Full copy of manual will be provided upon request.
2. Plant materials are trimmed and pruned so that all traffic control devices and signs are clearly visible to approaching drivers. Keep all traffic lanes, bike paths and walkways cleared of encroaching plant material. Any trimming shall adhere to industry standards for tree and shrub pruning. Clearance heights shall be maintained at least to the heights noted below:
 - iv. Pedestrian paths – eight (8) feet
 - v. Bike paths – twelve (12) feet
 - vi. Roadways/vehicle lanes – fourteen (14) feet
3. All gutters, curbs, median noses and turn pockets, parking lots, and pedestrian/bike paths in or adjacent to Agreement areas must be free of weeds, trash, leaves, and other debris.
4. Sidewalks will be free of slime/algae and blown off once a week.
5. Leaves, paper, weeds, fallen tree limbs, and any other debris will be removed from landscaped areas and disposed of off-site as needed.
6. General and safety clean-up in all park areas including in and around play areas.
7. Play areas including courts are to be kept free of weeds and debris.
8. Any damage discovered (upon entering work area) must be immediately reported to City staff via online reporting system with photo.



3. TREE BASE AND TRUNK PROTECTION:

- » **Turfgrass Conditions:** Maintain a shovel-cut 2-foot offset grass-free space around the trunk base of all trees (4-foot minimum offset for existing specimen trees). Maintain grass-free space as a neat, clean, radiused edge without trunk guards. Care shall be exercised in the operation of equipment to prevent abrasions and cutting of the bark and cambium layer. No string or blade functioning trimmer shall be used to trim grass around the trunk of trees. Routinely add mulch to maintain consistent 2-inch mulch depth. Maintain a clear space of 3-inches between mulch and rootcrown of trees to prevent moisture build-up and to allow air circulation.
- » **Groundcover Conditions:** All trees located in groundcover areas shall have the groundcover trimmed away from the trunk base in a neat, clean, twelve inch (12”) radius zone from the outside of the bark. This area shall be maintained weed free. Do not cultivate.
- » **Mulch Conditions:** Maintain a 3-inch radius mulch-free space around the root-crown of all trees to prevent moisture build-up and to allow air circulation.

4. Removed

5. Removed

6. Removed

7. Removed



8. TREE FERTILIZATION:

Trees generally will receive fertilization as part of the generally prescribed shrub, groundcover, and turf grass fertilization as shown on the Soils Management Charts. However, if specific trees demonstrate symptoms of nutritional deprivation such as weak foliage color, size or density, provide supplemental fertilization as follows:

- **Nutrition Deficient Trees in Turf Grass Areas:** Auger one inch (1”) diameter holes a minimum of 12-inches deep at 3-foot intervals throughout the canopy drip line area, and fill them with pre-amended import soil backfill mix based on recent agricultural soil analysis.
- **Shrub Areas:** Based on recent agricultural soil analyses, fertilize trees in shrub areas by applying fertilizer within the water basin area and cultivating to a 1-inch depth. Use care to leave surface roots undisturbed.

9. Removed

10. Removed

11. Removed



G. SHRUB, GROUNDCOVER, GRASSES, AND VINE MAINTENANCE

1. INTRODUCTION:

- » Proper shrub, groundcover and vine maintenance is critical to achieving the mature landscape design. In general, shrubs should not be pruned as individual plants, but rather as masses of shrubs where groundcovers typically provide the foreground in an overall layered composition.

2. GENERAL PRUNING CRITERIA - SHRUBS:

- » Unless designated for formal, architectural shearing, shrubs shall be pruned to promote the healthy development of mature, informal masses that serve the intended design purpose both aesthetically and functionally. In general, deciduous shrubs should be pruned only when they are dormant. Evergreen shrubs should be pruned after their blooming period and prior to their primary growing season. Refer to “Shrub, Groundcover and Vine Pruning Chart” for specific seasonal pruning schedules for shrubs.



- » In general, prune shrubs to shape, and or remove branches and foliage that are dead/damaged/ diseased, obstructing walks or drives, or obstructing required utility access; to remove errant branches which detract from the plant's natural form; and to aesthetically differentiate one shrub mass species with another shrub mass or groundcover.
 - » Shrubs adjacent to walks and drives shall be pruned back with tapered removal of select branches and never sheared with a flat face or edge unless designated in "Shrub, Groundcover and Vine Pruning Chart" and/ or "Graphic Exhibits of Specific Landscape Conditions". Where shrub density might cause unavoidable flat vertical shearing a slight taper should be implemented with the bottom of the shrub being wider than the top to avoid dying out close to the ground. Additionally shrubs should be selectively hand-thinned out by removing those growing too close to edges of walks or drives.
 - » Shrubs shall be pruned by selectively removing segments of individual branches, directly above a branchlet or leaf node.
- 3. GENERAL PRUNING CRITERIA - GROUNDCOVERS AND GRASSES:**
- » Groundcovers shall be trimmed away from walks, curbs, walls, utility features, turf separation features, tree trunks, shrub trunks and vine bases on a regularly scheduled basis as needed.
 - » Groundcovers shall not be trimmed with string type edgers unless specifically approved by the Owner.
 - » Groundcovers must not be trimmed vertically at the edge of any walk, curb, roadways or turf area. Instead, all groundcovers adjoining walls, curbs, roadways or turf areas should be tapered back at an approximate 45° angle as shown in the Graphic Exhibits - "Typical Shrub/Groundcover Condition at Pavement/Curb".
 - » Pruning shall not shred or damage leaf edges or expose the basal stems.
 - » Periodically, groundcover should be thinned out to remove irregular foliage which distract from an overall, uniform appearance.
 - » Periodically, in late winter, groundcovers and *Festuca mairei* grasses must be cut back to remove foliage and stem build-up and to generate new basal growth. This activity and timing shall be approved by the Owner.
 - » Cut back foliage of *Festuca glauca* and *Festuca rubra* 'Molate' in early spring to 3"-4" tidy clumps to facilitate emergence of new leaf blades.
 - » Native Mow Free™ California Native Sod is a blend of three different Fescues: *Festuca occidentalis*, *Festuca idahoensis*, and *Festuca rubra*. For areas where a meadow-like appearance is desired, there is no need to mow. The desired appearance and projected use of the sod area will determine the mowing height and frequency. In non-mowed areas, the grass will reach a height of eight to ten inches and then begin to lay over on itself. Non-mowed areas are typically string-trimmed once or twice per year during the mid- and late spring to remove florets or seed heads. A string-trimmer is the most common tool used to cut the grass to the preferred height. NEVER remove more than 1/3 of the leaf blade with any single mow cycle. As this is a native plant, it does not need heavy chemical fertilizers. Use slow-release or organic fertilizer in the spring and fall per the manufacturer's specifications. If mowing is preferred, keep the height of the sod at 3" to 4" high, which will look like a traditional lawn.



4. GENERAL PRUNING CRITERIA- VINES:

- » Unless specifically identified to receive special pruning/ shaping, vines should be pruned only as necessary to promote and then retain their intended surface or feature foliage coverage. Vines on trellises should be trained onto trellis and maintained as such. Trim to prevent vines from climbing over walls and tops of fences.
- » Initially, vine pruning should only be done to remove errant stems or secondary stems which may retard the growth of primary desirable stems. Vine maintenance should primarily focus on extending primary stems in the desirable direction and location by inter-twining them and tying them to the appropriate wire, eye hook, fastener or construction feature.
- » For the first three years, train vines at a minimum four times each year.
- » Once vines cover their intended surface area or feature, maintain their foliage and stems to that confined area.
- » In general, prune vines to remove foliage that is dead; damaged; diseased; obstructing the use of walks or drives; obstructing required utility access; obstructing windows or vents; to remove errant stems/runners/suckers; and to confine the vine foliage to the intended coverage area or feature. Prune vines no more than 6-inches below pilaster/wall caps at one time.
- » Vines should be pruned by selectively removing segments of individual stems directly above a secondary stem or leaf node.

5. UNATTACHED VINE/ESPALIER PRUNING:

- » Vines/espaliers which are not attached to wall surfaces should be maintained in an unattached condition. The Contractor should, under no circumstances, attach these vines/espaliers or their nursery trellis or frame to the wall. The vine/espalier is to be pruned/maintained to develop a rigid, self-supporting branching structure, a minimum of 12" from the adjacent wall surface. The nursery trellis must be maintained by the Contractor until it is no longer needed for branching support. The Contractor should remove the nursery trellis or frame when the vine/espalier develops a self-supporting, branching structure. In some circumstances, an espalier will be designated to remain and be maintained on an ornamental metal frame.

6. VINE TIE MAINTENANCE:

- » At least four times per year, vines should be inspected for proper attachment to the provided or intended wire, eye-hook, fastener, wall or other feature. Utilize clear vinyl nursery tape of the appropriate width, or clear wire vine tie to attach vine stems as necessary.
- » Remove unused fasteners as required and touch up wall or column finish.
- » Remove excess tie length not utilized.

7. SHRUB, GROUNDCOVER, GRASSES, AND VINE WATERING:

*Informational
Only*

- » Refer to "Irrigation Systems Maintenance".
- » Retain watering basin around all shrubs and vines for at least two years following installation.

8. SHRUB, GROUNDCOVER, GRASSES, AND VINE FERTILIZATION:

- » All shrubs, groundcovers and vines should be fertilized as prescribed in the Soils Management Guideline. Supplemental fertilization, if required for the health and vigor of the plants, shall be



implemented as specified in the Agricultural Suitability Soils Report by applying commercial fertilizer to the water retention basin and filling the basin with water and allowing it to penetrate at least twice.

- » Established shrub and groundcover areas may receive a broadcast application of fertilizer. Refer to Section L in this chapter.

9. SHRUB AND VINE MULCHING:

- » For all shrub and vine planting areas without groundcover, replenish mulch to a depth of 2-inches as required on an annual basis, based on unit pricing as approved by the Owner. Maintain a clear space of 3 inches between mulch and root-crown of trees and shrubs.

10. SHRUB AND VINE ROOT PRUNING:

- » Inspect all shrubs once per year for evidence of invasive surface roots that may cause damage to building foundations, walls, fences, walks, curbs, gutters, driving surfaces, drainage features, irrigation equipment or any other common construction features. If the plant will likely create long-term damage, the plant should be removed.
- » Remove potentially damaging surface roots with clean cuts.

11. SHRUB, GROUNDCOVER, GRASSES, AND VINE WEED CONTROL:

- » Manual removal shall be employed where infestation is light.
- » If necessary, all weed control chemicals should be in accordance with a program designed by a State licensed pest control operator, be authorized by a State Pest Control Advisor's recommendation, and should be applied in accordance with regulations of State Department of Pesticide Regulations.
- » Refer online to: ipm.ucdavis.edu as a guide to weed control. The following prompts are subject to change: Under "How to manage pests", click on "Homes, gardens, landscapes, and turf". Under "Pests in gardens and landscapes", scroll down to, and click on: "Weeds". The information can be read online or downloaded as a PDF file.

12. SHRUB, GROUNDCOVER, GRASSES, AND VINE PEST AND DISEASE CONTROL:

- » All shrubs, groundcovers and vines shall be inspected monthly for disease and pest infestation and treated in accordance with the methods prescribed in "Organic Soils Management" and conform to a specific program of Integrated Pest Management (IPM) as prepared by a state licensed pest control operator, and as approved by the Owner.
- » Snails and slugs shall be controlled as required based on a program designed by a state licensed pest control operator and as approved by the Owner.
- » Refer online to: ipm.ucdavis.edu as a guide to disease and insect identification and control. The following prompts are subject to change: Under "How to manage pests", click on "Homes, gardens, landscapes, and turf". Click on the appropriate link under "Pests in gardens and landscapes". The information can be read online or downloaded as a PDF file.

13. SHRUB, GROUNDCOVER, GRASSES, AND VINE REMOVAL:

- » As the community landscape matures, certain shrubs, groundcovers, grasses, and vines will require removal and replacement and in some circumstances, removal without replacement. Groundcovers may slowly disappear in some areas as shrubs grow to their mature size. This is a natural process and groundcovers should be replaced only where growing conditions allow. During the regular



inspections of the landscape, possible overcrowding should be noted, and plant removal scheduled as approved by the Owner. Individual plant performance will vary and removal may be required for any one of the following reasons:

- Any shrub or vine with 1/4 or more of its total foliage mass dead or dying should be brought to the attention of the Owner and removed as directed.
- Evaluate site conditions and maintenance practices to determine the reasons for failure. Correct adverse conditions and/or maintenance practices prior to installing any replacement plant.

14. SHRUB, GROUNDCOVER, GRASSES, AND VINE REPLACEMENT REQUIREMENTS:

- » Replacement shrubs, groundcovers, grasses, and vines must be the same genus, species, and size as the originally installed plant per the original planting plan and specification unless approved by the Owner.
- » All dead/ dying shrub, vine, grasses, or groundcover plants shall be replaced in all areas on a routine basis as soon as identified.
- » Sometimes a replacement plant may not be advisable due to the growth of adjacent plants or conflicts with utilities or site amenities. The Owner must evaluate the need for replacement based on specific conditions and preserving the design intent.

H. TURF GRASS MAINTENANCE

- » Turf grass should be maintained in a healthy, growing and professionally cut condition at all times.

1. MOWER TYPE:

- » “Mulching” or “recycling” mowers shall be used whenever possible to aid in grasscycling of clippings and reduce the need for supplemental fertilizers.

2. MOWING:

- » Dwarf type tall fescue turf grass is a cool season grass and because of its physiology, it must be mowed at a medium cut. Seasonally the lawns shall be cut at no less than the following heights:

March to May:	1-1/2 - 2 inches
June to August:	1-1/2 - 2 inches
September to November:	1-1/2 - 2 inches
December to February:	1-1/2 - 2 inches

- » Mowing height may be increased as needed and as approved to encourage deeper rooting, increase heat tolerance, and reduce water use by the plant.
- » The turf should be cut at regular intervals, at a minimum of every seven (7) days during the spring, summer and fall seasons and as needed to maintain a neat appearance during the winter month. The turf should never be cut more than one-third (1/3) of the top growth or approximately one-half (1/2) inch at any one mowing. Mowing patterns shall be changed each week where practical and where appropriately sized equipment is used to avoid creating ruts and compaction from wheel tracks. Scalping is not acceptable.



3. EDGING:

- » All lawn edges, both along the sidewalk and curb as well as shrub or groundcover border areas, shall be edged in conjunction with mowing at least bi-weekly during the active growing season, March to October, and as required for appearance at least twice per month between October and March.
- » Edging shall be performed with a blade type mechanical edger or string type mechanical edger. The cut edge shall appear as a clean, straight vertical or slightly angled line.
- » Edging around obstacles within the turfgrass shall be performed to create a grass-free clear space (edge) of two inches in width around all obstacles in turf grass.

4. CLIPPINGS:

- » Whenever possible, clippings shall be mulched into the turfgrass by a mulching mower to retain nutrients and reduce the need for supplemental commercial fertilizers.
- » Rake, remove and dispose offsite any excess clippings visible on the turfgrass surface.

5. WATERING:

NA

6. FERTILIZATION:

- » Turf grass shall be fertilized as specified in the Soils Management Guideline.
- » Supplemental fertilization, if required for the health and vigor of the turfgrass, shall be applied as specified in the Agricultural Suitability Soils Report.

7. WEED CONTROL:

- » Weed removal is a continuous, on-going program. Weeds should not be a problem when the lawns are receiving proper care. Usually weed infestations are caused or encouraged by improper watering, mowing or fertilization. If weeds have resulted from poor management, the deficient practice must be corrected before any herbicides may be applied.
- » Before any chemical herbicides are applied to the lawn, the weeds must be identified and their habits and characteristics known. Chemical herbicides shall be used as little as possible. When necessary, herbicides shall be used as a management tool to favor turfgrasses in the weed-grass competition.
- » Refer online to: ipm.ucdavis.edu as a guide to weed control. The following prompts are subject to change: Under “How to manage pests”, click on “Homes, gardens, landscapes, and turf”. Under “Pests in gardens and landscapes”, scroll down to, and click on: “Lawns and turf”, then click on the appropriate link. The information can be read online or downloaded as a PDF file.
- » All weed control chemicals must be in accordance with a program designed by a State licensed pest control operator and must be in accordance with State Department of Pesticide Regulations.



- » At first indication of crabgrass infestation, spray affected areas with an approved herbicide. Apply all pesticides according to the label and a licensed Pest Control Advisor's recommendation. Noxious weeds, Bermuda grass and others shall not be permitted to grow within the areas assigned as part of this contract, and must be completely killed (sprayed) and removed including rhizomes, roots, stolons and bulbs.

8. INSECT CONTROL:

- » The Contractor must provide continuous pest management in turf grass in accordance with a program designated by a State licensed pest control operator. Turf grass shall be inspected monthly for pest infestation and treated in accordance with method prescribed in "Soils Management and Integrated Pest Management (IPM)" as designated by a state licensed pest control operator, authorized by a licensed Pest Control Advisor, and approved by the Owner.
- » Pests include, but are not limited to all: insects, mites, arachnids, pathogens, nematodes, vertebrates, and invertebrates. Pests may be controlled by mechanical, as well as chemical means. Chemical controls include the necessary use of pesticides.
- » When insect damage is suspected, an accurate identification of the insect in the lawn must be made prior to any application of insecticides.
- » Refer online to: ipm.ucdavis.edu as a guide to insect identification and control. The following prompts are subject to change: Under "How to manage pests", click on "Homes, gardens, landscapes, and turf". Under "Pests in gardens and landscapes", scroll down to, and click on: "Lawns and turf", then click on the appropriate link. The information can be read online or downloaded as a PDF file.
- » Application shall be made in strict conformance with all applicable jurisdictions.

9. DISEASE CONTROL:

- » When disease control cannot be contained by cultural practices such as proper mowing, fertilizations, irrigation, aerification, etc., fungicides shall be required to inhibit the disease so that the lawn grasses may recover.
- » Before fungicides shall be used, the fungus or fungi shall be identified. Fungicides shall not be applied unless there is a fungus disease problem known to exist. Repeated use of fungicides will inhibit non-parasitic fungi responsible for the normal breakdown of thatch and other organic matter in the turf and soil.
- » When a known disease condition exists, a fungicide shall be applied prior to serious infection. Continued applications throughout the active season shall be required for control. Applications of the fungicide shall be terminated when environmental conditions are no longer favoring the disease.
- » To prevent any disease from infecting the lawns, the Contractor shall be required to clean all mowers and equipment thoroughly with a water wash prior to mowing any lawn at the property, unless prohibited by State or local water regulations/ordinances.
- » The Contractor shall be responsible for identifying and controlling turfgrass diseases including fungicide treatments.



- » Refer online to: ipm.ucdavis.edu as a guide to disease control. The following prompts are subject to change: Under “How to manage pests”, click on “Homes, gardens, landscapes, and turf”. Under “Pests in gardens and landscapes”, scroll down to, and click on: “Lawns and turf”, then click on the appropriate link. The information can be read online or downloaded as a PDF file.

10. AERATION:

- » All turf grass areas should be aerated at least once per year in Spring, by removing 1/2” diameter by 3” deep cores with an aerator machine at not more than 6” spacing as approved by the Owner.
- » Remove core-debris after completing aeration. Removal of the cores may not be necessary but they should be allowed to dry some before attempting to break them up and reincorporate them into the turf. In addition, the tops of all mounds and localized compacted dry spots shall be aerated again, between the interval specified, as necessary to maintain even water infiltration.
- » Install sod at all damaged areas larger than 4” x 4”.

11. DE-THATCHING:

- » All turf grass areas should be de-thatched as needed between September and October as approved by the Owner.
- » De-thatching should be accomplished by use of “vertical cut type” de-thatch machine.
- » All thatch and debris should be immediately removed from the project site upon completion.

12. EQUIPMENT CLEANING:

- » To help prevent contamination of turf grass areas, thoroughly “wash off” all equipment that was used at another site prior to mowing or edging any areas on the site.

13. EQUIPMENT CONDITION:

- » Always keep mowers and edgers sharp, so as to cut the tips of turf blades and not tear them off. Torn grass blades have a brown “haze” appearance, which is not acceptable.

I. SHRUB, GROUNDCOVER, GRASSES, AND VINE PLANT PALETTE

<u>Botanical Name</u>	<u>Common Name</u>
<i>Acacia redolens</i> ‘Desert Carpet’	Desert Carpet Prostrate Acacia
<i>Agave parryi</i>	Artichoke Agave
<i>Cissus antartica</i>	Kangaroo Vine
<i>Dietes vegeta</i>	Fortnight Lily
<i>Distictus buccinatoria</i>	Blood Red Trumpet Vine
<i>Festuca mairei</i>	Atlas Fescue
<i>Festuca glauca</i>	Blue Fescue
<i>Festuca rubra</i> ‘Molate’	Creeping Red Fescue
<i>Gelsemium sempervirens</i>	Carolina Jessamine



<i>Grevillea 'Canberra Gem'</i>	Spider Flower
<i>Grevillea 'Noellii'</i>	Noel's Grevillea
<i>Hardenbergia violacea</i>	Lilac Vine
<i>Heteromeles arbutifolia</i>	Toyon
<i>Heuchera sanguinea</i>	Coral Bells
<i>Lantana montevidensis 'Lavender Swirl'</i>	Lavender Swirl Lantana
<i>Lantana 'New Gold'</i>	New Gold Lantana
<i>Lavatera maritima</i>	Tree Mallow
<i>Ligustrum japonicum</i>	Japanese Privet
<i>Muhlenbergia capillaris 'Regal Mist'</i>	Regal Mist Pink Muhly
<i>Myoporum parvifolium 'Putah Creek'</i>	Creeping Myoporum
Native Mow Free™ Sod	Native Mow Free™ Sod
<i>Pennisetum spathiolatum</i>	Slender Veldt Grass
<i>Phormium tenax 'Bronze Baby'</i>	Bronze Baby Flax
<i>Phormium tenax 'Atropurpureum'</i>	New Zealand Flax
<i>Pittosporum crassifolium 'Compactum'</i>	Dwarf Karo
<i>Rosa californica 'Elsie'</i>	California Wild Rose
<i>Rosa banksiae</i>	Lady Banks' Rose
<i>Rosmarinus officinalis 'Prostratus'</i>	Creeping Rosemary
<i>Westringia fruticosa</i>	Coast Rosemary
<i>Xylosma congestum 'Compacta'</i>	Shiny Xylosma
<i>Yucca filamentosa 'Color Guard'</i>	Color Guard Yucca

J. SHRUB, GROUNDCOVER, GRASSES, AND VINE PESTS AND DISEASES

1. MANAGING PESTS and DISEASES:

- » The following inventory is a guideline to address methods to manage pests and disease. For more detailed information, refer to: UC IPM Online - Statewide Integrated Pest Management Program www.ipm.ucdavis.edu. The California Department of Pesticide Regulation requires all applications must be based upon a licensed Pest Control Advisor's recommendation.



» ANTS

- **Ants** can increase infestations of **mealybugs/whiteflies/aphids/sooty mold** by protecting these pests from natural enemies and moving them to new locations on/around plants.
- Use sticky banding traps (Tanglefoot Pest Barrier), bait and/ or insecticide per licensed pest/disease advisor and as approved by the Owner.

» APHIDS

- Monitor the undersides of leaves and wash aphids off immediately with insecticidal soap.
- Management of **ants** is a key component of **aphid** control.
- If **aphid** infestation persists, introduce predator insects per licensed pest/disease advisor and as approved by the Owner.
- If **aphid** infestation becomes unmanageable by IPM, use pesticide per licensed pest/disease advisor and as approved by the Owner.

» BARK BEETLES / BORERS

- Different types of insects weaken trees by boring into tree trunks and branches in their larval stages, producing sawdust or sap-filled holes. Many tiny holes in tree trunks and branches indicate bark beetles; larger open tunnels filled with sawdustlike frass indicate clearwing moths; wet spots, dark stains and D-or O-shaped emergence holes indicate flatheaded or roundheaded borers.
- Prune out dead/ dying plant parts and dispose of all infested prunings between mid-October and February to eliminate these breeding sites for borer beetles.
- Effective management practices vary according to species, and confirmation of species requires finding the insect.
- Introduce appropriate predator insects per licensed pest/ disease advisor and as approved by the Owner.
- No insecticide kills larvae tunneling beneath the bark. Treatment must target the adults by spraying the bark so that they are killed when they land on trees and attempt to bore into the bark to lay eggs. If infestation becomes unmanageable by IPM, use insecticide per licensed pest/ disease advisor and as approved by the Owner.

» BLACK SPOT - *Diplocarpon rosae*

- Black Spot fungus infects when the leaf surface is wet. Leaves should not be allowed to remain wet for more than 7 hours (the time it takes fungus spores to germinate).
- If required, hose off aphids in the morning so leaves have a chance to dry by midday.
- Remove and dispose of infected leaves and debris promptly.
- Prune out infected stems during the dormant season.
- A combination of about 4 teaspoons of baking soda (bicarbonate of soda) per gallon of water with a 1% solution of narrow-range horticultural oil can effectively manage black spot. Do not



splash or spill solution on open blossoms.

- If fungal infection persists, apply fungicide /bactericide per licensed pest/disease advisor and as approved by the Owner.

» BLACK VINE WEEVIL - *Otiorhynchus sulcatus*

- Adult weevils generally consume foliage, leaving leaves notched or ragged.
- Leaves/needles may be severed from twigs and weevils feeding on branches can cause limb breakage. Weevil larvae feed on roots, and can weaken or kill some plants.
- Monitor for weevil populations beginning early in the spring and if detected, introduce beneficial insect parasitic nematodes per licensed pest/disease advisor and as approved by the Owner.
- If pest infestation becomes unmanageable by IPM, use insecticide to kill Black Vine Weevils per licensed pest/ disease advisor and as approved by the Owner. Spray about a week after first detecting adults or damage.

» CATERPILLARS, FOLIAGE-FEEDING

- Clip off and dispose of infested foliage.
- Inspect the bark and scrape any egg masses into a bucket of soapy water and dispose of them.
- Provide proper fertilization and water, protect roots and trunks from damage, and prune trees properly when needed.
- If necessary, introduce beneficial predators and parasites per licensed pest/ disease advisor and as approved by the Owner.

» CHLOROSIS

- Nutrient disorders can cause foliage to discolor, fade, distort, or become spotted, sometimes in a characteristic pattern that can identify the cause.
- Correcting mineral deficiencies can be tricky. Apply only the mineral found to be deficient.
- Treat chlorosis by occasional leaching and/ or occasional fertilizer supplements based upon current tissue analysis.

» FIRE BLIGHT

- Monitor in spring for signs of bacterial ooze exuding from branch, twig or trunk cankers.
- Prune out diseased branches. Always cut an infected branch at least 8-inches to 12-inches below the visible injury or canker. A greater distance below infections may be required on major branches, scaffolds, or trunks in May or June, when blight bacteria are moving rapidly. Ideally, an infected shoot or branch should be removed at its point of attachment, without damaging the branch collar.
- Sterilize pruning tools before each cut with a 10% solution of bleach (one part bleach to nine parts water). Dry and oil tools after use to prevent rust.



- To reduce fire blight problems, provide good air circulation, do not overfertilize and keep away from other fire blight hosts.
 - If necessary, use copper fungicide per licensed pest/ disease advisor and as approved by the Owner.
- » GLASSY-WINGED SHARPSHOOTER - *Homalodisca vitripennis* (formerly *H. coagulata*)
- The glassy-winged sharpshooter is a large, dark brown to black leafhopper about 1/2 inch long that feeds on plant fluids, lays egg masses on the underside of plant leaves and can spread the disease-causing bacterium *Xylella fastidiosa* from one plant to another.
 - There are no known cultural controls for glassy-winged sharpshooter.
 - The most important biological control is small *Gonatocerus* spp. predator wasps that attack glassy-winged sharpshooter egg masses starting in spring.
 - If sharpshooters are detected, introduce sharpshooter-specific predator insects per licensed pest/ disease advisor and as approved by the Owner.
 - To avoid spreading pathogens on infested tools, clean debris from tools after using them on each plant, then thoroughly spray tools with disinfectant or oak tools in disinfectant for 1 minute or more with 0.55 or more of sodium hypochlorite or 10% or more of Clorox bleach.
 - Refer to: Bacterial leaf scorch disease.
- » LEAF SPOT
- Many different fungi cause leaf spots, which may vary from small dots and raised areas to irregular yellow or brownish splotches that cover much of the leaf surface.
 - Leaves may fall off the tree if the problem is severe, but these fungi rarely cause long-term damage to trees.
 - Leaf spots can also be caused by bacterial pathogens, insects and/or mites.
 - Remove and dispose of leaves and debris promptly.
 - Generally, fungicide treatment is not warranted.
 - If fungal infection persists, apply fungicide /bactericide per licensed pest/disease advisor and as approved by the Owner.
- » MARGINAL LEAF BURN
- Leaf margins/leaf tips turn brown and may turn prematurely yellow.
 - Improper irrigation, poor soil, low humidity can cause marginal leaf burn.
 - Monitor irrigation to provide proper coverage.
- » MEALYBUGS
- Wash mealybugs off immediately with insecticidal soap and follow with an application of narrow-range horticultural oil per licensed pest/ disease advisor and as approved by the Owner.



- Eliminate ants tending the mealybugs.
- If mealybug infestation persists, introduce predator insects per licensed pest/disease advisor and as approved by the Owner.

» MILDEW

- Refer to Powdery Mildew

» PHYTOPHTHORA ROT

- Phytophthora species are pathogens that can spread and grow in wet soil.
- Good water management is the key to reducing the threat of Phytophthora rot. Irrigate only as much and as often as required, do not over-saturate the soil and clear away standing water around the base of trees or other susceptible plants.
- Monitor for leaves that turn dull green, yellow or reddish, and appear drought-stressed.
- Monitor for dark areas in the bark around the crown and upper roots. Dark sap may ooze from the margins of the diseased trunk area.
- If detected, use fungicide to suppress Phytophthora rot as directed and approved by a licensed pest/ disease advisor as approved by the Owner.

» POWDERY MILDEW

- There are many kinds of Powdery mildew fungi which infect new and I or old foliage with a white, powdery growth. Powdery mildew may also cause dwarfed, distorted new growth.
- If detected: apply horticultural fungicide per licensed pest/ disease advisor and as approved by the Owner.

» PSYLLIDS

- Psyllid insects become abundant in spring when temperatures warm and host plants produce tender new growth. One psyllid generation requires only a few weeks during warm weather to complete development from egg to adult and new psyllid species continue to be introduced into California.
- Irrigate appropriately and fertilize sparingly to discourage excessive new growth, which promotes increased populations of sap-sucking psyllids.
- If pest infestation persists, introduce psyllid-specific predator insects per licensed pest/ disease advisor and as approved by the Owner.
- If pest infestation becomes unmanageable by IPM, use pesticide per licensed pest/disease advisor and as approved by the Owner.

» RUST

- Rusts are fungal diseases that produce dry reddish, yellowish, or orange spore masses,



especially on the lower surface of leaves. The upper surfaces of heavily infested leaves turn yellow or brown and infected leaves may drop prematurely.

- Orange, gelatinous masses appear on some infected evergreen hosts. Some rust species cause tissue swellings or galls, colorful spots on plants, or cankers on bark. These can cause branch dieback and will occasionally kill the entire plant.
- Some rusts may cause leaves and shoots to become distorted, dwarfed, and discolored.
- Overhead watering favors rust spore germination.
- Remove and dispose of infected leaves/needles/ debris promptly.
- If fungal infection persists, apply fungicide/bactericide in the spring per licensed pest/disease advisor and as approved by the Owner.

» SCALES

- Wash scale insects off immediately with insecticidal soap and I or prune off infested and dispose of twigs/branches.
- Eliminate ants.
- If necessary, introduce beneficial predators and parasites per licensed pest/ disease advisor and as approved by the Owner.
- If scale infestation persists, follow with an application of horticultural oil late winter to early summer per licensed pest/ disease advisor and as approved by the Owner.

» SOOTY MOLD

- Sooty mold is the name applied to species of fungi that grow on the honeydew secretions left on plant parts by: aphids / mealybugs / soft scales / whiteflies / leafhoppers / psyllids.
- Control and/or eliminate the insect pest and wash off sooty mold by spraying with water and insecticidal soap as a preventative measure.
- Controlling and/ or eliminating ants can contribute to the successful management of sooty mold.
- If infestation becomes unmanageable by IPM, use pesticide per licensed pest/disease advisor and as approved by the Owner.

» SPIDER MITES

- Monitor the undersides of leaves for spider mites and spray off immediately with a forceful stream of water and/ or and wash off with insecticidal soap and/or oil.
- If necessary, introduce beneficial predators and parasites per licensed pest/disease advisor and as approved by the Owner.
- If spider mite infestation persists, follow with an application of insecticidal oil per licensed pest/ disease advisor and as approved by the Owner.



- Broad-spectrum insecticide treatments for other pests frequently cause spider mite outbreaks, so avoid these when possible.

» **THRIPS**

- If detected: wash thrips off immediately with a forceful stream of water and/or with insecticidal soap, and/ or remove and dispose of infected leaves/branches/flowers.
- If necessary, follow with an application of narrow-range horticultural oil per licensed pest/disease advisor and as approved by the Owner.
- Thrips can be difficult to control effectively with pesticides.

» **VERTICILLIUM WILT - Verticillium spp.**

- Leaves wilt and turn yellow, first at the margins and between the veins. They turn tan or brown and wither as the fungus moves through the plant. Twigs and branches on one side of the tree, or the entire center of the tree may wilt and die.
- Prune out and destroy dead wood.

» **WHITEFLY**

- If detected: immediately, spray whitefly off with a forceful stream of water and/or remove and dispose of infested leaves if infestation is severe.
- If whitefly infestation persists wash with insecticidal soap and/or follow with an application of narrow-range horticultural oil per licensed pest/disease advisor and as approved by the Owner.
- Whiteflies are not well controlled with any available insecticides.

K. SOIL TESTING REQUIREMENTS

1. ANNUAL HORTICULTURAL SOILS REPORT:

- » The Landscape Maintenance Contractor shall obtain annual Agricultural Suitability soils analysis and tissue analysis. The recommendations contained in the report shall serve as the basis of the Landscape Maintenance Agreement for the following year.

2. AGRONOMIC TESTING LABORATORY- OR EQUAL:

Soil & Plant Laboratories
1101 S. Winchester Blvd., Suite G-173
San Jose, CA 95128
(408) 727-0330



3. REQUIRED TEST QUANTITY:

- » Provide an allowance for ten (10) Agricultural Suitability soils tests and/or tissue analyses as determined by the Landscape Manager. Additional tests or tissue analyses will be authorized as agreed between the Property Manager and the Landscape Manager.

4. MINIMUM TEST DATA:

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ONLY

- » The following minimum analytical data shall be supplied:
 - Soil Reaction
 - Salinity Level
 - Boron Concentration
 - Nitrogen, Phosphorous and Potassium Levels
 - Calcium Level
 - Magnesium Level
 - Soil Permeability Evaluation
 - Twelve month recommendation based on the above data including:
 - Monthly Fertilization Program Physical/Mechanical Soil Treatment and Schedule
 - Special Soil Treatment Program and Schedule (if any)

L. SOILS MANAGEMENT AND INTEGRATED PEST MANAGEMENT (IPM)

1. OBJECTIVES:

- » The main objective of this program is to safeguard to “the maximum extent practical” against unnecessary discharges of fertilizers and pesticides into surface and groundwater systems and to establish safe and reasonable standards for handling those materials. The guidelines are based on state and federal laws, environmental policies and “best management practices” established by various public and private agencies.

2. ORGANIC FERTILIZERS:

- » Apply organic fertilizers according to the following Soils Management Guideline. Augment organic fertilizer program with commercial fertilizers only as required to address specific nutritional conditions as identified by the annual soil fertility tests.

3. CHEMICAL FERTILIZERS:

- » When chemical fertilizers are needed based on annual fertility soil testing in the late winter, use tightly-compressed, slow-release and long-lasting complete fertilizer tablets such as Apex (21-5-6), Bandini Gro-Pellets, Osmocote Slow Release Tablets, and soluble chemical fertilizers such as GroMorE (12-24-24) and Roots with Iron or equivalent.

4. MYCORRHIZAL FUNGI:

- » If indicated by soil and tissue tests or other means, as a specific localized treatment in areas of poor tree or shrub growth, apply mycorrhizal fungi annually in October in conjunction with organic fertilizers and aeration of the soil.



5. MULCHING MOWER:

- » Use a “mulching”, or “recycling” mower for mowing Fescue-type turf grass to enrich the root zone and reduce the need for chemical fertilizers.

6. GENERAL FERTILIZER CRITERIA:

- » When specifically prescribed, workers will apply the minimum amount of chemical fertilizer needed and incorporate it directly into the soil around the plant to minimize potential surface runoff.
- » Workers shall not apply fertilizers in the rain or on the same day that rain is expected.
- » Workers shall immediately clean-up any spill of fertilizers.
- » Slow release fertilizers will be employed such as water-soluble nitrogen fertilizers, coated fertilizers and fertilizers of limited solubility, wherever possible to reduce the possibility of leaching.

7. METHODS OF FERTILIZER APPLICATION AND DISPOSAL:

» Organic Fertilizers:

- **Banding Application:** Install small amounts of fertilizer compost by hand in a band around the root zone of individual trees and cultivate into the soil in conformance with manufacturer’s recommendation.
- **Broadcast Application:** Uniformly spread fertilizer compost by hand in shrub and groundcover areas and incorporate into the top 3-inches of soil. Compost amendment can be uniformly spread over lawn areas mechanically with a drop spreader.
- **Mycorrhizal Fungi Solution Application:** Fungi are applied by hand or injected into the soil in solution form as a root ball drench. Prescribed rates of application should prevent any adverse leaching through the soil.
- **Storage and Disposal:** As a general practice, organic compost amendments will be incorporated into the soil and do not require storage or disposal.

» - Commercial Fertilizers:

- **Banding Application:** Install small amounts of fertilizer by hand in a band around the root zone of individual trees and cultivate into the soil in conformance with manufacturer’s recommendation.
- **Broadcast Application:** Uniformly spread fertilizer compost by hand in shrub and groundcover areas and incorporate into the top 3-inches of soil. Compost amendment can be uniformly spread over lawn areas mechanically with a drop spreader.
- **Foliar Application:** Fertilizer is applied in solution form that is absorbed through the leaves and stems. This method can reduce nutrient leaching into the soil when applied correctly and can be performed at the same time as pesticide applications to avoid spraying twice.
- **Soil Drench Application:** Fertilizer is applied in solution form that is absorbed through the roots. A prescribed amount of solution should be applied to a localized area to prevent adverse leaching.

8. INTEGRATED PEST MANAGEMENT (IPM):

- » Integrated Pest Management (IPM) is recommended as standard practice to maintain a balance between natural predators and pests. The goal is not to eliminate all pests, but to keep their population at a manageable level.



- » Pesticides are part of IPM techniques, but they are used in small quantities and only after all other alternatives have been implemented. Chemical pesticides may be used only after recommendation from a State-licensed pest control advisor.
- » Types of Pest and Disease Control:
 - Natural (Biological) Pest Controls: Natural predators such as ladybugs, lacewings, preying mantis, viruses and insect parasites.
 - Chemical Pesticides and Fungicides

9. METHODS OF IPM APPLICATION AND DISPOSAL:

- » Natural Application: Natural predators shall be released into the landscape at appropriate times of the year to coincide with seasonal infestations when repeated washing with insecticidal soap is not successful in reducing pests to a manageable level.
- » Foliar and Trunk Application: Chemical fungicides can be applied in solution form that is absorbed through the leaves and stems. This method can be performed at the same time as pesticide applications to avoid spraying twice.
- » Soil Drench Application: Chemical fungicides and pesticides can be applied in solution form that is absorbed through the roots. A prescribed amount of solution should be applied to a localized area to prevent adverse leaching. Rotate application of fungicides to prevent tolerance buildup.

10. STORAGE AND DISPOSAL OF PESTICIDES AND FUNGICIDES:

- » While in most cases, pesticides will not be stored or disposed on-site due to outside maintenance services. However, if it does become necessary to store or dispose of these materials on-site, storage areas should be placed away from living areas and in covered areas that are well-insulated from temperature extremes; they should have a cement floor and good ventilation. Also, storage areas should be clearly marked according to state standards and be securely locked at all times when not in use.
- » In cases where supervision of pesticide application is required by the State Code, supervision must be performed by a state-licensed or certified pesticide applicator. For all other pesticide applications, supervision may be performed by workers with equivalent training.
- » Workers should ensure that storage equipment and containers are inspected daily for leaks or defects before being taken on the job. Containers should also be inspected and before storing at the end of the day.
- » Workers shall make certain that chemical containers are triple-rinsed before disposal.
- » Recommend that cleaned containers be sent back to the manufacturer for recycling whenever possible; however, once triple-rinsed, most haulers will transport to most landfills.
- » Workers should use leftover rinsewater as spray.
- » Surplus or out-of-date chemicals should be given to a licensed hazardous waste hauler for disposal.
- » Prior to transporting pesticides and fungicides, workers shall ensure that all containers are tightly sealed and secured from tipping or excess jarring.
- » Workers should transport only the amount of pesticide needed for the day to the site.



- » Workers should be certain that the appropriate chemical labels and MSDS sheets, a spill clean-up kit, the location of emergency medical care and a first aid kit are always brought along when transporting pesticides.
- » Contractor must read and follow the label and all PCA recommendations for pesticides. Contractor must follow all State and local regulations pertaining to pesticide use, transport, storage, and disposal.

M. SOILS MANAGEMENT GUIDELINE

The following chart illustrates both the time-of-year application and the suggested type and quantity of fertilizers and soils management treatments. In special circumstances, additional fertilizers may be necessary as a supplemental treatment and needed to optimize health and appearance and prevent plant loss or to provide added protection during periods of severe stress and recovery of individual plant material, and to balance and mitigate adverse soil chemistry and/or severe pest infestations, but only as prescribed by a licensed pest control advisor and/or agronomist, and approved by the Owner. The guideline materials and rates prescribed below are subject to verification by agricultural soil testing by the Owner’s designated Soil Testing Agency.

SOILS MANAGEMENT CHART ANNUAL GUIDELINES												
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Shrub & Groundcovers		ST	GY	UF, SBM		FM			GY	UF		
Turf		ST	GY	UF		FM		FM	GY	UF		
Potted Plants				APX					APX			

ORGANIC FERTILIZERS / MULCH

APX= APX (21-5-6) Slow Release Fertilizer.

FM = Feather Meal (13-0-0) pellet form at 15pounds per 1,000 square feet.

GY = Agricultural Gypsum pellet form at 15 pounds per 1,000 square feet.

ST = Agricultural soils testing for fertilization verification. Assume ten tests at Contractor Cost.

SBM = Topdress exposed soil between shrubs with 3 - inches depth of the Central

California equivalent of ‘ Landscapers Mulch’ by Recycled Wood Products.

Submit change order for SBM mulch based on estimated CY quantity per contract unit cost.

UF = Ureaform or Nitroform (38-0-0) at 8 pounds per 1,000 square feet.



A. WATER COMPANY

INFORMATIONAL ONLY

City of Tracy
Utilities Department
3900 Holly Drive
Tracy, CA 95304
(209) 831-4480
www.ci.tracy.ca.us/

B. AGRONOMIC TESTING LABORATORY

Soil & Plant Laboratory
1101 S. Winchester Blvd., Suite G-173
San Jose, CA 95128
(408) 727-0330
www.soilandplantlaboratory.com

C. PRODUCT SUPPLIERS

NOTE: These Product Suppliers are provided on the Tracy Hills Phase 1A Construction Plans. Based on availability, new technologies, and market conditions, equivalent products and suppliers are acceptable as approved by the City of Tracy.

Aluminum Edging

Permaloc Corp.
13505 Barry Street
Holland, MI 49424
(616) 399-6900
www.permaloc.com

**Decomposed Granite
(Stabilized)**

Silverado Building Materials
460 South Stockton Avenue
Ripon, CA 95466
(209) 599-4543

Playground Equipment

Landscape Structures
601 7th Street South
Delano, MN 55328
(888) 221-0288
www.playlsi.com

Supplier:

Ross Recreation Equipment Co., Inc.
100 Brush Creek Road #206
Santa Rosa, CA 95404
(707) 538-3800
contact: Tara Bartosch



Playground Surfacing

Fibar Engineered Wood Fiber Systems
80 Business Park Drive, Suite 300
Armonk, NY 10504
(800) 342-2721
www.fibar.com

Supplier:

Ross Recreation Equipment Co., Inc.
100 Brush Creek Road #206
Santa Rosa, CA 95404
(707) 538-3800
contact: Tara Bartosch

Site Furniture

Dogipot
2100 Principal Row, Suite 405
Orlando, FL 32837
(800) 364-7681
www.dogipot.com

Maglin Site Furniture
999 18th Street, Suite 3000
Denver, CO 80202
(855) 954-6424
www.maglin.com
contact: Sarah McKellar

Most Dependable Fountains, Inc.
5705 Commander Drive
Arlington, TN 38002
(800) 552-6331
www.mostdependable.com

Pilot Rock
R.J. Thomas Mfg. Co. Inc.
5648 Hwy 59
Cherokee, IA 51012
(800) 762-5002
www.pilotrock.com

Stone Veneer

Creative Mines, LLC
6102 Avenida Encinas, Suite M
Carlsbad, CA 92011
(800) 453-7040
www.creativemines.us



Street Lighting

Hapco
26252 Hillman Hwy
Abingdon, VA 24210
(276) 628-7171
www.hapco.com

Supplier: Associated Lighting Reps., Inc.
7777 Pardee Lane
Oakland, CA 94621
(510) 638-3800 x183
www.alrinc.com
contact: John Benson

Surface Mulch

Bark Mulch or equivalent as approved by the City

Suppliers: LH Voss Materials
(925) 560-9920
www.lhvoss.com

Pacific Landscape Supply
(805) 595-2296
www.pacificlandscapesupply.com

Stockton Wood Shavings
(209) 982-0552
www.stocktonwoodshavings.com

Organic Fertilizers

Ureaform or Nitroform (38-0-0)
Ammonium Sulfate (21-0-0)
Agricultural Gypsum (pellet form)

Supplier: Pleasanton Trucking
(925) 449-5400
www.pleasantontrucking.com

Fertilizers

Apex Slow Release Fertilizer (21-5-6)

Supplier: Pleasanton Trucking
(925) 449-5400
www.pleasantontrucking.com

Biological Controls

Beneficial Insects

Supplier: Insectaries
(805) 643-5407
www.insectary.com



D. WEEKLY MAINTENANCE SCHEDULE

(Maintenance tasks to be performed on a weekly basis during prime growing season and peak user demand. Refer to Section 2, Landscape Maintenance Criteria, Section 3, Landscape Irrigation and Drainage, and Section 4, Hardscape and Materials, for additional tasks.)

1. TASK

- » Mow all lawns.
- » Edge all lawns bi-weekly.
- » Sweep or blow sidewalks, steps, ramps, and pick up debris.
- » Sidewalks shall be neatly edged bi-weekly.
- » Sidewalks shall be kept clear of weed and grass growth in cracks, sawcut joints, and expansion joints.
- » Remove dead flowers from roses, perennials and other shrubs bi-weekly or as needed.
- » ~~Inspect for drainage problems and irrigation breaks.~~
- » ~~Monitor all irrigation controllers, confirm accurate station programming information.~~
- » Inspect planter pots sumps as required
- » Remove and dispose of weeds and trash.
- » Clean play equipment of all bird droppings, dirt and debris (surfaces including floors, steps and ramps) if in scope of contracted work.
- » Inspect Fibar System engineered wood fiber play surfacing to ensure it is free of debris; especially stones, broken glass, or other foreign objects .
- » Fibar System engineered wood fiber play surfacing should be raked level. Pay particular attention to areas under swings, sliding poles, and at sliding exits.
- » ~~To prevent displacement of the Fibar in high-use areas, FibarMat wear mats must be installed under all swings, tire swings, slide exits, and all other wear areas, including sliding poles.~~
- » ~~Inspect tree sump wells twice per month.~~
- » Maintain all bio-swales, landscape area flow lines and drain inlets clear of debris. - Report issues to City
- » Remove debris, weeds, and obstacles from decomposed granite trail.
- » Ensure all gates and latches are fully operational - Report issues to City



E. MONTHLY MAINTENANCE SCHEDULE

(Maintenance tasks to be performed on a monthly basis, in addition to weekly maintenance tasks. Refer to Section 2, Landscape Maintenance Criteria, Section 3, Landscape Irrigation and Drainage, and Section 4, Hardscape and Materials, for additional maintenance tasks.)

1. TASK

- » ~~Inspect/adjust tree staking and guying.~~
- »- ~~Check and adjust all sprinkler equipment or as needed.~~
- » ~~Soil probe irrigation valve zones to confirm proper irrigation controller programming.~~
- » Inspect all landscape areas for pests/ fungus /disease.
- » Weed all shrub/groundcover areas monthly or as needed.
- » Trim edges of groundcover.
- » Maintain crown in decomposed granite trail to direct water off of trail. Rake and compact as needed to maintain proper grading and drainage.
- » ~~Inspect any retaining walls to ensure weep holes, drains, or other relieving systems are not clogged or otherwise not working as designed.~~
- » ~~Inspect all fencing to ensure fencing is free of holes and protrusions.~~
- » ~~Perform a site review with the Owner's representative to review conformance with the landscape maintenance guidelines and verify punch list corrections.~~
- » Submit Maintenance Logs for review.



F. ANNUAL MAINTENANCE SCHEDULE

(Maintenance tasks to be performed on an annual basis, in addition to weekly and monthly maintenance tasks. Refer to Section 2, Landscape Maintenance Criteria, Section 3, Landscape Irrigation and Drainage, and Section 4, Hardscape and Materials, for additional tasks.)

<u>MONTH</u>	<u>TASK</u>
JAN	Inspect/ adjust irrigation over spray away from walls, fences, pilasters, handrails, mailboxes, light fixtures and concrete surfaces.
FEB	Prune late winter/early spring cycle shrubs as required.
FEB	Inspect for tree and shrub root problems: root prune and install and/or repair root control barriers as approved and directed by an I.S.A. certified arborist or tree worker and based on contract unit prices, as approved by Owner.
FEB	Inspect walls for cracks, loose masonry units, major displacement vertically or horizontally, and other obvious defects. Make necessary repairs using matching masonry materials. Record location and magnitude of all major defects and monitor status monthly.
FEB	Low pressure wash walls, if allowable by City ordinance, to remove mold, mildew, and accumulated dirt. Use appropriate chemicals to ensure good results without damaging exterior finish.
MAR	Aerate all lawn surfaces as required.
MAR	Apply annual grasses pre-emergent to lawn areas as required.
MAR	Clean all irrigation controllers and valve boxes, contract to test backflow devices per City of Tracy requirements.
MAR	Coordinate annual Horticultural Soils Testing to be conducted in late winter/early spring.
MAR	Inspect all hardscape surfaces. <i>Report</i> cracks, lifting, settling, erosion, and any other potential safety hazards. Power wash paved surfaces to clean and remove stains as needed.
MAR	Inspect all wood surfaces and fabrications in the common areas. Identify signs of deterioration, instability, faded color, splitting, dry rot, termites, and other pest infestations. Repaint and repair as needed for protection and aesthetic value. For wood sealers or other waterproof coatings, maintenance guidelines of the coating manufacturer shall be followed.
MAR	Inspect all metal surfaces and fabrications for signs of deterioration, corrosion, rust, chipped paint, and general wear. Clean, touch-up, repair, repaint, and replace as needed. Inspect handrails for stable support. The condition of materials will instruct what repair or replacement needs to be implemented based on regular inspections and recommendations by a qualified and licensed contractor.
MAY	Inspect/adjust irrigation overspray away from walls, fences, pilasters, handrails, mailboxes, light fixtures and concrete surfaces.
MAY	Prune late spring cycle shrubs as required.



- MAY Mulch shrub beds as required.
- AUG Inspect for ~~tree~~ and shrub root problems, prune and install root barriers as required.
- AUG ~~Inspect walls for cracks, loose masonry units, major displacement vertically or horizontally, and other obvious defects. Make necessary repairs using matching masonry materials. Record location and magnitude of all major defects and monitor status monthly.~~
- AUG Low pressure wash walls, if allowable by City ordinance, to remove mold, mildew, and accumulated dirt. Use appropriate chemicals to ensure good results without damaging exterior finish.
- SEP Inspect/test/maintain all landscape swales.
- SEP Inspect all hardscape surfaces. ~~Repair cracks, lifting, settling, erosion, and any other potential safety hazards. Power wash paved surfaces to clean and remove stains as needed.~~
- SEP ~~Clean, paint, waterproof, patch, and treat hardscape surfaces as needed. Apply sealant and waterproofing as necessary.~~
- SEP Inspect all wood surfaces and fabrications in the common areas. Identify signs of deterioration, instability, faded color, splitting, dry rot, termites, and other pest infestations. ~~Repaint and repair as needed for protection and aesthetic value. For wood sealers or other waterproof coatings, maintenance guidelines of the coating manufacturer shall be followed.~~
- SEP Inspect all metal surfaces and fabrications for signs of deterioration, corrosion, rust, chipped paint, and general wear. ~~Clean, touch-up, repair, repaint, and replace as needed. Inspect handrails for stable support. The condition of materials will instruct what repair or replacement needs to be implemented based on regular inspections and recommendations by a qualified and licensed contractor.~~
- SEP Apply annual grasses pre-emergent to lawn areas.
- OCT ~~Inspect trees for evidence of invasive roots.~~
- OCT Inspect all storm drains and landscape drains; flush, remove debris and silt build-up. Reset drain inlets flush with finish grade as required.



MONTHLY MAINTENANCE LOG

TRACY HILLS

Contractor / Company Name:		Year:	
Task #	Work Performed:	Performed by / Date	Inspected by / Date
1	Inspect/adjust tree staking and guying.		
2	Check and adjust all sprinkler equipment or as needed.		
3	NA		
4	NA		
5	Inspect all landscape areas for pests/fungus/disease.		
6	Weed all shrub/groundcover areas.		
7	Trim edges of groundcover or as needed.		
8	Sweep or blow pedestrian walks/steps/ramps.		
9	Inspect any retaining walls to ensure weep holes, drains, or other relieving systems are not clogged or otherwise not working as designed.		
10	Inspect all fencing tko ensure fencing is free of holes and protrusions.		
11	Ensure all gates and latches are fully operational.		
12	Perform a site review with the Owner's representative to review conformance with the landscape maintenance guidelines and verify punch list corrections.		
13	Submit Maintenance Logs for review.		



ANNUAL MAINTENANCE LOG			
TRACY HILLS			
Contractor / Company Name:		Year:	
Month	Work Performed:	Performed by / Date	Inspected by / Date
	Notify City for irrigation over-spray away from walls, fence, pilasters, handrails, mailboxes, light fixtures, and concrete surfaces.		
FEB	Prune late winter/early spring cycle shrubs as required.		
FEB	Inspect for tree and shrub root problems. Root-prune and install/repair root control barriers as approved and directed by an I.S.A. certified arborist or tree worker and based on contract unit prices, as approved by Owner.		
FEB	Inspect walls for cracks, loose masonry units, major displacement vertically or horizontally, and other obvious defects. Make necessary repairs using matching masonry materials. Record location and magnitude of all major defects and monitor status <i>monthly</i> .		
FEB	Low pressure wash walls to remove mold, mildew, and accumulated dirt. Use appropriate chemicals to ensure good results without damaging exterior finish.		
MAR	Aerate all lawns surfaces as required.		
MAR	Apply annual grasses pre-emergent to lawn areas as required.		
MAR	NA		
MAR	Coordinate annual Horticultural Soils Testing to be conducted in late winter/early spring.		
MAR	Inspect all hardscape surfaces. Repair cracks, lifting, settling, erosion, and any other potential safety hazards. Power wash paved surfaces to clean and remove stains as needed.		
MAR	Inspect all wood surfaces and fabrications in the common areas. Identify signs of deterioration, instability, faded color, splitting, dry rot, termites, and other pest infestations. Repaint and repair as needed for protection and aesthetic value. For wood sealers or other waterproof coatings, maintenance guidelines of the coating manufacturer shall be followed.		



ANNUAL MAINTENANCE LOG

TRACY HILLS

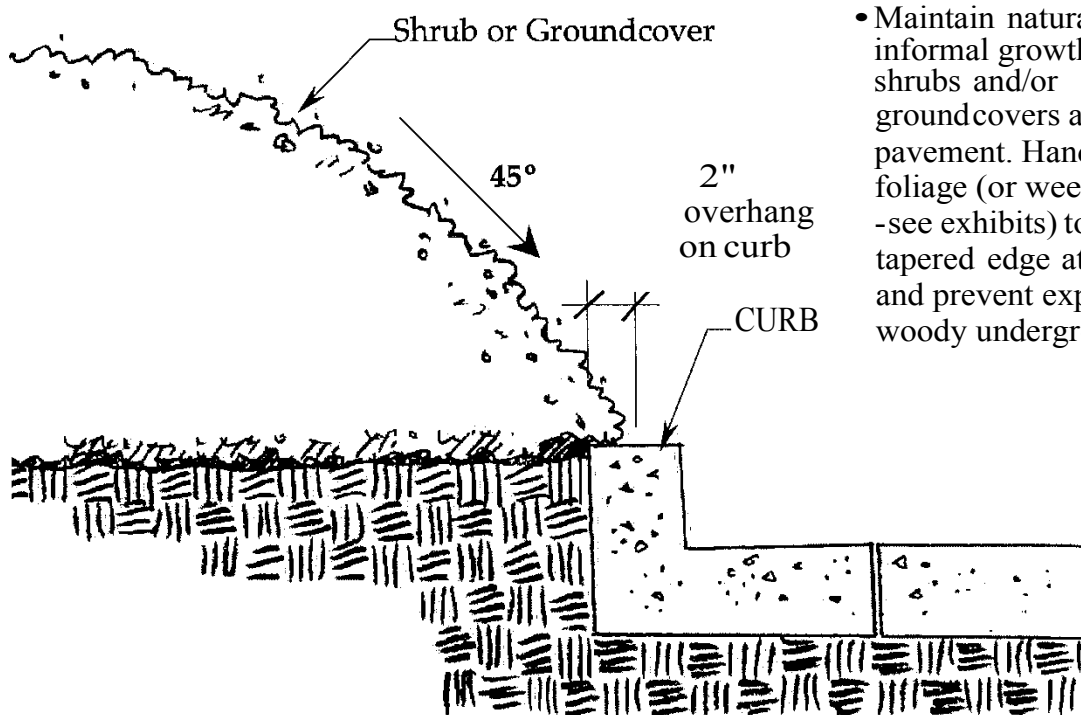
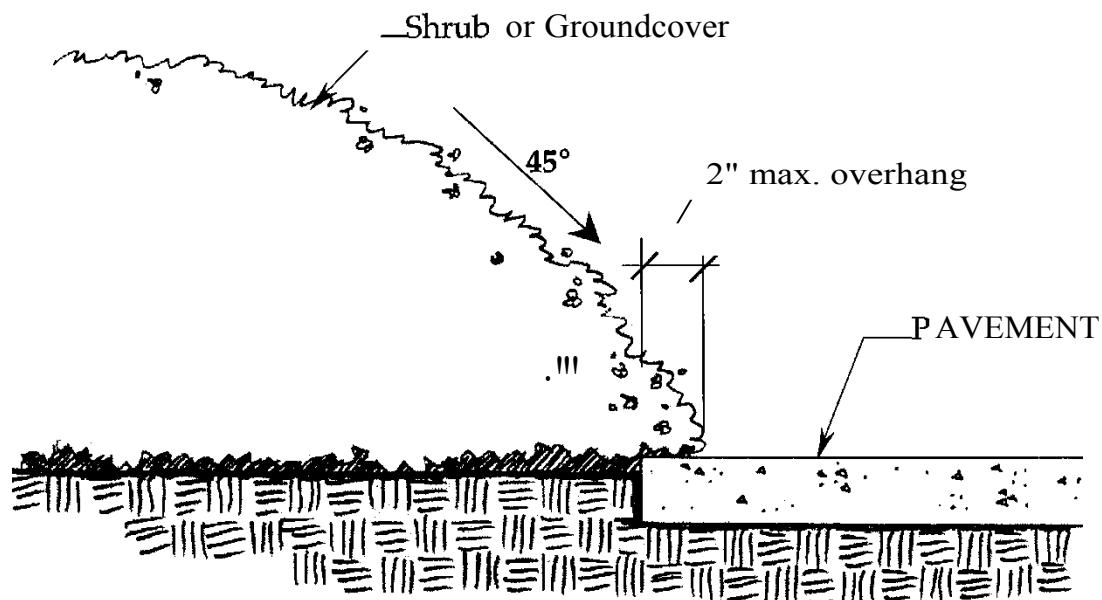
Contractor / Company Name:		Year:	
Month	Work Performed:	Performed by / Date	Inspected by / Date
MAR	Inspect all metal surfaces and fabrications for signs of deterioration, corrosion, rust, chipped paint, and general wear. Clean, touch-up, repair, repaint, and replace as needed. Inspect handrails for stable support. The condition of materials will instruct what repair or replacement needs to be implemented based on regular inspections and recommendations by a qualified and licensed contractor.		
MAY	NA		
MAY	Prune late spring cycle shrubs as required.		
MAY	Mulch shrub beds as required.		
AUG	Inspect for tree and shrub root problems, prune and install root barriers as required.		
AUG	Inspect walls for cracks, loose masonry units, major displacement vertically or horizontally, and other obvious defects. Make necessary changes using matching masonry materials. Record location and magnitude of all major defects and monitor status <i>monthly</i> .		
AUG	Low pressure wash walls to remove mold, mildew, and accumulated dirt. Use appropriate chemicals to ensure good results without damaging exterior finish.		
SEP	Inspect/test/maintain all landscape swales.		
SEP	Inspect all hardscape surfaces. Repair cracks, lifting, settling, erosion, and any other potential safety hazards. Power wash paved surfaces to clean and remove stains as needed.		
SEP	Clean, paint, waterproof, patch, and treat hardscape surfaces as needed. Apply sealant and waterproofing as necessary.		
SEP	Inspect all wood surfaces and fabrications in common areas. Identify signs of deterioration, instability, faded color, splitting, dry rot, termites, and other pest infestations. Repaint and repair as needed for protection and aesthetic value. For wood sealers or other waterproof coatings, maintenance guidelines of the coating manufacturer shall be followed.		



ANNUAL MAINTENANCE LOG

TRACY HILLS

Contractor / Company Name:		Year:	
Month	Work Performed:	Performed by / Date	Inspected by / Date
SEP	Apply annual grasses pre-emergent to lawn areas.		
SEP	Inspect all metal surfaces and fabrications for signs of deterioration, corrosion, rust, chipped paint, and general wear. Clean, touch-up, repair, repaint, and replace as needed. Inspect handrails for stable support. The condition of materials will instruct what repair or replacement needs to be implemented based on regular inspections and recommendations by a qualified and licensed contractor.		
OCT	Inspect trees for evidence of invasive roots.		
OCT	Inspect and flush all storm drains and landscape drains; flush, remove debris and silt build-up. Reset drain inlets flush with finish grade as required.		



TYPICAL SHRUB/GROUNDCOVER CONDITION AT PAVEMENT/CURB

Summary of Service Level Pricing

North Tracy - LMD			
Zone	Service Level A	Service Level B	Service Level C
3	\$98,934.85	\$78,490.94	\$60,052.66
4	\$183.28	\$196.61	\$95.29
5	NA	NA	NA
6	NA	NA	NA
7	\$89,425.99	\$60,186.54	\$50,515.60
8	\$16,435.56	\$11,208.82	\$9,066.24
10	\$44,935.01	\$32,481.46	\$28,177.47
11	\$2,387.22	\$1,271.67	\$723.72
12	\$19,492.43	\$13,559.97	\$11,449.47
13	\$23,376.47	\$14,815.14	\$11,694.27
14	\$15,989.63	\$9,608.89	\$7,300.95
16	\$12,744.05	\$7,450.21	\$5,311.03
21	\$16,564.87	\$8,933.31	\$6,168.06
25	NA	NA	NA
26	\$55,830.68	\$33,723.62	\$26,206.25
27	\$4,333.38	\$3,326.41	\$2,810.87
28	\$8,303.48	\$4,950.53	\$3,528.46
32	NA	NA	NA
33	\$4,548.60	\$2,801.37	\$2,117.52
34	\$8,377.18	\$6,502.35	\$5,623.24
35	\$15,534.41	\$9,442.22	\$7,135.37
36	NA	NA	NA
37	NA	NA	NA
38	\$44,068.72	\$30,235.76	\$25,356.16
42	\$3,797.40	\$2,297.17	\$1,694.00
Total	\$485,263.22	\$331,483.00	\$265,026.63

Channel Ways			
Zone	Service Level A	Service Level B	Service Level C
3	\$20,580.04	\$18,026.26	\$17,640.99
7	\$15,663.49	\$13,330.33	\$12,945.07
8	\$13,503.55	\$11,263.55	\$10,878.28
10	\$13,925.28	\$11,685.28	\$11,300.02
26	\$12,329.32	\$10,162.40	\$9,777.13
Total	\$76,001.68	\$64,467.81	\$62,541.50
Grand Total	\$561,264.89	\$395,950.81	\$327,568.13

Green - Service Level @ Start of Contract

South Tracy - LMD			
Zone	Service Level A	Service Level B	Service Level C
1	\$2,245.54	\$1,124.23	\$609.62
2	\$3,845.37	\$2,403.80	\$1,780.58
9	\$113,721.96	\$75,257.44	\$61,622.35
15	\$75,817.72	\$49,927.06	\$40,419.31
17	\$35,850.14	\$24,263.34	\$19,985.07
18	\$24,695.90	\$16,081.47	\$12,848.84
19	\$35,798.91	\$26,145.24	\$22,831.37
20	\$5,887.44	\$3,644.41	\$2,724.47
22	\$5,632.72	\$3,872.77	\$3,134.15
23	\$6,005.38	\$3,851.79	\$2,972.96
24	\$15,148.21	\$8,252.74	\$5,426.88
29	\$27,667.64	\$18,797.44	\$15,421.80
30	\$8,560.33	\$5,230.84	\$3,909.77
31	NA	NA	NA
38	\$13,213.58	\$8,561.80	\$7,051.96
40	\$2,001.28	\$1,062.74	\$619.99
41	\$1,945.29	\$985.29	\$534.74
43	\$2,736.67	\$1,644.69	\$1,137.69
Total	\$380,774.09	\$251,107.09	\$203,031.55

Channel Ways			
Zone	Service Level A	Service Level B	Service Level C
1	\$6,432.69	\$2,840.32	\$2,455.14
9	\$40,852.85	\$30,318.78	\$29,933.52
Total	\$47,285.54	\$33,159.10	\$32,388.66
Grand Total	\$428,059.63	\$284,266.20	\$235,420.21

South Tracy - CFD			
Zone	Service Level A	Service Level B	Service Level C
Tracy Hills	\$30,506.24		
Ellis	\$29,627.21		

New Area - Service Level A

Base Proposal

Turf s/f	Shrub s/f	Median s/f	Weed Abatement s/f
\$ 0.09	\$ 0.14	\$ 0.16	\$ 0.03

New Area - Service Level B

Base Proposal

Turf s/f	Shrub s/f	Median s/f	Weed Abatement s/f
\$ 0.06	\$ 0.11	\$ 0.14	\$ 0.03

New Area - Service Level C

Base Proposal

Turf s/f	Shrub s/f	Median s/f	Weed Abatement s/f
\$ 0.04	\$ 0.10	\$ 0.12	\$ 0.03

New Area - Tracy Hills

Base Proposal

Turf s/f	Shrub s/f	Median s/f	Weed Abatement s/f
\$ 0.08	\$ 0.13	\$ 0.15	\$ 0.03

New Area - Ellis

Base Proposal

Turf s/f	Shrub s/f	Median s/f	Weed Abatement s/f
\$ 0.08	\$ 0.13	\$ 0.15	\$ 0.03

Rates for Extra Work

<u>Labor*</u>	<u>Regular</u>	<u>Overtime</u>	<u>Holidays Double Time</u>
Supervisor	\$ 80.00	\$ 120.00	\$ 160.00
Leadman	\$ 75.00		
Crew Leader	\$ 70.00		
Laborer	\$ 65.00		
<u>Equipment</u>	<u>Cost/Hr</u>		
Pickup	\$ -		
Utility Bed	\$ -		
Flatbed /Spray Rig	\$ -		
Tractor	\$ -		
Tractor Implement	\$ -		
Large Trailer	\$ -		
Small Trailer	\$ -		
Large Mower	\$ -		
60"/72" Mower	\$ -		
36"/48" Mower	\$ -		
21" Mower	\$ -		
Weedeater, chainsaw, blower	\$ -	* Equipment rates included in hourly labor	

CITY OF TRACY
 FY 2020-2021 Budget
 Funding Augmentation Request Form

Date Prepared: _____
 Department: _____
 Division: _____
 Request Title: _____

Priority Ranking	
Dept.	ACM
<input type="checkbox"/>	<input type="checkbox"/>

Request supported by other depts?
 Please list:

Please explain your request and justification for additional funding below:

EVALUATIVE CRITERIA (See Instructions on Reverse). Please be specific and directly relate to the criteria on the reverse.

Work Plan (Goal/Objective or Council Strategy): _____

Performance Measures: _____
 (How does this relate to your work plan or Council strategy? What are your performance measures and how will you measure success?)

Level of Service Impact: _____
 (Why is your request necessary to maintain the current service level? Will this increase, maintain or decrease the level of service?)

Area of City Effected: _____
 (Does your request primarily serve a neighborhood, constituency or the entire community?)

Benefit to Community: _____
 (What is the expected result or outcome if funded? Can this impact be quantified?)

Effects on Public Safety, Health or Risk Avoidance: _____
 (Is there an effect on public safety, health or risk avoidance? Can this be quantified?)

Offsetting Savings, Revenues or Funding Outside the General Fund: _____

Other: _____

RESOURCES REQUESTED

Contract services, commodities, utilities or other recurring expenses:

Type	Vendor	Acct # (Org/Object)	Object Title	FY21 \$	FY22 \$

Equipment, vehicle, other one-time expense:

Type	Vendor	Replacement	Qty	Life (Yrs)	FY21 \$	Future \$

Personnel/Staffing (Budgetary Only - Please send a copy of request to Human Resources):

Please complete both lines

Job Title	Position #	Type	FT/PT (PT FTE %)	FY21 \$	FY22 \$

List computers, vehicles, equipment, etc, including maintenance costs, for each new position, if applicable

	FY21 \$	FY22 \$
--	---------	---------

Please complete a separate form for each request.

INSTRUCTIONS FOR COMPLETING THE FUNDING AUGMENTATION REQUEST FORM

Purpose

Any department requesting additional funding above the Base Budget for fiscal year 2020-2021 must complete a Funding Augmentation Request Form. Each request will be considered individually and requires its own form. Because resources are finite, the FY20-21 Proposed Budget is anticipated to be “status quo” in most instances, with services to be maintained at their current levels in accordance with the Mid-FY20 Adjusted Budget.

- ***DO NOT include augmentation amount in your budget worksheet!***
- ***This request is NOT for CIP's.***

Ranking

At the top of the form, there is a place for departments to indicate the priority ranking assigned by the department head and for the ACM (Assistant City Manager or Finance Director) and City Manager to also rank based on the evaluative criteria. For example, if a department has three requests for additional funding its top priority would be “1 of 3”. You can only have one number “1”, one, “2”, etc. for each fund.

Cross Departmental Support

If your request is supported by or otherwise impacts another department, please list the department. An example could be where your department maintains a facility but another department generates revenue from the same facility.

Description/Justification

Please describe your request in as much detail as possible. Include the justification for additional funding. If the request is related to Council request or action, regulatory requirement, existing contract or other mandated program, please indicate. Remember, the better the description and justification, the better your request can be evaluated.

Evaluative Criteria

These criteria will assist departments and, ultimately, the City Manager in objectively evaluating all proposals for additional funding. After briefly describing your request in the space provided, please also provide the following information:

Work Plan or City Council Strategy – How does your request relate to your department’s work plan: describe the Goal and Object from the work plan. If not on your work plan, how does this implement one of the City Council’s priorities? What are the performance measures and how will you determine success?

Level of Service Impact – Why is your request necessary to maintain the current service level? Will this increase or decrease the level of service?

Area of City Affected – Does your request primarily serve a neighborhood, constituency or the entire community?

Benefit to Community – What is the expected result or outcome if funded? Is there an effect on public safety, health or risk avoidance? Can this impact be quantified?

Effects on Public Safety, Health or Risk Avoidance – Is there an effect on public safety or health? Will this mitigate a potential risk? Is there a regulatory or statutory requirement for this?

Offsetting savings, revenues or funding outside the General Fund – Is all or part of the cost offset by savings elsewhere, revenues, non-General Fund sources or does it leverage additional outside funding?

Other – Is there any other basis for your request not discussed above?

Resources Requested

Contract services, commodities, utilities or other recurring expenses: Identify what is proposed to be purchased, the vendor (if applicable), the org/object and the expected cost in FY2021 and FY2022.

Equipment, vehicle, other one-time expense: What is requested, vendor (if known), how many, estimated useful life, and cost in FY21 and in future years, if applicable. Include the full cost to put the asset into service, e.g. a vehicle request may also require expensive outfitting before it can be put into service. Also include the cost of maintenance, fuel, etc that will need to be funded to utilize this asset.

If this is a replacement asset, please check the box.

Staffing Change: This is for budgetary purposes. Also staffing requests must also be approved by HR. Fill in the job title, position control number (if applicable), type of request (e.g. add/change/delete), whether full or part-time (full time equivalent %) and total cost including benefits in FY21 and FY22. Please contact Finance for cost estimates. A copy of this request must also be sent to HR.

Important – For any request, please include ALL ancillary costs such as a new PC, another vehicle, uniform, etc. Finance can only provide the payroll cost, the department must include all ancillary costs.

RESOLUTION _____

APPROVE AN INITIAL TWO-YEAR PROFESSIONAL SERVICES AGREEMENT WITH TERRACARE ASSOCIATES, NOT TO EXCEED \$900,000 ANNUALLY, FOR LANDSCAPE, PARK AND CHANNELWAY MAINTENANCE SERVICES FOR THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT AND COMMUNITY FACILITY DISTRICTS AND AUTHORIZE THE CITY MANAGER TO EXECUTE ANY EXTENSIONS AND TO MAKE MINOR AMENDMENTS TO THE AGREEMENT

WHEREAS, The City of Tracy has numerous landscape and park sites throughout the City that require regular maintenance and repair, and

WHEREAS, Many of these landscape and park sites reside within the Consolidated Landscape Maintenance District (LMD) and other Community Facility Districts (CFD), and

WHEREAS, The associated tasks for these operations are performed by a combination of both in-house and contracted services, and

WHEREAS, Management and oversight of the LMD and CFD operations resides in the Public Works Department, and

WHEREAS, On August 28, 2020, the City of Tracy, Public Works Department issued a Request for Proposals for Landscape, Parks, and Channelways Maintenance in the City's LMD and CFDs, and

WHEREAS, After review of the proposals, subsequent interviews and negotiations, staff recommends Council approve a Professional Services Agreement (PSA) with Terracare Associates, LLC (TCA);

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Tracy hereby approves a two-year Professional Services Agreement (PSA) with Terracare Associates, LLC for services required for landscape, parks, and channelways maintenance for an amount not to exceed \$900,000 annually, for the LMD and CFDs, and authorizes the City Manager to execute any extensions and make minor amendments to the agreement

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 1st day of December, 2020, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 3.B

REQUEST

ADOPT A RESOLUTION OF NECESSITY AUTHORIZING THE INITIATION OF EMINENT DOMAIN PROCEEDINGS TO ACQUIRE REAL PROPERTY FOR THE CONSTRUCTION OF DETENTION BASIN 3A, AUTHORIZE THE DEPOSIT OF \$765,000 WITH THE STATE OF CALIFORNIA CONDEMNATION DEPOSIT FUND (RONNOCO PROPERTIES OF TRACY II, L.P., APN 240-090-02), AND APPROPRIATE THE FUNDS FROM ELLIS STORM DRAIN FUND (F332) AND PUBLIC BUILDINGS FUND (F334)

EXECUTIVE SUMMARY

The City of Tracy's 2012 Citywide Storm Drainage Master Plan (SDMP) is intended to be utilized as a guideline document for the identification of storm drainage facilities needed to serve future land development projects under the buildout condition for the City's Sphere of Influence (SOI). In the SDMP, five major watersheds have been defined that cover the entire SOI and additional contiguous areas, including the Westside Channel Watershed. The Westside Channel Watershed is roughly 12.9 square miles in overall area and generally encompassing roughly the west half of the developed area for the City plus additional undeveloped areas. Located in the southernmost portion of this watershed is the Ellis Program Sub-basin, generally bounded by Corral Hollow Road on the east, the Delta Mendota Canal (south of Linne Road) on the south, Lammers Road on the west, and Valpico Road on the north. In order to complete the storm drainage infrastructure needed to serve the future buildout of the Westside Channel Watershed, the SDMP has identified various master plan storm drainage facilities that are recommended for construction as the need arises.

The Ellis Program Sub-basin services the Ellis Subdivision, the Avenues Specific Plan (ASP or "The Avenues") area, UR10, and the properties east of ASP to Corral Hollow Road. These development areas are planned to provide permanent storm water quality measures offsite instead of within their respective development areas. Runoff generated by development within this sub-basin is proposed to be attenuated by two future detention basins, including Detention Basin 3A. The storm drain system for all of these areas is intended to ultimately discharge into future Detention Basin 3A. The City proposes to acquire a portion of the subject property for the location of this detention basin.

The City has completed an appraisal, made an offer and attempted to negotiate with the property owner. Despite significant efforts over a long period of time, a negotiated settlement is not possible at this time.

The subject property is owned by Ronnoco Properties of Tracy II, L.P. and consists of 60.58 acres. The property is located at 12501 W. Valpico Road, and is currently being farmed. The property is located in unincorporated San Joaquin County, and is not in the City's Sphere of Influence. The City requires 15.94 acres of the property for Detention Basin 3A with appraised value of \$765,000.

In order to complete the acquisition of the property in a timely manner without delaying construction of this Project, the City Council is requested to adopt a Resolution of Necessity to initiate eminent domain proceedings to acquire the subject real property. However, the City will continue working toward completing a voluntary acquisition of the property with the property owner during the eminent domain proceedings. The City is authorized to initiate eminent domain proceedings for properties outside the City limits for drainage purposes under Code of Civil Procedure section 1240.125.

DISCUSSION

Negotiations with the Property Owner

At the July 21, 2020 City Council meeting, the Council heard this matter and directed staff and outside counsel to continue negotiations with the property owner, and return to the Council after 60 days to reevaluate the proposed eminent domain action.

On July 22, 2020, the day after the Council meeting, outside counsel Todd Amspoker called counsel for the property owner to discuss whether there was potential to resolve this matter through a mutually-agreeable settlement and outside of eminent domain proceedings. Mr. Amspoker received no response to this call.

On August 21, 2020, Mr. Amspoker sent a follow-up letter to counsel for the property owner, copying the property owner, again offering to discuss a mutually agreeable resolution.

On September 3, 2020, the property owner, Mr. Bradley O'Connor, sent a letter to the City, offering to meet with the City to discuss a potential settlement.

The City responded and offered to continue conversations with Mr. O'Connor. City representatives met with property owners Greg and Brad O'Connor on October 12, 2020. A negotiated settlement on property value was not possible. The parties agreed that the property owner could nominate a third appraiser to value the property by October 30, 2020. However, the property owner did not nominate such an appraiser at that time. The City will engage a new appraiser to value the property, and will share that value with the property owner after the appraisal is completed. However, at this time the eminent domain process should go forward so that the Project may be implemented. City staff remain committed to negotiating an agreed price for the property.

The City remains open to discussing a resolution with the property owner, but must move forward with adopting the resolution of necessity so that the project can continue without delay.

The City and its consultants have designed the Project so that a minimum amount of private property is required for acquisition.

In order to adopt a Resolution of Necessity, a total of four affirmative votes from the City Council are required. In addition, the Council must find and determine as follows:

- 1. The public interest and necessity require the proposed project.**

The City's Citywide Storm Drainage Master Plan identifies Detention Basin 3A to be necessary for stormwater flow to the Westside Channel Watershed.

With the development of new residential areas including the Tracy Hills and Ellis projects, and The Avenues, a substantial volume of stormwater runoff will result, and will need to be mitigated by the construction of Detention Basin 3A.

2. The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

To accommodate the area needed for Detention Basin 3A, the subject 15.94 acre portion of the subject property has been selected. The area is on the eastern boundary of the property, along Valpico Road. The remaining portions of this agricultural property are easily accessible from Valpico Road. Damage to the remaining portion of the property does not appear to be present as a result of the proposed acquisition. The amount of land selected (15.94 acres) is the smallest area possible to construct a detention basin that will accept the expected stormwater runoff from new developments.

The City has extensively studied the design and location of Detention Basin 3A, including locating the detention basin within the Avenues Project, or surrounding the proposed fire station on the west side of the subject property. Placing the Detention Basin within The Avenues is impractical from an engineering standpoint. All property in this area of Tracy is sloped downwards to the north. In order to take advantage of gravity, the proposed location of Basin 3A is most optimal. If the new detention basin were to be placed within The Avenues, it would need to be much deeper than at the proposed location on Valpico Road, in order to allow for storage of expected stormwater volumes, and so that all portions of The Avenues would be able to flow stormwater into the new basin by gravity. This would drastically increase construction costs, and would result in high maintenance costs to establish proper security around the basin and to maintain the required slopes.

Placing the new detention basin to surround the new fire station on the west side of the subject property is also not desired from an engineering standpoint. This would require construction and maintenance of an extensive access road for access to the detention basin, and was rejected by engineering staff and consultants as an unacceptable design. The proposed location of Detention Basin 3A also will be to the benefit of a number of other undeveloped properties along Valpico Road, including two churches, which have constructed temporary detention ponds on their properties.

3. The property described in the resolution is necessary for the proposed project.

In order for construction of Detention Basin 3A to occur, the subject property described in this report must be acquired. Otherwise, there is not enough land

otherwise available to construct the new detention basin and comply with the City's Storm Drainage Master Plan.

- 4. That either the offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record, or the offer has not been made because the owner cannot be located with reasonable diligence.**

As explained previously in this report, the written offer required by California law has been provided to the affected property owner. A voluntary agreement has not been possible.

The purpose of the hearing is not to determine value of the property, but to determine whether the requirements for adopting the resolution have been met. As discussed above, the Project is necessary in order to complete construction of Detention Basin 3A. The Project has been carefully designed to minimize the amount of private property and easements necessary to construct the Project.

Environmental Document

The City prepared the Initial Study/California Environmental Quality Act Guidelines Section 15183 Analysis for the Citywide Storm Drainage Master Plan in November 2012. The City Council approved this CEQA document on April 16, 2013 by Resolution No. 2013-056. Therefore, no additional environmental analysis is needed with respect to this action.

STRATEGIC PLAN

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

FISCAL IMPACT

The City will need to deposit \$765,000 for the appraised value of the property with the State of California Condemnation Deposits Fund. The funding source for this will come from the \$691,668 from the Ellis Storm Drain Fund (F332) and \$73,332 from the Public Buildings Fund (F334).

RECOMMENDATION

Staff recommends that the City Council adopt a Resolution of Necessity to acquire designated property located at the subject property and further authorize the deposit of amount previously stated with the State of California Condemnation Deposit Fund and appropriate funds from aforementioned fund accounts.

Agenda Item 3.B
December 1, 2020
Page 5

Prepared by: Robert Armijo, PE, City Engineer / Assistant Development Services Director

Reviewed by: Karin Schnaider, Finance Director
Andrew Malik, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

RESOLUTION 2020-_____

RESOLUTION OF NECESSITY AUTHORIZING THE INITIATION OF EMINENT DOMAIN PROCEEDINGS TO ACQUIRE REAL PROPERTY FOR THE CONSTRUCTION OF DETENTION BASIN 3A PURSUANT TO THE CITY OF TRACY'S CITYWIDE STORM DRAINAGE MASTER PLAN, AUTHORIZING THE DEPOSIT OF \$765,000 FOR RONNOCO PROPERTIES OF TRACY II, L.P., APN 240-090-02, WITH THE STATE OF CALIFORNIA CONDEMNATION DEPOSIT FUND, AND AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE ELLIS STORM DRAIN FUND (F332), AND PUBLIC BUILDINGS FUND (F334)

WHEREAS, The City of Tracy wishes to acquire real property described herein below for public use by the exercise of the power of eminent domain. The property is required for storm drainage infrastructure and other public purposes required for Detention Basin 3A pursuant to the City of Tracy's Citywide Storm Drainage Master Plan ("Project"), and

WHEREAS, Pursuant to Chapter 4, Title 7, Part 3 of the Code of Civil Procedure, written notice of the intent to consider the adoption of this resolution of necessity was sent on January 24, 2020, June 12, 2020, September 21, 2020 and November 13, 2020 to the owners of record of the said property, and

WHEREAS, The City prepared the Initial Study/California Environmental Quality Act Guidelines Section 15183 Analysis for the Citywide Storm Drainage Master Plan in November 2012. The City Council approved this CEQA document in November 2012, and

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

NOW, THEREFORE, BE IT RESOLVED, by vote of two-thirds or more of its members, the City Council of the City of Tracy ("City Council") does hereby find and resolve as follows:

1. The findings and declarations contained in this resolution are based upon the record before the City Council on July 21, 2020 and December 1, 2020, when the City Council received and discussed the Staff Reports accompanying this resolution, and the testimony, records and documents produced at the hearings, all of which are incorporated by this reference; and

2. The real property to be acquired is located at 12501 W. Valpico Road in unincorporated San Joaquin County, California, Assessor Parcel No. 240-090-02 and more specifically described in Exhibits A and B attached hereto and made a part hereof; and;

3. The property is to be acquired for the construction of a public storm drainage detention basin, pursuant to the authority granted in Government Code sections 37350.5, 40401, 40404 and 66462.5; Title 7, Part 3 of the Code of Civil Procedure (including but not limited to Code of Civil Procedure section 1240.125 which allows extraterritorial condemnation for drainage purposes); and other provisions of law; and

4. The public interest and necessity require the proposed Project; and

5. The proposed project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury; and

6. The real property described herein is necessary for the proposed Project; and

7. The offer required by Section 7267.2 of the Government Code has been made to the owners of record.

Special counsel, Price, Postel & Parma LLP are hereby AUTHORIZED AND EMPOWERED:

To acquire in the name of the City of Tracy, by condemnation, the said property in accordance with the provisions of the eminent domain law, the Code of Civil Procedure, the Government Code and the Constitution of California; and

To prepare and prosecute in the name of the City of Tracy, such proceedings in the proper court as are necessary for such acquisition; and

To deposit the probable amount of compensation, based on an appraisal, and to apply to said court for an order permitting the City of Tracy to take immediate possession and use said property for said public uses and purposes.

The foregoing Resolution 2020-_____ was passed and adopted by the Tracy City Council on the 1st day of December 2020, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

**EXHIBIT A
LEGAL DESCRIPTION
EAST SIDE ALTERNATIVE
(PARCEL B)**

THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF TRACY,
COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, DESCRIBED AS
FOLLOWS:

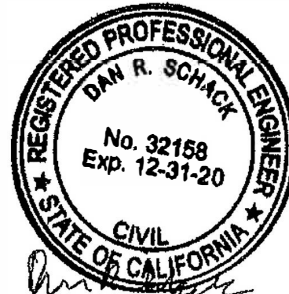
A PORTION OF THE SOUTHEAST ONE QUARTER OF SECTION 31, TOWNSHIP
2 SOUTH, RANGE 5 EAST, MOUNT DIABLO BASE AND MERIDIAN AND MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 31, SAID
POINT BEING AT THE INTERSECTION OF THE CENTERLINES OF VALPICO
ROAD AND CORRAL HOLLOW ROAD, AS SHOWN ON RECORD OF SURVEY,
FILED FOR RECORD JANUARY 24, 1968, IN BOOK 17 OF SURVEYS, AT PAGE
24, SAN JOAQUIN COUNTY RECORDS; THENCE SOUTH 89 DEGREES 46
MINUTES WEST, ALONG THE CENTERLINE OF SAID VALPICO ROAD (50
FEET IN WIDTH), 1546.10 FEET TO A POINT; THENCE NORTH 00 DEGREES 14
MINUTES WEST, 25.00 FEET TO A POINT ON THE NORTH LINE OF SAID
VALPICO ROAD, SAID POINT ALSO BEING THE **TRUE POINT OF BEGINNING**
OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE SOUTH 89 DEGREES
46 MINUTES WEST, ALONG THE NORTH LINE OF SAID VALPICO ROAD,
800.00 FEET TO A POINT; THENCE NORTH 00 DEGREES 14 MINUTES WEST,
900.00 FEET TO A POINT; THENCE NORTH 89 DEGREES 46 MINUTES EAST,
555.30 FEET TO THE SOUTHWESTERLY LINE OF THE WEST SIDE IRRIGATION
DISTRICT RIGHT-OF-WAY, AS DESCRIBED IN BOOK A OF DEEDS, VOLUME
383, AT PAGE 213, RECORDED AUGUST 1, 1919, SAN JOAQUIN COUNTY
RECORDS; THENCE SOUTH 45 DEGREES 58 MINUTES EAST, ALONG SAID
SOUTHWESTERLY LINE OF WEST SIDE IRRIGATION DISTRICT RIGHT-OF-
WAY LINE, 180.86 FEET TO A POINT; THENCE SOUTH 67 DEGREES 07

EXHIBIT A

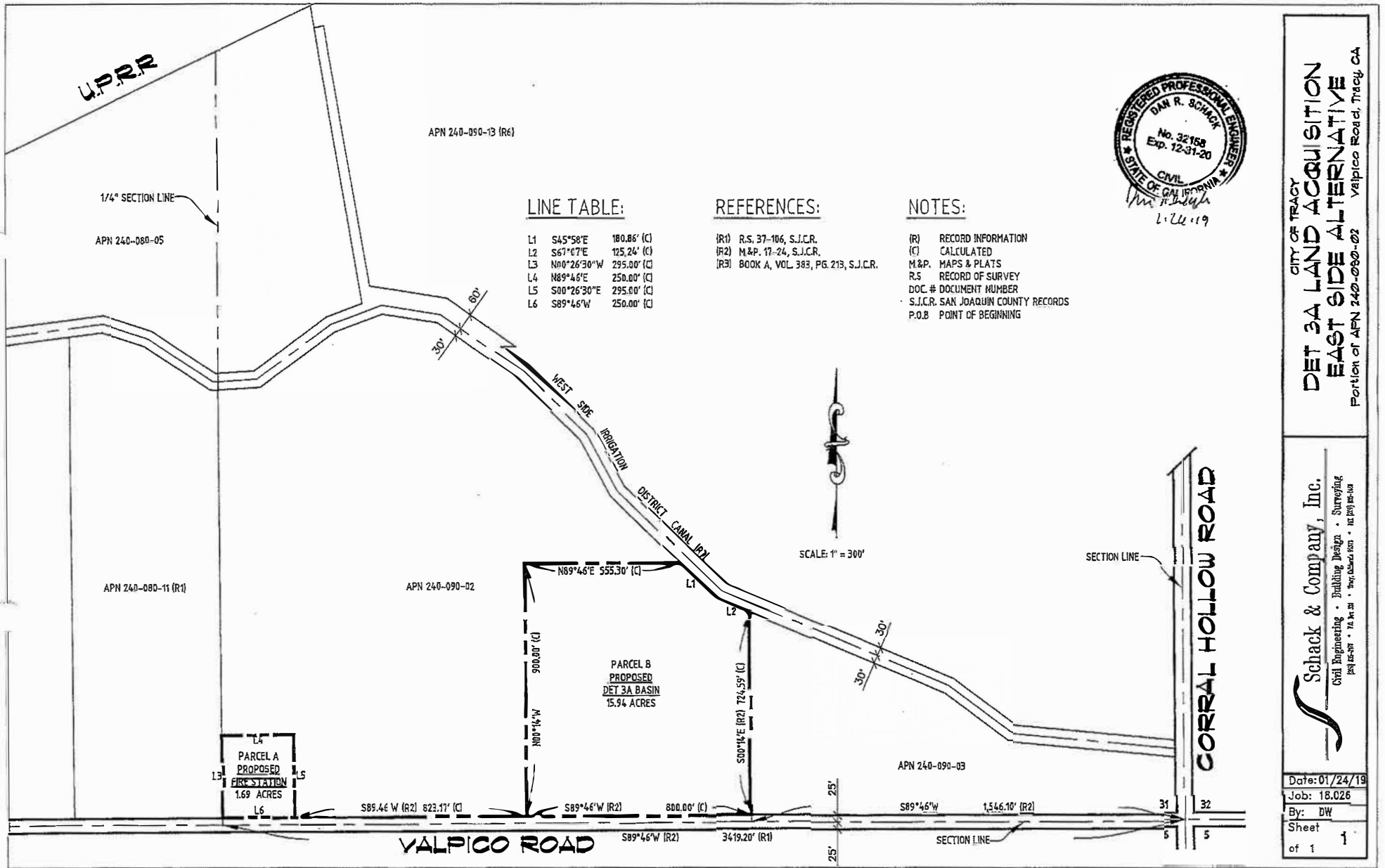
MINUTES EAST, ALONG SAID SOUTHWESTERLY LINE OF WEST SIDE
IRRIGATION DISTRICT RIGHT-OF-WAY, 125.24 FEET TO A POINT; THENCE
SOUTH 00 DEGREES 14 MINUTES EAST, 724.59 FEET TO THE POINT OF
BEGINNING.

CONTAINING 15.94 ACRES, MORE OR LESS.



1.24.19

EXHIBIT A



LINE TABLE:

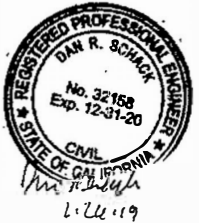
L1	S45°58'E	180.86' (C)
L2	S67°07'E	125.24' (C)
L3	N00°26'30"W	295.00' (C)
L4	N89°46'E	250.00' (C)
L5	S00°26'30"E	295.00' (C)
L6	S89°46'W	250.00' (C)

REFERENCES:

- (R1) R.S. 37-106, S.J.C.R.
- (R2) M.&P. 17-24, S.J.C.R.
- (R3) BOOK A, VOL. 383, PG. 213, S.J.C.R.

NOTES:

- (R) RECORD INFORMATION
- (C) CALCULATED
- M.&P. MAPS & PLATS
- R.S. RECORD OF SURVEY
- DOC. # DOCUMENT NUMBER
- S.J.C.R. SAN JOAQUIN COUNTY RECORDS
- P.O.B. POINT OF BEGINNING



CITY OF TRACY
DET 3A LAND ACQUISITION
EAST SIDE ALTERNATIVE
 Portion of APN 240-080-02 Valpico Road, Tracy, CA

Schack & Company, Inc.
 Civil Engineering • Building Design • Surveying
 (916) 251-7070 • 74 N. 3rd St. • Tracy, CA 95376 • (916) 251-1010

Date: 01/24/19
 Job: 18.026
 By: DW
 Sheet
 of 1

EXHIBIT B

AGENDA ITEM 3.C

REQUEST

CONSIDER APPROVING A COMMUNITY WORKFORCE TRAINING AGREEMENT (PROJECT LABOR AGREEMENT) WITH SAN JOAQUIN BUILDING TRADES COUNCIL THAT WOULD APPLY TO CERTAIN CONSTRUCTION CONTRACTS AWARDED BY THE CITY AND A LOCAL HIRING POLICY TO BE INCLUDED IN ALL BID REQUESTS FOR CITY CONSTRUCTION CONTRACTS

EXECUTIVE SUMMARY

Since September 2019, City staff has been negotiating a potential project labor agreement (PLA) with the San Joaquin Building Trades Council (Trades Council). The PLA or Community Workforce Training Agreement would establish important requirements regarding workforce and contracting on certain City public construction projects (commonly referred to as capital improvement projects ("CIPs")).

On November 17, 2020, the Tracy City Council provided the City team with policy direction regarding various unresolved issues in order to advance the negotiations with the Trades Council and finalize the PLA for Council action. The Trades Council subsequently conferred with their member affiliates and are requesting that the City Council reconsider their positions on three issues.

The City team prepared a PLA (Attachment B) that reflects the City Council's direction on November 17, 2020 for Council's consideration and action. In addition, staff has prepared a Local Hiring Policy for Council review and approval that would apply to all contractors awarded a construction contract by the City.

DISCUSSION

This staff report is a follow up to Agenda Item 3.C on the November 17, 2020 Council agenda which requested Council direction regarding the PLA (Attachment A- staff report only). That evening, the City Council provided the City negotiating team (City team) with policy direction regarding various unresolved issues in order to advance staff's efforts to negotiate a PLA with the Trades Council.

The following items reflect Council's consensus:

1. Threshold for PLA Coverage: \$2 million
2. Cost Control.
 - a. Do not include a provision to exclude or "carve-out" 10% subcontract work from coverage under the PLA.
 - b. Include a provision that would provide the City with an option to re-bid a project without PLA coverage if bids come back higher than 25% above the Engineer's estimate.
3. Terms of Non-union Contractor Participation / Core Workers.
 - a. Accept the Trades Council's proposal that non-union contractors are prohibited from using *any* current crew members *unless* either the contractor

- or the current crew member is from Tracy. (Up to five Core Workers if contractor or worker is local, alternating with hiring hall.)
- b. Accept the Trades Council's proposal that in order for core workers to be eligible to work on PLA projects, these workers must have worked at least 4,000 hours in the craft; meet safety standards; and be on contractor's payroll for 90 of previous 120 days.
4. Local Hiring.
 - a. Include language that allows Tracy residents from state-approved apprenticeship programs that are not affiliated with unions to work on PLA projects.
 - b. Establish Tracy Resident hiring goals for each contractor of 25% of all work hours, and 25% of apprentice hours for new local apprentices in the City's Local Hiring Policy.
 5. Modular Construction
 - a. Include language to exempt factory off-site modular construction from PLA coverage.
 6. Technical Provisions
 - a. Include language to create an exemption for cases where application of the PLA would void an equipment warranty.
 - b. Include language that provides the City with the right to become a party to all arbitrations that affect the City's financial or policy interests.
 - c. Do not require indemnification of the City by the Trades Council.

After the Council meeting, the City Attorney and outside counsel met with representatives from the Trades Council, including their attorney, to discuss next steps. The Trades Council indicated that due to the positions of their member affiliates, the group would be requesting that Council reconsider the direction they provided in regards to re-bidding of projects that exceed the engineer's estimates (see Section 2.6 of Attachment B), participation of apprentices from non-union state-approved apprenticeship programs (see Section 8.1 of Attachment B), and the provision exempting modular construction (see Section 2.4.7 of Attachment B).

Staff with the assistance of outside counsel has prepared a complete PLA draft that reflects Council's direction and highlights the three provisions the Trades Council is requesting Council reconsideration (Attachment B). The Trades Council has submitted correspondence requesting Council reconsideration of these items and outlining their positions for doing so (Attachment C).

Staff also notes that given the organizational structure of the Trades Council and the fact that the Trades Council is requesting City Council reconsider their previous direction, the PLA presented tonight has not been executed. Section 2.20.040 of the Tracy Municipal Code requires that all agreements presented to Council be executed by the other party first, except for agreements with other public entities and railroad companies. Because of the unique situation, staff is presenting an unsigned agreement for Council to consider. Note, that Michael Mark, Financial Secretary-Treasurer the Trades Council, has provided us written assurance that *other than* the three highlighted issues, the attached draft PLA has been fully vetted and approved by the Trades Council and its affiliates.

In addition, the proposed PLA includes a provision that establishes an effective date of 30 days after Council approval. The Trades Council has also requested that the City commit to apply the PLA to CIPs that meet the dollar threshold (\$2 million or above) that are released for bid prior to the effective date of the PLA but awarded once the PLA takes effect. The parties established an effective date of 30 days after Council approval in order to provide City staff with time to update documents like the City's front-end bid package documents to reference the PLA and carry out other administrative and implementation tasks. The delayed effective date also provides additional time for the member affiliates of the Trades Council to execute the agreement.

Lastly, on Tuesday, November 24th the Trades Council informed the City team that Carpenters Local 152 was no longer an affiliate of the Trades Council, and that the statements or assurances made by Trade Council were not representative of the Carpenters. The Trades Council suggested that we remove the Carpenters' signature line from the draft CWTA.

Since Carpenters typically represent construction workers on public works projects in the Bay Area – approximately 20%, according to a 2013 study – exclusion of the Carpenters from the agreement may have substantial effects on implementation of the CWTA. Staff is still evaluating these possible effects. At a minimum, if the Carpenters decline to enter into the CWTA, then the City would not receive the full assurance of labor peace that it is bargaining for through the CWTA. In addition, it is unclear to us the terms under which contractors and subcontractors that are signatory to collective bargaining agreements with the Carpenters would participate on CWTA projects, if the Carpenters have not agreed to the CWTA. We have been unable to identify any local precedents for PLAs that do not include the Carpenters, or that otherwise exclude a significant proportion of the craft work.

We have attempted to contact the Carpenters to better understand their position with respect to the proposed CWTA and how the CWTA would be implemented with regard to their contractors, if they do not sign. However, given the last minute notice and holiday, we were unable to have a substantive dialogue with them prior to the publishing of this staff report.

Local Hire Policy for Construction Contracts

Staff has developed and agendized the Local Hiring Policy to advance the City's policy goals relating to employment and training of residents, alongside the PLA. (Attachment D) The policy is intended to ensure the contractors make certain specified efforts to employ local residents, in all crafts, at all contracting tiers, and for both journey-level and apprentice-level workers. The policy represents a focused effort by the City to leverage its investment in public construction to advance the local economy and benefit the careers of its residents. The policy is designed to work in conjunction with the PLA on projects above the PLA dollar threshold, if the PLA is adopted.

The Local Hiring Policy was agendized for Council review at its November 17 meeting, as an attachment to item 3.C. Staff has made additional technical improvements to the policy, while maintaining core components, per Council's direction:

- The Local Hiring Policy establishes percentage goals of:
 - 25% of overall work hours to be performed by Tracy residents; and
 - 25% of apprentice work hours to be performed by new local apprentices.

- Each contractor (of any tier) must demonstrate that it either satisfied the goals, or made good faith efforts to do so;
- The Local Hiring Policy applies to all City projects, including projects below the PLA dollar threshold.
- The policy contains recordkeeping and enforcement requirements that can be refined and invoked as the City determines is appropriate during implementation.

The Local Hiring Policy was crafted with input of outside counsel, who has extensive expertise in developing local and disadvantaged hiring policies around the state. It is therefore based on best practices per experience in other jurisdictions.

FISCAL IMPACT

The implementation of the PLA could potentially impact the City's ability to attract a robust bidder response for CIPs, which could potential increase the costs of projects. In addition, the implementation of the PLA and Local Hiring Policy will require at least one additional meeting per project - a "pre-job conference" and additional efforts from staff to educate contractors and review bids as to compliance with the PLA criteria, such as, local hiring information. Staff costs will be included in the budget of the appropriate CIP.

STRATEGIC PLAN

This agenda item does not relate to Council Strategic Priorities 2019-20.

RECOMMENDATION

Staff recommends that the City Council:

1. Consider approving, by resolution, the Project Labor Agreement contained in Attachment B of this staff report; and
2. Approve, by resolution, a City of Tracy Local Hiring Policy.

Prepared by: Leticia Ramirez, City Attorney
Julian Gross, Esq. RPLG

Reviewed by: Kimberly Murdaugh, Human Resources Director
Robert Armijo, PE, City Engineer / Assistant Development Services Director
Karin Schnaider, Finance Director
Andrew Malik, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

- A – Agenda Item 3.C from November 17, 2020 (Staff Report only)
- B - Community Workforce Training Agreement (Project Labor Agreement)
- C - Local Hiring Policy for Construction Contracts Awarded by the City
- D - San Joaquin Building and Construction Trades Council Report on Community Workforce and Training Agreement

November 17, 2020

AGENDA ITEM 3.C

REQUEST**RECEIVE UPDATE ON NEGOTIATIONS REGARDING A PROJECT LABOR AGREEMENT WITH THE SAN JOAQUIN BUILDING TRADES COUNCIL THAT WOULD APPLY TO CERTAIN PUBLIC CONSTRUCTION CONTRACTS AWARDED BY THE CITY AND PROVIDE DIRECTION TO STAFF**EXECUTIVE SUMMARY

Pursuant to direction from City Council, staff has been negotiating terms of a potential project labor agreement (PLA), which would establish important requirements regarding workforce and contracting on certain City public construction projects (commonly referred to as capital improvement projects (“CIPs”). The City’s negotiating team (City team) and the San Joaquin Building and Construction Trades Council (Trades Council) have met for numerous negotiation sessions, and exchanged several draft proposals. However, the City team and the Trades Council have been unable to reach agreement on a full proposed agreement to recommend to City Council for approval. There are several unresolved issues, including the important matter of the dollar threshold that would trigger application of the PLA to a City construction contract.

Because of the complexity of the proposed agreement, and because it would affect various issues of public interest, staff wishes to ensure that Council is fully briefed on the agreement and the outstanding issues. Council is not being asked to approve an agreement at the present time; staff requests that the Council provide direction regarding desired resolution of outstanding issues.

BACKGROUND

A PLA is a pre-hire collective bargaining agreement between one or more labor organizations (generally negotiated by the local building trades council) and the owner of one or more construction projects. The PLA establishes key terms and conditions of employment on the project work. The purpose of a PLA is to facilitate construction of the project with minimal labor-related disruptions that would adversely impact the public and/or delay the project. PLAs also can advance additional public purposes relating to job and training quality, and in some cases local and/or disadvantaged hiring.

Generally, the terms of the agreement apply to all contractors and subcontractors who are awarded contracts on a City construction project. PLAs typically include provisions that prohibit unions from engaging in strikes, and contractors from engaging in lockouts, in relation to the covered construction project. In exchange for the unions’ commitment not to engage in labor stoppages, PLAs require both union and non-union contractors working on the project to comply with terms of union collective bargaining agreements. PLAs generally require that contractors hire workers referred from union hiring halls, and that all workers pay dues or fees to the applicable union while employed on the project. Furthermore, contractors must comply with compensation provisions of collective bargaining agreements, including contribution to union trust funds. PLAs also contain procedures to resolve disputes between unions regarding work assignments without labor disruption.

Since the late 1990s, public sector PLAs have been used in many jurisdictions in California, particularly the San Francisco Bay Area. Initially, these PLAs only covered large construction projects, such as San Francisco International Airport (1995) and the Port of Oakland (1999), where the value of the covered work exceeded \$1 billion. However, more recently, many jurisdictions – starting with school districts and then municipalities and counties – began applying PLAs comprehensively, meaning to multiple smaller projects that cumulatively have significantly less value than earlier PLAs. Several dozen PLAs have been negotiated in Alameda and Contra Costa Counties. However, PLAs are relatively new in San Joaquin County. Staff has found only two precedents for PLAs adopted by public entities in the county: City of Stockton's PLA (2016) and Delta Community College.

Negotiations to Date

On September 3, 2019, City Council directed staff to initiate negotiations of a PLA with the Trades Council. The City's negotiating team includes Assistant City Manager Andrew Malik, City Engineer Robert Armijo; Human Resources Director Kimberly Murdaugh; and City Attorney Leticia Ramirez. In addition, the City retained the services of special counsel Renne Public Law Group (RPLG), a firm with extensive experience negotiating PLAs on behalf of public entities throughout California.

The City Team and the Trades Council held in-person negotiation sessions on October 28, 2019; November 6, 2019; November 21, 2019; December 4, 2019; February 25, 2020; and March 9, 2020. The Trades Council cancelled a negotiation session scheduled for January 8th. Negotiations were suspended in mid-March due to the COVID-19 emergency. The parties met virtually on July 14, 2020 and August 13, 2020. To supplement the negotiating sessions with full teams, the negotiating parties' attorney representatives have met separately to discuss line edits and technical issues on various occasions. Over the course of these negotiations, the City and the Trades Council have traded several complete proposals and counterproposals, in the form of draft agreements, term sheets, and position letters.

During the course of these negotiations, the City has received public input from various parties regarding the prospect of the City entering into a PLA, including meeting with various local contractors and representative from construction industry groups. In addition, members of the City Team have reached out to contacts in other jurisdictions to obtain information regarding PLA implementation.

The City Team's goal throughout this process has been to reach agreement with the Trades Council on a complete agreement that staff could recommend that the Council approve. Unfortunately, however, we have not been able to reach agreement on several "deal points" regarding the PLA; these are described in further detail below (*Outstanding Issues*).

The City Team and the Trades Council have reached agreement on numerous substantive issues, encompassing the bulk of a prospective agreement. Agreed issues include:

- term of agreement of three years;
- requirement that both union and non-union contractors pay compensation as required by collective bargaining agreements;

- prohibitions on labor stoppages by unions or contractors, including expedited dispute resolution systems and liquidated damages in case of violation;
- expedited resolution systems for disputes regarding assignment of work between different unions, with a commitment of no work stoppages during dispute resolution;
- procedures and topics for pre-job conferences;
- exclusions of coverage of work performed by City employees, and certain categories of non-construction workers;
- prohibition of discrimination based on race, national origin, religion, sex, sexual orientation, political affiliation, or membership in a labor organization in hiring and dispatching workers for covered projects;
- ratio between Core Workers and hiring hall workers for non-union contractors; and
- technical terms, including: duration of PLA coverage when a project is being deemed completed; mechanisms for contractors becoming bound by the PLA; and other matters.

The Trades Council's latest draft proposal is attached to this report as Attachment A, for informational purposes. Redlines in Attachment A indicate the differences between the Trades Council's proposal, and the most recent City proposal.

Outstanding Issues

The following are key items that remain unresolved:

- **Threshold for PLA Coverage.** In general, while a PLA offers important benefits to the City and the public, it is an untested approach in Tracy and the City Team recommends an initial application of the PLA's on larger projects with a dollar threshold of \$6 million or more. (See Attachment A, Section 1.8.) The Trades Council has proposed a threshold of \$1.5 million, however, larger projects are better equipped to absorb the administrative costs of application of the PLA and attract a robust bidder response. The City Team's proposal of \$6 million is higher than other PLAs, however the team informed the Trades Council that if the parties reached agreement on other provisions including those relating to core workers the City Team would be supportive of lowering the threshold amount. As stated above the initial term of the PLA is proposed to be three years. If the City's experience during the initial term is positive, the City may consider extending the term and also adjusting the threshold. The City Team recommends a formal review eighteen months following the application of the PLA to evaluate the threshold and other terms of the agreement.
- **Cost Control.** The City Team proposed two measures to ensure that the PLA did not drive up costs by discouraging bids from non-union contractors. City proposals included a "carve out" of 10% of subcontract dollar value that can be performed without PLA coverage; and a City option to re-bid without PLA coverage if bids come back higher than 25% above engineers' estimate. The Trades Council has not agreed to either of these proposals.
- **Terms of Non-union Contractor Participation / Core Workers.** The PLA is required by law to allow both union and non-union contractors to participate. The PLA therefore includes terms regarding participation of non-union contractors on covered projects. Ensuring that non-union contractors can participate under

reasonable terms is important for cost-control and to promote competition for City projects. Note that non-union contractors performing work under the PLA are required to comply with all compensation requirements of union collective bargaining agreements while their employees can voluntarily agree to pay union dues.

The “core workers” provision of a PLA provides terms for non-union contractors to utilize their existing workforce on a PLA project, as opposed the requirement to hire workers from a union hiring hall. The more restrictions there are for who can be a core worker, the harder it is for a non-union contractor to participate on PLA projects, and the less likely they are to bid. Limitations on use of existing crews is often raised by non-union contractors as a concern regarding PLAs.

While the parties have agreed on the ratio between core workers and union hiring hall workers for non-union contractors, however we do not agree on the more basic terms of who can qualify as a core worker, and which contractors can retain core workers. (See Attachment A, Section 9.3.)

The City Team proposal includes a provision for non-union contractors to use their core workers up to the agreed limit (See Attachment A, Section 9.3.) A core worker is defined as an individual who has worked for the contractor for a set number of hours and possesses proper licenses. The language the City Team has proposed is consistent with the vast majority of existing PLAs in the Bay Area. Limitations on use of existing crews is often raised by non-union contractors as a concern regarding PLAs. The more restrictions there are for who can be a core worker, the harder it is for a non-union contractor to participate on PLA projects, and the less likely they are to bid. The City team’s believes this is a reasonable compromise allowing non-union contractors to use qualified members of their existing crews on PLA jobs while requiring them to balance those crews with union workers from hiring halls. Allowing core workers is also a key cost-control issue, because it allows specialized contractors to use a portion of their trained workforce.

The Trades Council has proposed requirements for non-union contractors utilizing core workers to be *either* a local business *or* the particular core workers used must be local residents. This language is *not* consistent with similar PLAs. In addition, the Trades Council proposal includes a requirement for core workers to meet additional standards regarding work experience and knowledge beyond industry or legal requirements. The determination of whether a core worker meets these requirements may subject the non-union contractor to the grievance procedure if the unions disagree with contractors’ assessment of their core workers qualifications.

- **Local Hiring.** In an effort to provide employment opportunities to Tracy residents on PLA projects the City Team has proposed the establishment of an effective local hiring program. However, we have not achieved an agreement with the Trades Council on use of apprentices and percentage goals, discussed below. The City’s draft conceptual proposal, to be implemented through the City construction contracts/bid package is attached as Attachment B, for Council’s review and information.

PLA terms related to local hiring include the following unresolved issues:

- **Use of Local Apprentices.** The Trades Council has proposed that only apprentices from union-affiliated apprenticeship programs are eligible to work on covered projects. The City team agrees that the unions run strong programs, but has proposed that non-union contractors also be allowed to draw apprentices *who are Tracy residents* from state-approved programs that are not affiliated with a union. (See Attachment A, Section 8.1.) The rationale for this proposal is to ensure that Tracy residents beginning their careers, who happen to be enrolled in non-union apprenticeship programs that are approved by the State of California's Division of Apprenticeship Standards, are permitted to work on covered projects.
- **Percentage goals.** In the attached proposed local hiring program, the City Team recommends City resident hiring goals for *each contractor* of 25% of all work hours, and 25% of apprentice hours for new local apprentices. The Trades Council has proposed 30% hiring goals for journey-level and apprentice workers for *each project*, which could be met by residents of the City, the County, or adjoining counties (with City residents having first priority. (See Attachment A, Section 9.6.) The City Team's proposal will create more direct job opportunities to Tracy residents and would be focused on contractor's participation, as opposed to compliance through utilization of residents of a four-county region. While the City Team's proposal includes ambitious local hiring goals, the City's proposal includes a provision for contractors unable to secure a qualified local workforce due to lack of availability will not be found to be out of compliance.
- **Modular Construction.** In recent years, the City has contracted with off-site modular construction facilities to construct certain components of City projects, such as prefabricated bathroom facilities in certain park projects. Given the rapidly-changing field of construction technology, the City Team would like to ensure that the "off-site" coverage provisions of the PLA do not interfere with the City's ability to utilize the full range of construction techniques, taking into account cost, quality, and speed of construction. This may be particularly important if the City desires to rapidly construct low-cost housing units in the future.

For this reason, the City Team proposed that the off-site fabrication provision of the PLA include the limitation: "[O]ff-site construction of complex modular components that involve work within multiple prevailing wage scopes does not constitute Covered Work." The Trades Council has not agreed to this language. (See Attachment A, Section 2.3.2.)

- **Technical Provisions.** There are several technical provisions of the PLA that may have implications for the City during implementation and therefore the City Team and Trades Council have not reached agreement.
 - **Warranty.** The City Team proposed language clearly indicating that the PLA would not be applied in cases where application would void a product warranty. (Some equipment warranties require installation by certain contractors or workers, which could conflict with PLA requirements.) The Trades Council has not agreed to this language. The Trades Council proposed language requiring an independent assessment of the rationale for a manufacturer's requirement, and making this process subject to the

grievance process which could impair the City's ability to purchase and install equipment in a manner that would protect warranty coverage. (See Attachment A, Section 2.4.5.) Clear warranty language is especially important because modern buildings contain many proprietary electronic systems that require all work performed on the system to be done by factory-certified experts.

- **Dispute Resolution.** As this is a new and complex agreement for the City and for many local contractors, disputes regarding PLA interpretation, coverage, and compliance may arise. The City Team has proposed language allowing the City to become a party to grievances for which the City has a direct interest in the outcome (financial, policy, or administrative). The Trades Council has not agreed to this proposal. (See Attachment A, Section 13.4.)
- **Indemnification.** As with many types of public contracts (including public construction contracts), the City proposed inclusion of an indemnification clause, protecting the City's financial interests in case of claims filed against the City based on the City's application of the PLA to public projects. The Trades Council has not accepted this language. (See Attachment A, Sec. 19.)

FISCAL IMPACT

There is no fiscal impact associated with this item. The implementation of the PLA could potentially impact the City's ability to attract a robust bidder response for CIPs. The City Team's proposals are consistent with the City's fiscal priorities (e.g. protect warranty and City indemnification) while encouraging local preference on contracting and hiring.

STRATEGIC PLAN

This agenda item does not relate to Council Strategic Priorities 2019-20.

RECOMMENDATION

Staff requests that the City Council provide staff direction on the outstanding issues described above.

Prepared by: Leticia Ramirez, City Attorney
Julian Gross, Esq. RPLG

Reviewed by: Kimberly Murdaugh, Human Resources Director
Robert Armijo, PE, City Engineer / Assistant Development Services Director
Karin Schnaider, Finance Director
Andrew Malik, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

**CITY OF TRACY
COMMUNITY WORKFORCE AND TRAINING AGREEMENT**

INTRODUCTION/FINDINGS

This Community Workforce and Training Agreement is entered into this ____ day of _____, 20____, by and between the City of Tracy (hereinafter the “City”), the San Joaquin Building and Construction Trades Council (hereinafter the “Council”), and its affiliated local Unions that have executed this Agreement (referred to collectively herein as the “Union(s)”). Contractors and subcontractors of any tier shall become signatory to this Agreement by signing the “**Agreement to be Bound**” (**Addendum A**) (hereinafter the “Contractor(s)/ Employer(s)”).

The purposes of this Agreement are to promote the efficiency of construction operations through the use of skilled labor resulting in quality construction outcomes, and to provide for the peaceful settlement of labor disputes and grievances without strikes or lockouts, thereby promoting the public interest in assuring the timely and economical completion of the Covered Projects(s) covered by this Agreement; and to facilitate the training and employment of local workers in order to increase the pool of skilled labor for work on future City projects.

WHEREAS, the timely and successful completion of Covered Projects is of the utmost importance to meet the needs of the City and avoid increased costs resulting from delays in construction; and

WHEREAS, large numbers of workers of various skills will be required in the performance of construction work on Covered Projects and will be represented by the Unions who are signatory to this Agreement and employed by the Contractors and subcontractors who are also signatory to this Agreement; and

WHEREAS, the use of skilled labor on construction work increases the safety of construction projects as well as the quality of completed work; and

WHEREAS, it is recognized that on Covered Projects of this magnitude with multiple contractors and bargaining units on the job site at the same time over an extended period of time, the potential for work disruption may be substantial without an overriding commitment to maintain continuity of work; and

WHEREAS, the interests of the general public, the City, the Unions, and the Contractors would be best served if the construction work proceeded in an orderly manner without disruption because of strikes, sympathy strikes, work stoppages, picketing, lockouts, slowdowns or other interferences with work; and

WHEREAS, the City and the Unions desire to mutually establish and stabilize wages, hours and working conditions for the workers employed on the Covered Projects and to encourage close cooperation among the Contractors and the Unions so that a satisfactory, continuous and harmonious relationship will exist; and

WHEREAS, the parties agree that one of the primary purposes of this Agreement is to avoid the tensions that might arise on the Covered Projects if Union and non-union workers of

different employers were to work side by side on the Covered Projects, potentially leading to labor disputes that could delay completion of the Covered Projects; and

WHEREAS, this Agreement is not intended to replace, interfere with, abrogate, diminish or modify existing local or national collective bargaining agreements in effect during the duration of the Covered Projects, insofar as a legally binding agreement exists between the Contractors and the Unions, except to the extent that the provisions of this Agreement are inconsistent with said collective bargaining agreements, in which event the provisions of this Agreement shall prevail; and

WHEREAS, the City places high priority upon the development of comprehensive programs for the recruitment, training and employment of local residents and military veterans, and recognizes the ability of local pre-apprenticeship and apprenticeship programs to provide meaningful and sustainable career pathways in the construction industry; and

WHEREAS, the contract(s) for construction work on the Covered Projects will be awarded in accordance with the applicable provisions of the California State Public Contract Code and all state, local and federal laws; and

WHEREAS, the parties to this Agreement pledge their full good faith and trust to work toward the mutually satisfactory completion of the Covered Projects;

NOW, THEREFORE, IT IS AGREED BETWEEN AND AMONG THE PARTIES HERETO, AS FOLLOWS:

ARTICLE I
DEFINITIONS

1.1 “Agreement” means this Community Workforce and Training Agreement.

1.2 “Agreement to be Bound” means the agreement (attached hereto as Addendum A) that shall be executed by each and every Contractor as a condition of working on Covered Projects.

1.3 “City” means the City of Tracy, California and its governing board, officers, agents and employees, including managerial personnel.

1.4 “Completion” means that point at which there is final acceptance by the City Council of a Covered Project and the City has filed a Notice of Completion.

1.5 “Construction Contract” means a contract under which Covered Work is performed.

1.6 “Contractor” means any individual, firm, partnership or corporation (including the prime contractor, general contractor, construction manager, project manager, design-build entity, lease-leaseback entity or equivalent entity), or combination thereof, including joint ventures, and their successors and assigns, that is an independent business enterprise and that has entered into a Construction Contract.

1.7 “Council” means the San Joaquin Building and Construction Trades Council.

1.8 “Covered Project” means any City public works construction contract awarded by the City, subject to the Public Contract Code, where the total cost of the actual bid amount(s) exceeds two million dollars (\$2,000,000). The City shall not divide Construction Contracts to intentionally evade this monetary threshold. The City and the Council may mutually agree in writing to add additional projects or components to be covered by this Agreement. The term “Covered Project” applies to each and all projects as defined in this section, whether used in the singular or plural herein.

1.9 “Covered Work” means tasks in furtherance of a Covered Project, as set forth in Section 2.3, excluding tasks and activities specified for exclusion in Section 2.4.

1.10 “Joint Apprenticeship Training Program” means a joint labor-management apprenticeship program currently registered with the State of California’s Division of Apprenticeship Standards.

1.11 “Local Hiring Policy” means the City-established local hiring policy included in the City’s prime contracts.

1.12 “Local Resident” means an individual domiciled in the City of Tracy.

1.13 “Master Agreement” means the Master Collective Bargaining Agreement of a Union.

1.14 “New Local Apprentice” means a Local Resident who at time of the individual’s commencement of Covered Work has completed less than 25% of the required apprentice work hours to attain journey-level status, in a **state-registered apprenticeship program**.

1.15 “Project Manager” means the person(s) or entity(ies) designated by the City to oversee all phases of construction on a Covered Project and the implementation of this Agreement.

1.16 “Union” or “Unions” means the San Joaquin Building and Construction Trades Council and its affiliated Unions that are signatory to this Agreement, acting on their own behalf and on behalf of their respective affiliates and member organizations whose names are subscribed hereto and who have through their officers executed this Agreement.

ARTICLE II **SCOPE OF AGREEMENT**

2.1 **Parties:** The Parties to this Agreement are the City, the Council, and the Unions. This Agreement also applies to all Contractors performing work under a Construction Contract on a Covered Project (including subcontractors at any tier) and their successors and assigns, who shall become bound to this Agreement by executing an **Agreement to be Bound**.

2.2 **Applicability:** This Agreement governs all Construction Contracts awarded on a Covered Project until Completion, as well as repairs, warranty work, modifications or punch list work if pursuant to a Construction Contract, or when a Contractor performs work under a change order for the Construction Contract.

2.3 Covered Work: Covered Work includes, without limitation, all site preparation, surveying, construction, alteration, demolition, installation, improvement, remediation, retrofit, painting or repair of buildings, structures and other works, and related activities for Covered Projects that are within the craft jurisdiction of one of the Unions and that are directly or indirectly part of the Covered Projects, including, without limitation to the following examples, geotechnical and exploratory drilling, temporary HVAC, landscaping and temporary fencing, soils and materials testing and inspection, pipelines (including those in linear corridors built to serve the Covered Projects), pumps, pump stations, start-up, modular furniture installation, and final clean-up. Covered Work includes work done for the Covered Projects in temporary yards, dedicated sites, or areas adjacent to the Covered Projects, and at any on-site or off-site batch plant constructed to supply materials to the Covered Projects.

2.3.1 Covered Work includes any start-up, calibration, commissioning, performance testing, repair, maintenance, and operational revisions to systems and/or subsystems performed pursuant to a Construction Contract.

2.3.2 Covered Work includes all on-site fabrication work over which the City, Contractors or subcontractor(s) possess the right of control (including work done for the Covered Projects in any temporary yard or area established for the Covered Projects). This Agreement also covers any off-site work, including fabrication, that is traditionally performed by the Unions and is directly or indirectly part of the Covered Projects, provided such work is covered by a Master Agreement or local addenda to a national agreement of the applicable Union(s).

2.3.3 Except for the delivery of supplies, equipment or materials that are stockpiled for later use, Covered Work includes all construction trucking work, including the hauling and delivery of ready-mix, asphalt, aggregate, sand, soil or other fill or similar material that is directly incorporated into the construction process as well as the off-hauling of soil, sand, gravel, rocks, concrete, asphalt, excavation materials, construction debris and excess fill, material and/or mud. Contractors, including brokers, of persons providing construction trucking work shall provide certified payroll records to the City within ten (10) days of written request or as required by the bid specifications.

2.3.4 Covered Work within the following craft jurisdictions shall be performed under the terms of their National Agreements as follows: the National Transient Lodge (NTL) Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, the National Agreement of Elevator Constructors, and any instrument calibration work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians, with the exception that Articles IV, XIII and XIV of this Agreement shall apply to such work.

2.4 Exclusions: The following shall be excluded from the scope of this Agreement.

2.4.1 Covered Work does not include work performed by the City's own employees.

2.4.2 Covered Work does not include work performed by a Contractor's non-construction craft executives, managerial employees, administrative personnel, and supervisors above the level of general foreman (unless covered by a Master Agreement).

2.4.3 Covered Work does not include work performed on or near or leading to the site of work covered by this Agreement that is undertaken by state, county, city, or other governmental bodies or their contractors. Work performed by public or private utilities including all electrical utility, voice-data-video, and security installation work ahead of and up to the electrical service entry connection or the main point of entry into the building shall be excluded. All electrical utility, voice-data-video, and security installation work performed after the electrical utility service entrance or the main point of entry shall be Covered Work. Additionally, all contracted work performed ahead of the service entrance connection and main point of entry that is inside the property line and provides for access to the building via a conduit or series of conduits shall be Covered Work.

2.4.4 Covered Work does not include off-site maintenance of leased equipment and on-site supervision of such work.

2.4.5 Covered Work does not include work by employees of, or contractors retained by, a manufacturer or vendor, or as otherwise necessary to maintain the manufacturer's or vendor's warranty or guaranty. All such work shall be identified and discussed at the Pre-Job Conference as provided in Article V of this Agreement, or within 30 days after purchase of components requiring such work in order to preserve warranty or guaranty. Upon request from the Council, the City and the Council shall discuss with the manufacturer or vendor whether installation or application may be performed pursuant to terms of this Agreement without affecting the status of the warranty. The issue of whether it is necessary to use construction persons of the vendor or other companies to protect the warranty shall be subject to the grievance and arbitration clause of this Agreement.

2.4.6 This Agreement shall not apply to projects for which the City receives funding or assistance from any federal, state, local or other public entity if a requirement, condition or other term of receiving that funding or assistance, prohibits application of this Agreement; provided, however, that the City will make good faith efforts to apply this Agreement, including by making a written request to such entity requesting permission to apply this Agreement if practicable. The Parties to this Agreement shall confer to discuss modification of this agreement in cases where such modification would allow application of this Agreement within the requirements of the funding source. Should only a specific provision of this Agreement be prohibited by the funding source, then, upon mutual agreement of the Council, the City shall modify the requirements of this Agreement to allow this Agreement to remain applicable.

2.4.7 Notwithstanding any other provision of this Agreement, off-site construction of complex modular components that involve work within multiple prevailing wage scopes does not constitute Covered Work.

2.5 Award of Contracts: It is understood and agreed that the City has the right to select any qualified bidder for the award of a Construction Contract. The bidder need only be willing, ready and able to execute and comply with this Agreement. It is further agreed that this Agreement shall be included in all invitations to bid or solicitations for proposals from contractors or subcontractors for work on Covered Projects. This Agreement permits all qualified contractors and subcontractors to bid for and be awarded work on Covered Projects without regard to whether they are otherwise parties to collective bargaining agreements.

2.6 **Re-bidding in Case of Cost Overrun.** In cases where the lowest responsible bid for a Covered Project is at least 25% greater than the City's engineers' pre-bid estimate of construction cost, and the cost increase jeopardizes the ability of the project to move forward within the City's established budget parameters and confirmed funding sources, the City may reject all bids and re-bid the project with revised project terms, including discretion to re-bid without application of this Agreement, or with revised terms agreed among the Parties.

ARTICLE III **EFFECT OF AGREEMENT**

3.1 By executing this Agreement, the Council, the Unions and the City agree to be bound by each and all of the provisions of the Agreement.

3.2 By accepting the award of work under a Construction Contract for the Covered Projects, whether as a Contractor or subcontractor thereunder, all Contractors agree to be bound by each and every provision of this Agreement and agree to evidence their acceptance prior to the commencement of work by executing the **Agreement to be Bound** in the form attached hereto as **Addendum A**.

3.3 At the time that any Contractor enters into a subcontract with any subcontractor providing for the performance of work under a Construction Contract, the Contractor shall provide a copy of this Agreement to said subcontractor and shall require the subcontractor, as a condition of accepting the award of a construction subcontract, to agree in writing, by executing the **Agreement to be Bound**, to be bound by each and every provision of this Agreement prior to the commencement of work. The obligations of a Contractor may not be evaded by subcontracting. If the subcontractor refuses to execute the Agreement to be Bound, then such subcontractor shall not be awarded a Construction Contract on the Covered Project.

3.4 This Agreement shall only be binding on the signatory parties hereto, and their successors and assigns, and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party. Each Contractor shall alone be liable and responsible for its own individual acts and conduct and for any breach or alleged breach of this Agreement, except as otherwise provided by law or the applicable Master Agreement. Any dispute between the Union(s) and the Contractor(s) with respect to compliance with this Agreement shall not affect the rights, liabilities, obligations and duties between the Union(s) and other parties to this Agreement.

3.5 It is mutually agreed by the parties that any liability by a Union signatory to this Agreement shall be several and not joint. Any alleged breach of this Agreement by a party shall not affect the rights, liabilities, obligations and duties between the other parties to this Agreement.

3.6 The provisions of this Agreement, including the Master Agreements incorporated herein by reference, shall apply to Covered Work, notwithstanding the provisions of any other local, area and/or national agreements which may conflict with or differ from the terms of this Agreement. To the extent a provision of this Agreement conflicts with a Master Agreement, the

provision of this Agreement shall prevail. Where a provision of a Master Agreement does not conflict with this Agreement, the provision of the Master Agreement shall apply.

ARTICLE IV
WORK STOPPAGES, STRIKES, SYMPATHY STRIKES AND LOCKOUTS

4.1. The Unions, the City, and the Contractors covered by this Agreement agree that with regard to each Covered Project:

4.1.1 There shall be no strikes, sympathy strikes, work stoppages, picketing, handbilling or otherwise advising the public that a labor dispute exists, or slowdowns of any kind, for any reason, by the Unions or employees employed on the Covered Project, at the job site of the Covered Project or any other City facility because of a dispute on a Covered Project. Disputes arising between the Unions and Contractor(s)/ Employer(s) on other City projects are not governed by the terms of the Agreement or this Article.

4.1.2 There shall be no lockout of any kind by a Contractor of workers employed on the Covered Project.

4.1.3 If a Master Agreement expires before the Contractor completes the performance of work under a Construction Contract and the Union or Contractor gives notice of a demand for a new or modified Master Agreement, the Union agrees that it will not strike on work covered by this Agreement and the Union and the Contractor agree that the expired Master Agreement will continue in full force and effect for work covered under this Agreement until a new or modified Master Agreement is reached. If the new or modified Master Agreement provides that any terms of the Master Agreement shall be retroactive, the Contractor agrees to comply with any retroactive terms of the new or modified Master Agreement that are applicable to any employee(s) on the Covered Projects during the interim, with retroactive payment due within seven (7) calendar days of the effective date of the new or modified Master Agreement.

4.1.4 In the case of nonpayment of wages or trust fund contributions on the Covered Projects, the Union shall give the City and the Contractor three (3) business days' notice when nonpayment of trust fund contributions has occurred, and one (1) business day's notice when nonpayment of wages has occurred or when paychecks being tendered to a financial institution normally recognized to honor such paychecks will not honor such paycheck, of the intent to withhold labor from the Contractors' or their subcontractor's workforce, during which time the Contractor may correct the default. In this instance, a Union's withholding of labor (but not picketing) from a Contractor who has failed to pay its fringe benefit contributions or failed to meet its weekly payroll shall not be considered a violation of this Article.

4.1.5 Notification: If the City or any Contractor contends that any Union has violated this Article, it will so notify in writing (via e-mail or hard copy) the Council, and the senior executive of the Union if known, setting forth the facts alleged to violate the Article, prior to instituting the expedited arbitration procedure set forth below. The Council will immediately use its best efforts to cause the cessation of any violation of this Article, including immediate notification of the Union in question. The leadership of the Union will immediately inform the

workers of their obligations under this Article. A Union complying with this obligation shall not be held responsible for the unauthorized acts of employees it represents.

4.2 Expedited Arbitration: Any party to this Agreement shall institute the following procedure, prior to initiating any other action at law or equity, when a breach of this Article is alleged to have occurred.

4.2.1 A party invoking this procedure shall notify Robert Hirsch, as the permanent arbitrator, or Barry Winograd, as the alternate arbitrator, under this procedure. In the event the permanent arbitrator is unavailable at any time, the alternate will be contacted. If neither is available, the parties shall select the arbitrator from the list in Section 13.4 (for grievances to which the City is not a party). Notice to the arbitrator shall be by the most expeditious means available, with notice by email and telephone to the City, the involved Contractor, and the party alleged to be in violation, and to the Council and involved local Union if a Union is alleged to be in violation.

4.2.2 Upon receipt of said notice, the City will contact the permanent arbitrator named above, or the alternate if the permanent arbitrator is not available, who will attempt to convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.

4.2.3 The arbitrator shall notify the parties by email and telephone of the place and time for the hearing. Said hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed twenty-four (24) hours unless otherwise agreed upon by all parties. A failure of any party to attend said hearings shall not delay the hearing of evidence or the issuance of an award by the arbitrator.

4.2.4 The sole issue at the hearing shall be whether or not a violation of Section 4.1 of the Agreement has occurred. The arbitrator shall have no authority to consider any matter of justification, explanation or mitigation of such violation or to award damages, which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without a written opinion. If any party desires a written opinion, one shall be issued within fifteen (15) calendar days, but the parties shall not delay compliance with or enforcement of the award due to the issuance of a written opinion. The arbitrator may order cessation of the violation of this Article, and the arbitrator's award shall be served on all parties by hand or registered mail upon issuance. Should a party found in violation of this Article fail to comply with the arbitrator's award ordering the party to cease the violation, the party in violation shall pay to the affected party as liquidated damages the sum of ten thousand dollars (\$10,000.00) per shift for which it failed to comply, or portion thereof, until such violation is ceased. The arbitrator shall retain jurisdiction to resolve any disputes regarding the liquidated damages claimed under this section.

4.2.5 The arbitrator's award may be enforced by any court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to above in the following manner. The party filing such enforcement proceedings shall give written notice to the other party. In a proceeding to obtain a temporary order enforcing the arbitrator's award as issued under this Article, all parties waive the right to a hearing and agree that such proceeding may be *ex parte*. However, such agreement does not waive any party's right to seek or participate

in a hearing for a final order of enforcement. Any court order enforcing the arbitrator's award shall be served on all parties by hand or delivered by certified mail.

4.2.6 Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure, or which interfere with compliance with the above procedure, are waived by the parties.

4.2.7 The fees and expenses of the arbitrator shall be divided equally between the party instituting the arbitration proceedings provided in this Article and the party alleged to be in breach of its obligation under this Article.

4.2.8 Should either the permanent or the alternate arbitrator identified above no longer work as a labor arbitrator, the City and the Council shall mutually agree to a replacement.

ARTICLE V **PRE-JOB CONFERENCES**

5.1 **Timing:** The Project Manager shall convene and conduct, at Tracy City Hall and at a time mutually agreeable to the City, the Council and the prime contractor, a pre-job conference with the Unions and the representatives of all involved Contractors, who shall be prepared to announce craft assignments and discuss in detail the scope of work and the other issues set forth below, at least fourteen (14) calendar days prior to:

- (a) The commencement of any Project work, and
- (b) The commencement of Project work on any subsequently awarded Construction Contract.

5.2 The pre-job conference shall be attended by a representative of each participating Contractor and each affected Union, and the Council and City may attend at their discretion.

5.3 The pre-job conference shall include but not be limited to the following subjects:

- (a) A listing of each Contractor's scope of work;
- (b) The craft assignments;
- (c) The estimated number of craft workers required to perform the work;
- (d) Transportation arrangements;
- (e) The estimated start and completion dates of the work; and
- (f) Discussion of pre-fabricated materials.

5.4 **Review Meetings:** In order to ensure the terms of this Agreement are being fulfilled and all concerns pertaining to the City, the Unions and the Contractors are addressed, the Project Manager and the Senior Executive of the Council, or designated representatives thereof, shall meet on a periodic basis during the term of this Agreement. The City and the Council shall have the right to call a meeting of the appropriate parties to ensure the terms of this Agreement are being fulfilled.

ARTICLE VI
NO DISCRIMINATION

6.1 The Contractors and the Unions agree to comply with all anti-discrimination provisions of federal, state, and local law, to protect employees and applicants for employment, on the Covered Projects. This Agreement prohibits discrimination based on race, national origin, religion, sex, sexual orientation, political affiliation, or membership in a labor organization in hiring and dispatching workers for Covered Projects.

ARTICLE VII
UNION SECURITY

7.1 The Contractors recognize the Unions as the sole bargaining representative of all craft employees working within the scope of this Agreement, and all such employees must be represented by a Union for the duration of their employment on the Project.

7.2 This Agreement does not require any employee to join a Union or pay dues or fees to a Union as a condition of working on a Covered Project; however, Contractors shall make and transmit all deductions for Union dues, fees, and assessments that have been voluntarily authorized by employees in writing in accordance with the applicable Master Agreement. Nothing in this section is intended to supersede the requirements of the applicable Master Agreements as to those Contractors otherwise signatory to such Master Agreements and as to the employees of those Contractors.

7.3 Authorized representatives of the Unions shall have access to the Covered Projects whenever work covered by this Agreement is being, has been, or will be performed on the Covered Projects.

ARTICLE VIII
APPRENTICES

8.1 Recognizing the need to develop adequate numbers of competent workers in the construction industry, including on public works projects, the Contractors shall employ apprentices from California state-approved Joint Apprenticeship Training Programs in their respective crafts, to perform such work as is within their capabilities and that is customarily performed by the craft in which they are indentured. Contractors shall only utilize apprentices enrolled in Joint Apprenticeship Training Programs; except that Tracy residents enrolled in any valid apprenticeship program registered with the State of California's Division of Apprenticeship Standards may be employed on Covered Projects.

8.2 Apprentice ratios will be in compliance with the provisions of the California Labor Code and the applicable state prevailing wage determination.

8.3 Consistent with the Master Agreements, there shall be no restriction on the utilization of apprentices in performing the work of their craft provided they are properly

indentured and supervised. The Unions agree to refer apprentices to all Contractors on Covered Projects.

ARTICLE IX
REFERRAL, LOCAL HIRE, AND WORKFORCE DEVELOPMENT PROGRAM

9.1 Contractors performing construction work on the Covered Projects shall, in filling craft job requirements, utilize and be bound by the registration facilities and referral systems established or authorized by the Unions signatory hereto. The Contractors shall have the right to reject any applicant referred by the Union(s), in accordance with the applicable Master Agreement.

9.2 Contractors shall have the unqualified right to select and hire directly all supervisors above the level of general foreman it considers necessary and desirable, without such persons being referred by the Union(s), unless such craft construction employee is covered by a Master Agreement.

9.3 Core Workers. A Contractor that is not signatory to a collective bargaining agreement may employ Core Workers in performance of Project Work as described in this Section 9.3.

9.3.1 Core Workers of Local Contractors. A Contractor/Employer with its primary place of business within seven (7) miles of City Hall may request by name, and the Union will honor, referral of Core Workers who have applied to the Union for work on a Covered Project and demonstrated to the Union the following qualifications:

- a. Has worked a total of at least four thousand (4,000) hours in the craft;
- b. Has been on the Contractor/Employer's active payroll for at least ninety (90) out of the one hundred and twenty (120) calendar days prior to the demonstration;
- c. Possesses all required licenses to perform the work; and
- d. Has the ability to perform safely the basic functions of the applicable craft.

9.3.2 Core Workers of Non-Local Contractors. All other Contractors may request by name, and the Union will honor, referral of Core Workers who have applied to the Union for work on a Covered Project and demonstrated to the Union the following qualifications

- a. Has worked a total of at least four thousand (4,000) hours in the craft;
- b. Has been on the Contractor/Employer's active payroll for at least ninety (90) out of the one hundred and twenty (120) calendar days prior to the demonstration;
- c. Possesses all required licenses to perform the work;

- d. Has the ability to perform safely the basic functions of the applicable craft; and
- e. Is a resident of the City of Tracy, demonstrated by proof of address that is not a post office box.

9.3.3 Ratio and Hiring Process. The Union will refer to a Contractor that is not signatory to a collective bargaining agreement one journeyman employee from the hiring hall out-of-work list for the affected trade or craft, and then will refer one Core Worker as a journeyman. This process shall be repeated, one and one, until the Contractor's crew includes five (5) Core Workers. Thereafter, all of the Contractor's additional employees performing Covered Work shall be hired from the Union's hiring hall out-of-work list(s).

9.3.4 When the Contractor's workforce is reduced, employees shall be reduced so as to maintain the same ratio of Core Workers to hiring hall referrals as was applied in the initial hiring.

9.3.5 The Contractor shall provide the appropriate Union with the name and all necessary information for each Core Worker, and each Core Worker shall register with the Union's hiring hall and comply with Article VII (Union Security) before commencing Covered Project work. If there is any question regarding an employee's eligibility as a Core Worker under this Section, the City, at the Union's request, shall obtain satisfactory proof from the Contractor.

9.4 In the event that referral facilities maintained by the Union(s) are unable to fill the requisition of a Contractor for employees within a forty-eight (48) hour period (Saturdays, Sundays and Holidays excluded) after such requisition is made by the Contractor, the Contractor shall be free to obtain the worker(s) from any source. A Contractor who hires a worker(s) to perform Covered Work on a Covered Project pursuant to this section shall immediately provide the appropriate Union with the name and address of such worker(s) and shall immediately refer such worker(s) to the appropriate Union to satisfy the requirements of Article VII of this Agreement.

9.5 Local Hiring Policy: The City's Local Hiring Policy requires Contractors to take specified steps to employ Local Residents and New Local Apprentices in an effort to reach percentage utilization goals. The policy includes percentage goals as follows: 25% of journey-level work hours to be performed by Local Residents; and 25% of apprentice-level work hours to be performed by New Local Apprentices. The Parties to this Agreement intend to facilitate employment of Local Residents and New Local Apprentices in the construction of Covered Projects. Unions will exert their utmost efforts to recruit sufficient numbers of who are craft persons Local Residents and New Local Apprentices to fulfill the Contractors' requirements, and will refer Local Residents and New Local Apprentices on a priority basis as needed for Contractors to satisfy requirements of the Local Hiring Policy, consistent with the non-discriminatory referral procedures of the applicable Union. In addition, Unions shall make best faith efforts to refer San Joaquin County residents to Contractors working on Covered Projects, and the City shall require Contractors to provide data regarding employment of County residents.

9.5.1 Union Referrals: To the maximum extent allowed by law, and consistent with the Unions' hiring hall procedures, the Unions shall refer residents for work on Covered Projects in order to meet the Local Hire Percentage Goals.

9.5.2 Commitment to City of Tracy: The purpose of the Local Hire Percentage Goals is to increase and maximize the employment of City of Tracy residents on Covered Projects and develop a pool of skilled labor for employment on future City public works projects. The Parties are firmly committed to this goal and to growing the construction workforce in the City of Tracy.

9.5.3 Subject to any legal restrictions, the Parties agree that apprentices will perform at least twenty percent (20%) of the total craft hours worked for each craft on a Covered Project (the "Apprentice Percentage Goal").

9.5.4 Contractor Efforts: The Contractors shall make best faith efforts to reach the Apprentice Percentage Goal through the utilization of their existing workforce and through the Unions' hiring hall procedures and procedures of the applicable Joint Apprenticeship Training Program. The Contractors shall also provide workforce projections to the appropriate Union representatives prior to the Pre-Job Conference and follow the appropriate procedures for employment of apprentices. The Contractors shall also track utilization of apprentices who are County residents and report such information upon request of the City or the Council.

9.5.5 Union Referrals: To the maximum extent allowed by law, and consistent with the Unions' hiring hall procedures and the procedures of the applicable Joint Apprenticeship Training Program, the Unions shall refer apprentices for work on Covered Projects to satisfy the Apprentice Percentage Goal. Apprentices shall be properly supervised and paid in accordance with the provisions of the applicable Joint Apprenticeship Training Program and Union Master Agreement.

9.5.6 The Contractors and Unions shall make best faith efforts to reach the Apprentice Percentage Goal and the goals of the Local Hiring Policy through the utilization of normal hiring hall and apprentice procedures and, when appropriate, the identification of potentially qualified apprentices through community-based organizations working in collaboration with the apprenticeship programs. The Unions are committed to working with the Contractors and community based organizations to achieve these goals.

9.5.7 At least annually, the Unions and the City will conduct a Community Career Fair to provide at-risk youth, veterans and others an opportunity to learn about each craft and the process for entering Joint Apprenticeship Training Programs.

9.5.8 The Unions will work with Joint Apprenticeship Training Programs to host community based organizations at training centers.

9.5.9 The Unions will work with and provide information to the respective Joint Apprenticeship Training Programs regarding upcoming Covered Projects and corresponding staffing needs, to increase apprentice and resident enrollment.

9.5.10 In furtherance of its partnership with the Council, the City may provide a list of individuals to the Council on a quarterly basis who are interested in a career path in the trades. The Council and the Unions will contact and mentor each individual and provide access to all the programs currently serving City residents, including any and all pre-apprenticeship pathways.

9.5.11 The parties to this Agreement shall meet as reasonably requested, and no less than annually, to review this Agreement's effectiveness and discuss ways to further facilitate entry into Joint Apprenticeship Training Programs for Local Residents.

9.6 The Contractor or subcontractor may use the "name call", "rehire," or other available hiring hall procedures to reach the goals set forth in this Article.

9.7 All Contractors shall attend scheduled Pre-Job Conferences held under this Agreement and shall submit to the City and the Council written workforce projections and projected work hours on a craft-by-craft basis and shall present a plan for reaching the goals set forth in this Article and the Local Hiring Policy.

ARTICLE X **WAGES AND BENEFITS**

10.1 The Contractors agree to pay contributions to the vacation, pension and/or other deferred compensation plan, apprenticeship, worker protection and assistance, and health benefit funds established by the applicable Master Agreement(s) for each hour worked on the Covered Projects, in the amounts designated in the applicable Master Agreement(s).

10.2 By signing this Agreement, the Contractors adopt and agree to be bound by the written terms of the legally established Trust Agreements described in Section 10.1, which may from time to time be amended, specifying the detailed basis upon which payments are to be made into, and benefits paid out of, such Trust Funds. The Contractors authorize the parties to such local Trust Agreements to appoint trustees and successor trustees to administer the Trust Funds and hereby ratify and accept the trustees so appointed as if they were appointed by the Contractors. The Contractors agree to execute a separate subscription agreement(s) when such Trust Fund(s) requires such document(s).

10.3 Wages, Hours, Terms and Conditions of Employment: The wages, hours and other terms and conditions of employment on the Covered Projects shall be governed by the Master Agreement of the respective craft, to the extent such Master Agreement is not inconsistent with this Agreement. Where a subject is covered by the Master Agreement and not covered by this Agreement, the Master Agreement will prevail. When a subject is covered by both the Master Agreement and this Agreement, to the extent there is any inconsistency, this Agreement will prevail.

10.4 Holidays: Holidays shall be as set forth in the applicable Master Agreement.

ARTICLE XI
HELMETS TO HARDHATS

11.1 The Contractors and Unions recognize a desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in the building and construction industry. The Contractors and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter “Center”) and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.

11.2 The Unions and Contractors agree to coordinate with the Center to participate in an integrated database of veterans interested in working on the Covered Projects and of apprenticeship and employment opportunities for the Covered Projects. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

ARTICLE XII
COMPLIANCE

12.1 It shall be the responsibility of the Contractors and Unions to investigate and monitor compliance with the provisions of Article X of this Agreement. Nothing in this Agreement shall be construed to interfere with or supersede the usual and customary legal remedies available to the Unions and/or employee benefit Trust Funds to collect delinquent wages or Trust Fund contributions from Contractors on the Covered Projects. Because Covered Projects are a public works subject to the California Labor Code, the City shall comply with Labor Code requirements regarding monitoring and enforcement of Contractors' compliance with state prevailing wage requirements as well as this Agreement.

ARTICLE XIII
GRIEVANCE ARBITRATION PROCEDURE

13.1 Project Labor Disputes: All disputes solely involving the application or interpretation of a Master Agreement to which a Contractor and a Union are parties shall be resolved pursuant to the resolution procedures of the Master Agreement. All disputes relating to the interpretation or application of this Agreement other than disputes under Article IV and Article XIV, shall be subject to resolution by the grievance arbitration procedures set forth in this Article.

13.2 Employee Discipline: All disputes involving the discipline and/or discharge of an employee working on the Covered Projects shall be resolved through the grievance and arbitration provisions contained in the Master Agreement for the craft of the affected employee. Contractors shall comply with all provisions of Master Agreements relating to discipline of employees, including prohibitions on discipline or discharge without just cause.

13.3 Notice: No grievance shall be recognized unless the grieving party provides notice in writing to the party with whom it has a dispute within five (5) business days after becoming aware of the dispute but in no event more than thirty (30) business days after it reasonably should have become aware of the event giving rise to the dispute. Time limits may be extended by mutual agreement of the parties. The grieving party shall also provide notice of the grievance to the City and the Council.

13.4 Procedure: Grievances shall be settled according to the following procedures. The City may intervene in and become a party to any grievance regarding terms of this Agreement in which the City has a financial or policy interest in the outcome, by providing notice during participation in the Step 2 meeting.

Step 1: Within five (5) business days after the receipt of the written notice of the grievance, the representatives of the parties to the grievance shall confer and attempt to resolve the grievance.

Step 2: If the grievance is not resolved at Step 1, within five (5) business days of the Step 1 meeting, any party to the grievance may initiate a formal meet and confer process for attempted resolution. The party initiating this step shall notify all parties to the grievance, with notice to the Business Manager of each Union involved (if known) or otherwise to the Union, the Labor Relations Manager of the Contractor (if known) or otherwise to the Contractor, the City, and the Council. This time limit may be extended by mutual consent of all parties to the grievance. Regardless of which party has initiated the grievance, the Union shall notify its International Union representative prior to the Step 2 meeting, and the International Union representative shall advise if it intends to participate in the Step 2 meeting. The City and the Council shall have the right to participate in any efforts to resolve the dispute at Step 2. The Step 2 meeting shall be held within five days or as otherwise agreed by all parties to the grievance, after referral and notice as described above.

Step 3: If the grievance is not resolved at Step 2, the party initiating the grievance may initiate arbitration within five (5) business days of the Step 2 meeting, through written notice to all parties to the grievance, and to the Council and the City. This deadline may be extended by mutual agreement of the parties to the grievance. If required, the party initiating arbitration shall pay costs and fees charged by the arbitrator to initiate arbitration; the arbitrator's order at conclusion of arbitration shall require all parties to the grievance to equally contribute to the costs and fees of arbitration (not including attorneys' fees and costs).

For grievances to which the City is not a party: Within five (5) business days after such written notice, the party initiating arbitration shall notify the permanent arbitrator designated in Article IV, or if not available, the alternate arbitrator designated in Article IV, for final and binding arbitration. If the permanent arbitrator or the alternate is not available, an arbitrator shall be selected by the alternate striking method from the following list: (1) William

Riker; (2) Carol Vendrillo; (3) Morris Davis. The order of striking names from the list of arbitrators shall be determined by a coin toss, the winner of which shall decide whether they wish to strike first or second.

For grievances to which the City is a party: Within five (5) business days after such written notice, the party initiating arbitration shall file for arbitration with the American Arbitration Association (AAA), using the “Fast Track Procedures” set forth in AAA’s Construction Industry Arbitration Rules and Mediation Procedures.

13.5 The decision of the arbitrator shall be final and binding on all parties to the arbitration. The failure of any party to the dispute to attend the arbitration proceeding shall not delay the hearing of evidence or the issuance of any decision by the arbitrator. Should any party seek confirmation of the award made by the arbitrator in court, the prevailing party shall be entitled to receive its reasonable attorney fees and costs in such court proceeding.

13.6 The arbitrator shall have no authority to change, amend, add to or detract from any of the provisions of the Agreement. The arbitrator shall arrange for a hearing on the earliest available date from the date of his/her selection. A decision shall be given to the parties within five (5) calendar days after completion of the hearing unless such time is extended by mutual agreement. A written opinion may be requested by a party from the presiding arbitrator. The expense of the arbitrator shall be borne equally by all parties, and each party shall bear its own attorneys’ fees and costs.

13.7 The time limits specified at any step of the grievance procedure may be extended by mutual agreement of the parties. However, failure to process a grievance, or failure to respond in writing within the time limits provided above, without an agreed upon extension of time, shall be deemed a waiver of such grievance without prejudice, or without precedent to the processing and/or resolution of like or similar grievances or disputes.

13.8 In order to encourage the resolution of disputes and grievances at Steps 1 and 2 of this grievance procedure, the parties agree that such settlements shall not be precedent setting.

13.9 Retention: At the time a grievance is submitted under this Agreement or any Master Agreement, the Union(s) may request that the City withhold and retain an amount from what is due and owing to the Contractor(s) against whom the grievance is filed, or its higher-tier Contractor, sufficient to cover the damages alleged in the grievance, should the Union(s) prevail. To the extent permitted by law and any applicable contract(s), the City may retain such amount until such time as the underlying grievance giving rise to the retention is withdrawn, settled, or otherwise resolved, in which case the retained amount shall be paid to whomever the parties to the grievance shall decide, or to whomever an arbitrator shall so order.

13.10 Should any of the arbitrators listed in this Article or Article IV no longer work as a labor arbitrator, the City and the Council shall mutually agree to a replacement.

ARTICLE XIV **WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES**

14.1 The assignment of Covered Work will be solely the responsibility of the Employer performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of the Jurisdictional Disputes in the Construction Industry (the “Plan”) or any successor Plan.

14.2 All jurisdictional disputes on this Project between or among the building and construction trades Unions and the Employers parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Employers and Unions parties to this Agreement.

14.3 If a dispute arising under this Article involves the Northern California Carpenters Regional Council or any of its subordinate bodies, an arbitrator shall be chosen by the procedures specified in Article V, Section 5 of the Plan from a list composed of John Kagel, Thomas Angelo, Robert Hirsch and Thomas Pagan, and the arbitrator’s hearing on the dispute shall be held at the offices of the California State Building and Construction Trades Council in Sacramento, California within fourteen (14) calendar days of the selection of the arbitrator. All other procedures shall be as specified in the Plan.

14.4 All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Employer’s assignment shall be adhered to until the dispute is resolved. Individual employees violating this section shall be subject to immediate discharge.

14.5 Each Employer will conduct a pre-job conference with the Council prior to commencing work. The City and the Project Manager will be advised in advance of all such conferences and may participate if they wish. Pre-job conferences for different Employers may be held together.

ARTICLE XV
MANAGEMENT RIGHTS

15.1 Consistent with the Master Agreements, the Contractors shall retain full and exclusive authority for the management of their operations, including the right to direct their work force in their sole discretion. No rules, customs or practices shall be permitted or observed which limit or restrict production, or limit or restrict the working efforts of employees, except that all lawful manning provisions in the Master Agreement shall be recognized.

ARTICLE XVI
DRUG AND ALCOHOL TESTING

16.1 The use, sale, transfer, purchase and/or possession of a controlled substance, alcohol and/or firearms at any time during the work day is prohibited.

16.2 Drug and alcohol testing shall be conducted in accordance with the substance abuse prevention policies set forth in the applicable Master Agreement.

ARTICLE XVII **SAVINGS CLAUSE**

17.1 If any article, provision, clause, sentence or word of this Agreement is determined to be illegal or void as being in contravention of any applicable law, by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect. The parties further agree that if any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void, by a court of competent jurisdiction, the parties shall substitute, by mutual agreement, in its place and stead, an article, provision, clause, sentence or word that will meet the objections to its validity and will be in accordance with its original intent.

17.2 In the event a decision of a court of competent jurisdiction materially alters the terms of this Agreement such that the intent of the parties is defeated, then the entire Agreement shall be null and void.

17.3 If a court of competent jurisdiction determines that all or part of the Agreement is invalid and/or enjoins the City from complying with all or part of the Agreement's provisions, and the City accordingly determines that compliance with this Agreement will not be required in order to perform work under a Construction Contract, the Unions will no longer be bound by the provisions of Article IV.

ARTICLE XVIII **TERM**

18.1 This Agreement shall be included in all bid documents, requests for proposals, or other equivalent Project solicitations, which shall indicate that entering into this Agreement is a condition of the award of a Construction Contract(s) for the Covered Project.

18.2 This Agreement shall apply until the Completion of each Project in accordance with Sections 1.4 and 2.2.

18.3 This Agreement shall become effective 30 days after the day it approved by the City Council (the "Effective Date"), provided that it has also been executed by the Trades Council. This Agreement shall remain effective for three years from the Effective Date, at which time this Agreement shall be considered for extension or renewal. At least one hundred and twenty (120) days prior to expiration of this Agreement, the City and the Council shall meet to discuss proposed changes, if any, to the Agreement. This Agreement may be extended or amended through City Council action and written agreement of all Parties.

18.4 Each Union shall provide to the City a current copy of its Master Agreement within 60 days after the Effective Date.

ARTICLE XIX
MISCELLANEOUS PROVISIONS

19.1 The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement. All defined terms used in this Agreement shall be deemed to refer to the singular and/or plural, in each instance as the context and/or particular facts may require.

19.2 This Agreement may be executed in counterparts, such that original signatures may appear on separate pages and when bound together all necessary signatures shall constitute an original. Faxed or emailed signature pages transmitted to other parties to this Agreement shall be deemed the equivalent of original signatures.

19.3 Each of the persons signing this Agreement represents and warrants that such person has been duly authorized to sign this Agreement on behalf of the party indicated, and each of the parties signing this Agreement warrants and represents that such party is legally authorized and entitled to enter into this Agreement.

19.4 The parties acknowledge that this is a negotiated agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.

19.5 All defined terms used in this Agreement shall be deemed to refer to the singular and/or plural, in each instance as the context and/or particular facts may require.

[SIGNATURES TO FOLLOW]

CITY OF TRACY

By: _____
Name/Title: _____

Date: _____

Approved as to form:

Date: _____

By: _____
Leticia Ramirez, City Attorney

By: _____
Name/Title: _____

Date: _____

UNION SIGNATURES

Bricklayers, Tilesetters and Allied Craftworkers Local 3 <hr/> -	Boilermakers Local 549 <hr/> -
Cement Masons Local 400 <hr/> -	District Council 16, International Union of Painters and Allied Trades <hr/> -
Heat and Frost Insulators and Allied Workers Local 16 <hr/> -	International Brotherhood of Electrical Workers Local 595 <hr/> -
International Union of Elevator Constructors Local 8 <hr/> -	Iron Workers Local 378 <hr/> -
Laborers Local 73 <hr/> -	Operating Engineers Local 3 <hr/> -
Operative Plasterers and Cement Masons Local 300 <hr/> -	Roofers and Waterproofers Local 81 <hr/> -
Sheet Metal Workers Local 104 <hr/> -	Sign, Display and Allied Crafts Local 510 <hr/> -
United Association, Underground Utility and Landscape Irrigation Local 355 <hr/> -	Teamsters Local 439 <hr/> -

United Association, Plumbers and
Steamfitters Local 442

United Association, Road Sprinkler Fitters
Local 669

Addendum A
AGREEMENT TO BE BOUND

[Date]
[Addressee]
[Address]

Re: City of Tracy Community Workforce and Training Agreement
Agreement to be Bound

Dear _____:

The undersigned confirms that it agrees to be a party to and bound by the City of Tracy Community Workforce and Training Agreement (“Agreement”) as such Agreement may, from time to time, be amended by the parties or interpreted pursuant to its terms.

By executing this Agreement to be Bound, the undersigned subscribes to, adopts and agrees to be bound by the written terms of the legally established trust fund documents as set forth in Section 10.1 of the Agreement, as they may from time to time be amended, specifying the detailed basis upon which contributions are to be made into, and benefits made out of, such trust funds, and ratifies and accepts the trustees appointed by the parties to such trust funds. The undersigned agrees to execute a separate subscription agreement(s) for such trust funds when such trust fund(s) require(s) such document(s).

The obligation to be a party to and bound by the Agreement shall extend to all work covered by the City of Tracy Community Workforce and Training Agreement undertaken by the undersigned. The undersigned shall require all of its subcontractors, of whatever tier, to become similarly bound for all their work within the scope of the Agreement by signing an identical Agreement to be Bound.

This letter shall constitute a subscription agreement, to the extent of the terms of the letter.

CONTRACTOR/SUBCONTRACTOR: _____

California Contractor State License No. or Motor Carrier (CA) Permit No.: _____

Name of Authorized Person (print): _____

Signature of Authorized Person: _____

Title of Authorized Person: _____

Telephone Number of Authorized Person: _____

Address of Authorized Person: _____

State Public Works Registration Number: _____



[Attachment to Prime Contracts for Capital Improvement Projects]

City of Tracy Local Hiring Policy

The City of Tracy's Local Hiring Policy for Capital Improvement Projects aims to target employment and training opportunities to Tracy residents.

The Prime Contractor and all subcontractors shall implement and comply with the Local Hiring Policy for this project.

I. Definitions (for purposes of Local Hiring Policy only)

<u>Construction Trade</u>	A construction trade classification as established for prevailing wage payment requirements by the California Department of Industrial Relations.
<u>Contractor</u>	A contractor of any tier that employs individuals to perform Project Work.
<u>Tracy Resident</u>	An individual domiciled within the City of Tracy. "Domiciled" has the meaning set forth in section 349(b) of the California Election Code.
<u>New Local Apprentice</u>	A Tracy Resident who at time of the individual's commencement of Project Work has completed less than 25% of the required apprentice work hours to attain journey-level status, in a state-registered apprenticeship program.
<u>Percentage Goals</u>	The goals indicated for employment of Tracy Residents and New Local Apprentices described in the "Percentage Goals" section below.
<u>Project Work</u>	Construction work performed pursuant to the prime contract.

II. Percentage Goals

The City establishes the following goals for each Contractor, for performance of Project Work in each Construction Trade:

- a) For journey-level workers:
 - at least 25% of Project Work hours shall be performed by Tracy Residents.
- b) For apprentice-level workers:
 - At least 25% of Project Work hours performed by apprentices shall be

performed by New Local Apprentices.

III. Contractor Hiring Responsibilities

Each Contractor shall follow the following hiring processes, which constitute good faith efforts to satisfy each of the Percentage Goals.

Contractors Working Under a Collective Bargaining Agreement: Contractor shall assign any existing crew members that fit the Percentage Goal categories, if such crew members are not currently working on other projects, until Percentage Goals are satisfied. If Contractor cannot satisfy Percentage Goals through assignment of existing crew members not currently working other projects, then Contractor shall use union hiring hall referral systems for any workers needed to satisfy Percentage Goals, including name calls and any other available mechanisms. For journey-level workers: when a Contractor requests workers from the union hiring hall, it requests Tracy Residents if needed to satisfy the applicable Percentage Goal. For apprentice-level workers: same as journey-level process, except Contractors shall contact the relevant apprenticeship program or hiring hall, and request referral of New Local Apprentices as needed to satisfy the applicable Percentage Goal, and shall sponsor New Local Apprentices as needed. If necessary, Contractors shall contact other sources designated by the City to identify Tracy Residents and New Local Apprentices to employ as needed to satisfy Percentage Goals.

Contractors Not Working Under a Collective Bargaining Agreement: Contractor shall assign any existing crew members that fit the Percentage Goal categories, if such crew members are not currently working on other projects, until Percentage Goals are satisfied. If Contractor cannot satisfy Percentage Goals through assignment of existing crew members not currently working other projects, then Contractor shall contact other available sources of workers for Tracy Residents and New Local Apprentices. Contractors shall sponsor New Local Apprentices as needed, if such workers can be identified. If necessary, Contractors shall contact other sources designated by the City to identify Tracy Residents and New Local Apprentices to employ as needed to satisfy Percentage Goals.

IV. Miscellaneous

- a. Monitoring. Contractors shall provide information as requested by the City, and access to job sites and employees as requested, to enable determination of compliance with requirements of the Local Hiring Policy.
- b. Subcontracts. The Prime Contractor shall include compliance with the Local Hiring Policy as a material term of all subcontracts. The Prime Contractor is liable for any breach of this Policy by any subcontractor of any tier.
- c. Assurance Regarding Preexisting Contracts. Each Contractor represents that as of the date that a contract incorporating this Policy became effective, it has executed no contract pertaining to the project that would have violated this Policy had it been executed after that date, or would interfere with fulfillment of or conflict with terms of this Policy. If, despite this representation, an entity that has agreed to comply with this

Policy has entered into such contract, then upon request from the City it shall either amend that contract to include the provisions required by this Policy, or terminate that contract.

- d. Liquidated Damages. If a Contractor fails to demonstrate that it made good faith efforts as described above and it fell short of the Percentage Goals, then the City may require prime contractor to pay City as liquidated damages an amount equal to the minimum journeyman level wage (or apprentice-level wage, as applicable) under the prevailing wage classification for the Construction Trade in question, for each hour short of the Percentage Goals by a Contractor. Compliance and liquidated damages will be assessed on an annual basis, or prior to final payment to the prime contractor for work under the subcontract in question. Liquidated damages may be withheld from progress payments or final payment from the City, upon compliance determination by the City, or during compliance review.
- e. Out-of-State Workers. The Percentage Goals do not apply to Project Work hours performed by residents of states other than the State of California (and such hours shall not be considered Project Work Hours for purposes of determining satisfaction of Percentage Goals).

**SAN JOAQUIN BUILDING AND CONSTRUCTION TRADES COUNCIL
REPORT ON COMMUNITY WORKFORCE AND TRAINING AGREEMENT
December 1, 2020 City Council Meeting**

This report indicates the position of the San Joaquin Building and Construction Trades Council (“BTC”) regarding a Community Workforce and Training Agreement (“CWTA”) for the City of Tracy. Following the November 17, 2020 City Council meeting, the BTC made several further concessions. The BTC’s affiliates agreed to these concessions despite significant concerns, in an effort to reach an agreement with the City and move forward in a productive partnership. The BTC has committed to a partnership with the City from the start by having the following language within the CWTA.

Language within the CWTA:

- Helmets to Hardhats language to facilitate Veterans entry into the construction trades.
- City of Tracy may provide a list of individuals to the council on a quarterly basis who are interested in a career path in the trades. The council and unions will contact and mentor each individual and provide information to City residents, regarding entry to the programs including any and all apprentice readiness program pathways.
- At least annually the Unions will conduct a community career fair for City of Tracy residents to provide at-risk youth, veterans and others an opportunity to learn about each craft within the BTC and the process to enter a Joint Apprenticeship Training Program.
- Work with the JATC programs to host community-based organizations tours of the training centers.
- BTC will work with the corresponding JATC programs regarding information on upcoming projects and staffing needs to increase apprentice and resident enrollment.
- Work with community-based organizations to identify potentially qualified individuals to collaborate with the JATC apprentice programs.
- At least annually the BTC has committed to review the agreements effectiveness and discuss ways further to facility entry in Joint Apprenticeship Training Programs for local residents
- In the spirit of labor harmony, there will be no work stoppages, strikes, picketing and hand billing on covered projects.

The BTC’s concessions following the Nov 17th meeting were as follows:

Covered Project Threshold:

The BTC agreed to a \$2M covered project threshold and all related City language, including an additional revision by City staff on November 23, 2020.

Local Hiring:

The BTC agreed to all City language regarding Local Hiring, including a 25% goal specific to the City of Tracy, and not counting County residents (or residents of adjacent counties) toward any local hiring goal.

Note: The BTC does not believe the discussion on November 17, 2020 yielded a clear consensus from the City Council on this item.

Warranty Work:

The BTC agreed to all City language.

Dispute Resolution:

The BTC agreed to all City language.

REMAINING AREAS LACKING CONSENSUS

There are three remaining areas on which the negotiating parties lack consensus:

1. Modular language
2. Permitting apprentices from unilateral programs if City residents
3. Re-bidding in case of cost overrun

Modular Language:

City Council’s consensus at the November 17, 2020 meeting, per the City Clerk, was as follows: “City wants to include opportunity to have a discussion about the modular construction issue.”

The BTC’s position is consistent with City Council direction, and goes even further to exclude prefabricated restrooms as a concession, because they were a consistent concern raised by staff.

The BTC’s language is as follows:

Notwithstanding any other provision herein, this Agreement does not apply to factory-built prefabricated restrooms. In the event the City plans to utilize complex modular components manufactured off-site, the Council agrees to meet with the City prior to the issuance of a Request for Proposal, to discuss any City concerns and whether such work is covered under a Master Agreement and this Agreement, and/or to discuss the matter at a Review Meeting as set forth in Section 5.4 of this Agreement.

Staff’s draft contains the following language:

Notwithstanding any other provision of this Agreement, off-site construction of complex modular components that involve work within multiple prevailing wage scopes does not constitute Covered Work

BTC REQUEST: Replace highlighted Section 2.4.7 with the BTC's compromise language, which reflects the City Council's consensus at the November 17, 2020 meeting.

Permitting Apprentices From Unilateral Programs if City Residents:

The BTC's affiliates cannot agree to allow apprentices from unilateral programs. This remains a deal-breaker for the BTC.

BTC REQUEST: Remove highlighted language at Sections 1.14 and 8.1.

Re-bidding in case of cost overrun

This proposal was taken off the negotiating table by City staff prior to the COVID-19 pandemic.

In addition, the BTC's affiliates cannot agree that Covered Projects may be re-bid without CWTA coverage. Doing so undermines the agreement. This remains a deal-breaker.

BTC REQUEST: Remove highlighted Section 2.6.

RESOLUTION 2020- _____

APPROVING A COMMUNITY WORKFORCE TRAINING AGREEMENT (PROJECT LABOR AGREEMENT) WITH THE SAN JOAQUIN BUILDING TRADES COUNCIL THAT WOULD APPLY TO CERTAIN CONSTRUCTION CONTRACTS AWARDED BY THE CITY

WHEREAS, On September 3, 2019, City Council directed staff to initiate negotiations with the San Joaquin Building Trades Council (Trades Council) for a project labor agreement, also referred to as a Community Workforce Training Agreement (CWTA), that would apply to certain public works construction contracts awarded by the City of Tracy, and

WHEREAS, The CWTA is a pre-hire collective bargaining agreement between the City and the CWTA that establishes key terms and conditions of employment on City capital improvement (construction) projects to facilitate the completion of said projects in a timely and successful manner while facilitating the training and employment of Tracy residents, and

WHEREAS, The City and Trades Council have negotiated terms of a CWTA that are consistent with the requirements of Public Contract Code section 2500, including a guarantee of no strikes or work stoppages, and language asserting that all qualified union and non-union contractors may bid and be awarded construction contracts, and

WHEREAS, In order to protect the City’s proprietary interests and advance the City’s policy goals with regard to construction of such projects, the City wishes to ensure labor peace on such projects, regardless of disputes over terms of employment, craft jurisdiction, or use of both union and non-union workers and contractors on the job, in order to avoid the expense and delay that labor disruptions might entail, and

WHEREAS, Every year the City awards contracts to construct capital improvement projects and infrastructure worth millions of dollars that are funded by taxpayer dollars. The City desires to have this investment translate into the creation of job opportunities for Tracy residents and the development of a trained and skilled workforce;

NOW, THEREFORE BE IT RESOLVED, That the City Council of the City of Tracy hereby approves the Community Workforce Training Agreement with the San Joaquin Building Trades Council presented to the Tracy City Council on December 1, 2020.

The foregoing Resolution 2020-_____ was adopted by the Tracy City Council on the 1st day of December 2020 by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

RESOLUTION 2020- _____

APPROVING A LOCAL HIRING POLICY FOR APPLICATION TO ALL CONSTRUCTION PROJECTS AWARDED BY THE CITY

WHEREAS, Every year the City awards numerous contracts to construct capital improvement projects and infrastructure worth millions of dollars that are funded by taxpayer dollars, and a substantial portion of such expenditures are dedicated to labor costs, supporting hiring, compensation, and training of workers, and

WHEREAS, Such expenditures provide a unique opportunity for the City to support career development in construction for local workers, and the City desires to have this investment translate into the creation of job opportunities for Tracy residents and the development of a trained and skilled local workforce, and

WHEREAS, Construction employment can provide a path to long-term, middle-class careers for workers without college degrees, and

WHEREAS, Public construction projects are subject to prevailing wage laws, which, in addition to establishing certain minimum compensation levels, require use of apprentices, ensuring structured training opportunities for workers new to a construction trade, and

WHEREAS, Many public entities around Northern California and the State have established local and/or disadvantaged hiring policies in public construction, to maximize opportunities for employment and training of such workers, and such public entities have operated such programs successfully for terms of years, and

WHEREAS, The City's consideration of a Community Workforce Training Agreement highlighted the need for an increased focus on development of skills and employment opportunities for local workers, and

WHEREAS, City residents face increased commute times to employment opportunities, as compared to statewide averages (Tracy average 43.5 minutes vs. California average 29.3 minutes, per U.S. Census), indicating that promotion of local jobs will have positive environmental effects, as well as increasing residents' quality of life, and

WHEREAS, The City has a particular need to direct toward its residents efforts to promote workforce development and combat poverty, since, in comparison to the State of California, the City has a lower percentage of residents possessing bachelor's degrees, and

WHEREAS, The attached Local Hiring Policy: (i) establishes percentage goals for each contractor of 25% overall utilization of Tracy residents and 25% of apprentice hours to be worked by new local apprentices; (ii) allows a contractor to demonstrate compliance with the policy by demonstrating either satisfaction of such goals, or that it took specified "good faith efforts" steps to identify and retain local workers in an attempt to satisfy such goals; and (iii) establishes monitoring and enforcement provisions that can be implemented by staff as appropriate to advance the City's policy goals in the context of active construction projects;

NOW, THEREFORE BE IT RESOLVED, That the City Council of the City of Tracy hereby approves the Local Hiring Policy and directs staff to include it as a term of prime contracts for capital improvement projects with staff having authority to make technical amendments on an administrative basis, as the policy is implemented over time.

* * * * *

The foregoing Resolution 2020-_____ was adopted by the Tracy City Council on the 1st day of December 2020 by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 3.D

REQUEST

APPROVING AN AMENDMENT TO THE EMPLOYMENT AGREEMENT BETWEEN JENNY HARUYAMA AND THE CITY OF TRACY RELATING TO COMPENSATION AND BENEFITS TO AUTHORIZE COST OF LIVING ADJUSTMENTS PROVIDED TO EMPLOYEES COVERED BY THE DEPARTMENT HEAD COMPENSATION AND BENEFIT PLAN

EXECUTIVE SUMMARY

The Employment Agreement between City Manager Jenny Haruyama and the City of Tracy is being retroactively amended effective July 1, 2020 to correct the omission of language in the original employment agreement to provide Cost of Living Adjustments provided to other employees covered by the most currently adopted Department Head Compensation and Benefit Plan earned on or after July 1, 2020.

DISCUSSION

On March 19, 2019 the City Council approved an Employment Agreement (Agreement) with Jenny Haruyama to serve as the City Manager. The Agreement omitted a standard provision providing cost of living adjustments consistent with those provided to other employees covered by the Department Head Compensation and Benefit Plan. Department Heads received cost of living adjustments on July 1, 2020 similar to the rest of the City's represented employees. This language provides parity with those adjustments and helps maintain the integrity of the compensation plan. Therefore, Section 3 "Compensation and Benefits" of the Agreement is being added to include item "K. Cost of Living Adjustments". Upon approval of the amendment, City Manager will be retroactively eligible for the July 1, 2020 cost of living adjustment.

STRATEGIC PLAN

This agenda item supports the City's Governance Strategic Priority:

Governance Strategy

Purpose: To enhance fiscal stability, retain and attract new talent, improve the use of technology, and enhance transparency for the betterment for the Tracy community.

FISCAL IMPACT

Costs associated with the amendment to the employment agreement were included in the adopted budget for FY 2020-21.

RECOMMENDATION

Staff recommends that City Council adopt a resolution approving a retroactive amendment to the employment agreement between Jenny Haruyama and the City of Tracy relating to compensation and benefits to provide cost of living adjustments earned on or after July 1, 2020 provided to other employees covered by the most currently adopted Department Head Compensation and Benefit Plan.

Prepared by: Kimberley Murdaugh, Human Resources Director

Reviewed by: Karin Schnaider, Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Leticia Ramirez, City Attorney

Attachment A: Amended Employment Agreement Between Jenny Haruyama and the City of Tracy

AMENDMENT TO EMPLOYMENT AGREEMENT BETWEEN
JENNY HARUYAMA AND THE CITY OF TRACY

This Amendment to an Employment Agreement (hereinafter "Amendment") is made and entered into between the City of Tracy, a municipal corporation ("CITY"), and Jenny Haruyama, an individual ("EMPLOYEE") both of whom agree as follows:

RECITALS:

- A. On March 19, 2019, the City Council approved an Employment Agreement ("Agreement") with Jenny Haruyama to serve as City Manager.
- B. The Agreement omitted a provision providing Cost of Living Adjustments ("COLAs").
- C. This Amendment seeks to retroactively amend the Agreement to provide COLAs provided to other employees covered by the most currently adopted Department Head Compensation and Benefit Plan earned on or after July 1, 2020.

NOW, THEREFORE, in consideration of the faithful performance of the terms and conditions set forth below, the parties agree as follows:

1. **Incorporation by Reference.** This Amendment incorporates by reference all terms set forth in the Agreement, unless specifically modified by this Amendment. The terms which are not specifically modified by this Amendment will remain in effect.
2. **Terms of Amendment.** The following language is hereby added as subsection K of Section 3 Compensation and Benefits:

"K. **COLAs.** CITY agrees to increase the base salary automatically with any Cost of Living Adjustments provided to other employees covered by the most currently adopted Department Heads Compensation and Benefits Plan; retroactively effective for MOU benefits earned on or after July 1, 2020."
3. **Modifications.** This Amendment may not be modified orally or in any manner other than by an agreement in writing signed by both parties, in accordance with the requirements of the Agreement.
4. **Severability.** If any term of this Amendment is held invalid by a court of competent jurisdiction, the Amendment shall be construed as not containing that term, and the remainder of this Amendment shall remain in effect.
5. **Signatures.** The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Amendment. This Amendment shall inure to the benefit of and be binding upon the parties and their respective successors and assigns.

CITY OF TRACY (EMPLOYER)

JENNY HARUYAMA (EMPLOYEE)

Robert Rickman, Mayor

Jenny
Haruyama

Digitally signed by Jenny
Haruyama
Date: 2020.11.23 10:34:02
-08'00'

Jennifer D. Haruyama

Dated: _____

Dated: 11/23/2020

Amendment to Employment
Agreement with Jenny Haruyama
Page 2 of 2

ATTEST:

Adrienne Richardson, City Clerk

Dated: _____

APPROVED AS TO FORM:

Leticia Ramirez, City Attorney

Dated: _____

RESOLUTION 2020 - _____

APPROVING A RETROACTIVE AMENDMENT TO THE EMPLOYMENT AGREEMENT BETWEEN JENNY HARUYAMA AND THE CITY OF TRACY RELATING TO COMPENSATION AND BENEFITS TO PROVIDE COST OF LIVING ADJUSTMENTS PROVIDED TO EMPLOYEES COVERED BY THE DEPARTMENT HEAD COMPENSATION AND BENEFIT PLAN EARNED ON OR AFTER JULY 1, 2020

WHEREAS, The City approved an Employment Agreement (Agreement) with Jenny Haruyama on March 19, 2019 to hire Jenny Haruyama as its City Manager, and

WHEREAS, The Agreement omitted a standard provision providing cost of living adjustments consistent with those provided to other employees covered by the Department Head Compensation and Benefit Plan, and

WHEREAS, All Department Heads received cost of living adjustments on July 1, 2020 and amending the Agreement to make City Manager eligible for that adjustment to ensure parity and maintains the integrity of the compensation plan, and

NOW, THEREFORE, BE IT RESOLVED, That City Council of the City of Tracy hereby approves an amendment to the Employment Agreement between Jenny Haruyama and the City of Tracy relating to compensation and benefits earned on or after July 1, 2020.

The foregoing Resolution 2020 - _____ was adopted by the Tracy City Council on the 1st day of December 2020 by the following vote:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

ABSTAIN: COUNCIL MEMBERS

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 3.E

REQUEST

APPROVING AN AMENDMENT TO THE EMPLOYMENT AGREEMENT BETWEEN LETICIA RAMIREZ AND THE CITY OF TRACY RELATING TO COMPENSATION AND BENEFITS TO AUTHORIZE COST OF LIVING ADJUSTMENTS PROVIDED TO EMPLOYEES COVERED BY THE DEPARTMENT HEAD COMPENSATION AND BENEFIT PLAN

EXECUTIVE SUMMARY

The Employment Agreement between City Attorney Leticia Ramirez and the City of Tracy is being retroactively amended effective July 1, 2020 to correct the omission of language in the original employment agreement to provide Cost of Living Adjustments provided to other employees covered by the most currently adopted Department Head Compensation and Benefit Plan earned on or after July 1, 2020.

DISCUSSION

On October 15, 2019 the City Council approved an Employment Agreement (Agreement) with Leticia Ramirez to serve as the City Attorney. The Agreement omitted a standard provision providing cost of living adjustments consistent with those provided to other employees covered by the Department Head Compensation and Benefit Plan. Department Heads received cost of living adjustments on July 1, 2020 similar to the rest of the City's represented employees. This language provides parity with adjustments to the compensation for other executive staff and is necessary to maintain the integrity of the compensation plan. Therefore, Section 3 "Compensation and Benefits" of the Agreement is being added to include item "K. Cost of Living Adjustments". Upon approval of the amendment, the City Attorney will be retroactively eligible for the July 1, 2020 cost of living adjustment.

STRATEGIC PLAN

This agenda item supports the City's Governance Strategic Priority:

Governance Strategy

Purpose: To enhance fiscal stability, retain and attract new talent, improve the use of technology, and enhance transparency for the betterment for the Tracy community.

FISCAL IMPACT

Costs associated with the amendment to the employment agreement were included in the adopted budget for FY 2020-21.

RECOMMENDATION

Staff recommends that City Council adopt a resolution approving a retroactive amendment to the employment agreement between Leticia Ramirez and the City of Tracy relating to compensation and benefits to provide cost of living adjustments earned on or after July 1, 2020 provided to other employees covered by the most currently adopted Department Head Compensation and Benefit Plan.

Prepared by: Kimberly Murdaugh, Human Resources Director

Reviewed by: Karin Schnaider, Finance Director
Bianca Rodriguez, Assistant City Attorney
Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

Attachment A: Amended Employment Agreement Between Leticia Ramirez and the City of Tracy

AMENDMENT TO EMPLOYMENT AGREEMENT BETWEEN
LETICIA RAMIREZ AND THE CITY OF TRACY

This Amendment to an Employment Agreement (hereinafter "Amendment") is made and entered into between the City of Tracy, a municipal corporation ("CITY"), and Leticia Ramirez, an individual ("EMPLOYEE") both of whom agree as follows:

RECITALS

- A. On October 15, 2019, the City Council approved an Employment Agreement ("Agreement") with Leticia Ramirez to serve as City Attorney.
- B. The Agreement omitted a provision providing Cost of Living Adjustments ("COLAs").
- C. This Amendment seeks to retroactively amend the Agreement to provide COLAs earned on or after July 1, 2020 provided to other employees covered by the most currently adopted Department Head Compensation and Benefit Plan.

NOW, THEREFORE, in consideration of the faithful performance of the terms and conditions set forth below, the parties agree as follows:

1. **Incorporation by Reference.** This Amendment incorporates by reference all terms set forth in the Agreement, unless specifically modified by this Amendment. The terms which are not specifically modified by this Amendment will remain in effect.
2. **Terms of Amendment.** The following language is hereby added as subsection K of Section 3 Compensation and Benefits:

"K. **COLAs.** CITY agrees to increase the base salary automatically with any Cost of Living Adjustments provided to other employees covered by the most currently adopted Department Heads Compensation and Benefits Plan; retroactively effective for Cost of Living Adjustments earned on or after July 1, 2020."
3. **Modifications.** This Amendment may not be modified orally or in any manner other than by an agreement in writing signed by both parties, in accordance with the requirements of the Agreement.
4. **Severability.** If any term of this Amendment is held invalid by a court of competent jurisdiction, the Amendment shall be construed as not containing that term, and the remainder of this Amendment shall remain in effect.
5. **Signatures.** The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Amendment. This Amendment shall inure to the benefit of and be binding upon the parties and their respective successors and assigns.

CITY OF TRACY (EMPLOYER)

LETICIA RAMIREZ (EMPLOYEE)

Robert Rickman, Mayor

Leticia Ramirez

Dated: _____

Dated: 11/23/2020

 Digitally signed by Leticia M. Ramirez
Date: 2020.11.23 10:57:35 -08'00'

Amendment to Employment
Agreement with Leticia Ramirez
Page 2 of 2

ATTEST:

Adrienne Richardson, City Clerk

Dated: _____

APPROVED AS TO FORM:

Bianca Rodriguez, Assistant City Attorney

Dated: _____

RESOLUTION 2020 - _____

APPROVING A RETROACTIVE AMENDMENT TO THE EMPLOYMENT AGREEMENT BETWEEN LETICIA RAMIREZ AND THE CITY OF TRACY RELATING TO COMPENSATION AND BENEFITS TO PROVIDE COST OF LIVING ADJUSTMENTS PROVIDED TO EMPLOYEES COVERED BY THE DEPARTMENT HEAD COMPENSATION AND BENEFIT PLAN EARNED ON OR AFTER JULY 1, 2020

WHEREAS, The City approved an Employment Agreement (Agreement) with Leticia Ramirez on October 15, 2019 to hire Leticia Ramirez as its City Attorney, and

WHEREAS, The Agreement omitted a standard provision providing cost of living adjustments consistent with those provided to other employees covered by the Department Head Compensation and Benefit Plan, and

WHEREAS, All Department Heads received cost of living adjustments on July 1, 2020 and amending the Agreement to make the City Attorney eligible for that adjustment ensures parity and maintains the integrity of the compensation plan, and

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby approves an amendment to the Employment Agreement between Leticia Ramirez and the City of Tracy relating to compensation and benefits earned on or after July 1, 2020.

The foregoing Resolution 2020 - _____ was adopted by the Tracy City Council on the 1st day of December 2020 by the following vote:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

ABSTAIN: COUNCIL MEMBERS

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 3.F

REQUEST

DISCUSS AMENDING THE COUNCIL CODE OF CONDUCT TO ADDRESS CAMPAIGN ACTIVITIES AND PROVIDE DIRECTION TO STAFF

EXECUTIVE SUMMARY

On September 1, 2020, Council Member Rhodesia Ransom, with a second from Mayor Pro Tem Young requested that a discussion regarding amending the Council Code of Conduct be agendaized to discuss campaign activities, including acts of those affiliated with a Council member's campaign.

DISCUSSION

Commencing in 2018, the City Council discussed the topic of Council norms and values with the goal of developing an ethics/conduct policy. In June 2019, the San Joaquin County Civil Grand Jury issued a report (Case No. 0418) on its investigation of the Tracy City Council. The report recommended the Council adopt an ethics policy to guide its conduct and also found that "unethical conduct" during Council campaigns "further damaged Council members' ability to work together." On July 16, 2019, Council unanimously agreed to develop and adopt an ethics/code of conduct policy.

On October 15, 2019, the Tracy City Council adopted a Code of Conduct ("Code") to outline the roles and responsibilities of Council and staff, and establish norms and values relating to ethics and conduct by Council, City Commissioners, and staff. The Code was amended on July 21, 2020 to add language regarding Council's participation in community messaging/public relations activities (Section 2.1.6) and City-issued mass communications 60 days prior to an election (Section 3.4.6.1).

The Code does not specifically address campaign activities. Various sections such as 3.2.2 and 3.4.5 reference compliance with laws including campaign laws and the prohibition on the use of public resources for political purposes. The Code applies to all Council members upon entering office which occurs once newly elected Council members are sworn into office. Thus, the Code does not apply to non-incumbent Council candidates, meaning candidates who do not hold a Council seat.

All candidates for City offices, including incumbents, are encouraged to subscribe to the "Code of Fair Campaign Practices" in accordance with Elections Code section 20400 et seq. (Attachment B). Section 20400 of the Elections Code states the following:

"The Legislature declares that the purpose of this chapter is to encourage every candidate for public office in this state to subscribe to the Code of Fair Campaign Practices.

It is the ultimate intent of the Legislature that every candidate for public office in this state who subscribes to the Code of Fair Campaign Practices will follow the basic principles of decency, honesty, and fair play in order that, after vigorously contested, but fairly conducted campaigns, the citizens of this state may exercise their constitutional right to vote, free from dishonest and unethical practices which tend to prevent the full and free expression of the will of the voters. The purpose in creating the Code of Fair Campaign Practices is to give voters guidelines in determining fair play and to encourage candidates to discuss issues instead of untruths or distortions.”

Section 20440 of the Election Code contains the language of the Code of Fair Campaign Practices. The City Clerk, who serves as the City’s election official, provides all candidates seeking a City elected position and individuals filing paperwork for an independent expenditure committee with the Code of Fair Campaign Practices. Subscribing to or endorsing the Code of Fair Campaign Practices is completely voluntary.

FISCAL IMPACT

There is no fiscal impact related to this update.

STRATEGIC PLAN

This agenda item supports the City of Tracy’s Governance Strategic Priority, Goal #2 to encourage the development of good governance policies.

RECOMMENDATION

It is recommended that the City Council discuss amending the Code of Conduct to include language regarding campaign activities and provide direction to staff.

Prepared by: Leticia Ramirez, City Attorney

Reviewed by: Adrienne Richardson, City Clerk

Approved by: Jennifer D. Haruyama, City Manager

ATTACHMENTS

A - City Council Code of Conduct – last amended on July 21, 2020

B – Code of Fair Campaign Practices



**CITY COUNCIL
CODE OF CONDUCT**

Adopted on October 15, 2019 by Resolution No. 2019-203

Amended by Resolution No. 2020-133

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- A. Tracy Municipal Code (TMC) 2.08.060
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- F. Ordinance 1094
- G. Resolution No. 2007-075 – Council Travel Procedures

ATTACHMENT 1 – City Council Code of Conduct Norms and Values Statement

ATTACHMENT 2 – Council Advisory Body Norms and Values Statement

CHAPTER 1 FORM OF GOVERNMENT

1.1 Preamble

The legal responsibilities of the Tracy City Council are set forth by applicable state and federal laws. In addition, the City Council has adopted regulations, including this Code of Conduct Policy, that hold Council Members to standards of conduct above and beyond what is required by law. This Policy is written with the assumption that Council Members, through training, are aware of their legal and ethical responsibilities as elected officials.

1.2 Form of Government

The City of Tracy operates under a Council-Manager form of government as prescribed by the Tracy Municipal Code ("TMC"). Accordingly, the Mayor and members of the Council are elected at-large, provide legislative direction, set City policy, and ultimately answer to the public.

1.3 City Manager Appointment, Power and Duties

The City Manager is appointed by a majority vote of the Council and serves as the City's chief administrative officer and is responsible for directing the day-to-day operations of the City and implementing policy direction per Section 2.08.060 of the TMC (attached). Specifically, Section 2.08.070 of the TMC prohibits interference by either the City Council or any of its members with the City Manager's execution of their powers or duties:

- The Council nor a member shall interfere with the appointment by the City Manager of any of the department heads or any person to any office or employment.
- Additionally, the Council nor any of its members shall interfere with the City Manager's power to remove any of those persons.
- Neither the Council nor any of its members shall give orders to any subordinate of the City Manager, either publicly or privately.
- The City Council nor any of its members shall interfere with the administration of the City Attorney or give orders to the subordinates of the City Attorney.
- The City Manager and his/her senior staff shall conduct themselves in accordance with the International City Management Association (ICMA) Code of Ethics.

The Council and its members shall deal only with the City Manager with respect to the administrative services or operational matters of the City.

1.4 City Attorney Appointment and Responsibilities

The City Attorney is appointed by a majority vote of the Council. Per Section 12.08.40, the City Attorney is responsible for approving as to form all subdivision improvement agreements and security, deferred improvement agreements, liability agreements and insurance, and all governing documents for a community apartment project, condominium, stock cooperative, or conversion.

- The City Attorney and his/her senior staff shall at all times conduct themselves in accordance with the California Rules of Professional Conduct, established by the California State Bar, and the Ethical Principles for City Attorneys, adopted by the League of California Cities' City Attorneys Department.

CHAPTER 2 COUNCIL POWERS AND RESPONSIBILITIES

2.1 City Council Generally

- 2.1.1 The City Council has the power, in the name of the City, to do and perform all acts and things appropriate to a municipal entity and the general welfare of its inhabitants, which are not specifically prohibited by the constitution, and/or State or Federal laws.
- 2.1.2 The Council acts as a body. Council policy and directives are established by majority vote, unless otherwise required by state law. A decision of the majority binds the Council to a course of action.
- 2.1.3 No Council Member has extraordinary powers beyond those of other members (except as may otherwise be provided in State law). All members, including the Mayor, have equal powers.
- 2.1.4 No member of the Council is permitted to hold any other City office or City employment.
- 2.1.5 Council Members are appointed by the Council body to serve on various committees, including Council standing and ad hoc committees, and third agency member committees.
- 2.1.6 Based on available resources as determined by the City Manager, unless directed by the City Council, the Council as a body may participate in public relations activities regarding issues or topics pertaining to City business or that affect the community at-large. This may include, but is not limited to the dissemination of information via press release, video, social media, and/or other means of communication.

2.2 Mayor and Mayor Pro Tem - Appointment, Power, and Duties

- 2.2.1 The Mayor is directly elected by the voters to serve a two-year term. The selection of the Mayor Pro Tem occurs every two years in December

after the City receives the certified results from the County Registrar of Voters electing a Mayor.

2.2.2 A Mayor Pro Tem is appointed by the Council and can be replaced at any time by a majority vote of the Council.

2.2.3 The Mayor is the presiding officer of the City Council. In the Mayor's absence, the Mayor Pro Tem shall perform the duties of the Mayor.

2.2.4 The Mayor is the official head of the City for all ceremonial purposes.

2.2.5 Per Government Code, the Mayor, with the approval of the City Council, shall (a) execute official documents (Section 40602b) and (b) make appointments to city boards, commissions, and committees unless otherwise specifically provided by statute (Section 40605).

2.2.6 The Mayor is authorized to send letters stating the City's official position to appropriate legislators as long as it is consistent with the Council's Legislative Policy.

2.2.7 The Mayor may perform other duties consistent with the mayoral office as prescribed by the Tracy Municipal Code, California Government Code, or as determined by the Council.

2.2.8 The Mayor does not possess any power of veto.

2.2.9 The Mayor coordinates with the City Manager in the development of agendas for meetings of the City Council. Once the agenda is published, the City Manager may withdraw an item. Additionally, the Mayor may rearrange the order of business on the agenda.

2.3 Council Actions

2.3.1 Legislative actions by the City Council can be taken by means of ordinance, resolution, or minute action (motion) duly made and passed by the majority (unless otherwise required).

- 2.3.2 Under Council protocols and procedures, an item may be placed on the agenda if requested by two Council Members. The request can be made during open session or outside of a Council meeting.
- 2.3.3 Public actions of the Council are recorded in the minutes of the City Council meeting. The City Clerk is required to make a record only of business actually passed upon by a vote of the Council and is not required to record any remarks of Council Members, except at the special request of a Council Member and with the consent of the Council.
- 2.3.4 Actions of the Council concerning confidential property, personnel, and/or legal matters of the City are to be reported consistent with State law.

2.4 Council Member Committees

- 2.4.1 The City Council may organize itself into standing and/or special/ ad hoc subcommittees to facilitate Council review of policy matters and action.
- 2.4.2 The Council may create or dissolve standing and/or special/ad hoc sub committees at any time by an affirmative vote of a majority of the Council. The Council will endeavor to rotate appointments to standing and ad hoc standing committees to ensure equitable participation.
- 2.4.3 The Council appoints and removes members to standing and ad hoc committees.
- 2.4.4 The Council also appoints and removes Council Members to third member agencies.
- 2.4.5 It is a best practice for non-appointed Council Members not to attend Council standing Committees to avoid the appearance of impropriety.

CHAPTER 3

LEGAL AND ETHICAL STANDARDS

3.1 Preamble

The residents and businesses of Tracy are entitled to have fair, ethical, and accountable local government. Such a government requires that public officials:

- Comply with both the letter and the spirit of the laws and policies affecting operations of the government;
- Be independent, impartial, and fair in their judgment and actions;
- Use their public office for the public good, not for personal gain; and
- Conduct public deliberations and processes openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Tracy City Council has adopted this Code of Conduct and the Norms and Values Statement (Attachment) to encourage public confidence in the integrity of local government and its fair and effective operation.

3.2 Public Interest

- 3.2.1 Recognizing that stewardship of the public interest must be their primary concern, Council Members shall work for the common good of the people of Tracy and not for any private or personal interest. Council Members must endeavor to treat all members of the public and issues before them in a fair and equitable manner.
- 3.2.2 Council Members shall comply with the laws of the nation, the State of California, and the City in the performance of their public duties. These laws include, but are not limited to: the United States and California constitutions; the Tracy Municipal Code; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.

3.3 Conduct

- 3.3.1 Council Members shall refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of other members of the City Council, boards, commissions, committees, staff, or the public.
- 3.3.2 Council Member duties shall be performed in accordance with the processes and rules of order established by the City Council.
- 3.3.3 Council Members shall inform themselves on public issues, listen attentively to public discussions before the body, and focus on the business at hand.
- 3.3.4 Council decisions shall be based upon the merits and substance of the matter at hand.
- 3.3.5 It is the responsibility of Council Members to publicly share substantive information that is relevant to a matter under consideration that they have received from sources outside of the public decision-making process with all other Council Members and the public prior to taking action on the matter.
- 3.3.6 Council Members shall not attend internal staff meetings or meetings between City staff and third parties unless authorized by the City Manager.
- 3.3.7 Policy Role
 - 3.3.7.1 Council Members shall respect and adhere to the Council-Manager structure of the Tracy City government as provided in State law and Tracy Municipal Code.

3.3.7.2 Council Members shall support the maintenance of a positive and constructive environment for residents, businesses, and City employees.

3.3.8 Implementation

3.3.8.1 This Code of Conduct shall be included in the regular orientations for City Council candidates. Current Council Members, including those entering office upon election shall sign a City Council Norms and Values Statement (**Attachment 1**) affirming they have read and understand this Tracy City Council Code of Conduct.

3.4 Conflict of Interest

3.4.1 In order to assure their independence and impartiality on behalf of the public good, Council Members are prohibited from using their official positions to influence government decisions in which they have a financial interest or where they have an organizational responsibility or a personal relationship that would present a conflict of interest under applicable State law.

3.4.2 In accordance with State law, Council Members must file an annual written disclosure (Form 700) of their economic interests.

3.4.3 Council Members shall not take advantage of services or opportunities for personal gain by virtue of their public office that are not available to the public in general.

3.4.4 Council Members shall respect and preserve the confidentiality of information provided to them concerning the confidential matters of the City. They must neither disclose confidential information without proper legal authorization nor use such information to advance the personal, financial, or private interests of themselves or others.

3.4.5 City Council Members should avoid any action that could be construed as, or create the appearance of, using public office for personal gain, including use of City stationery or other City resources to obtain or promote personal business or political campaigns.

3.4.6 Public resources not available to the general public (e.g., City staff time, equipment, supplies, or facilities) shall not be used by Council Members for private gain and, personal and political purposes.

3.4.6.1 A mass communication using City resources shall not be sent within the 60 days preceding an election that feature a currently elected or appointed official of the City of Tracy whose name will appear on the ballot at that election. When no currently elected or appointed official is otherwise designated during the 60 days preceding an election, communication of official matters shall be made by the City Manager or designee.

3.4.7 In keeping with their role as stewards of the public interest, Council Members shall not appear on behalf of the private interests of a third party before the City Council or any board, commission, or committee or proceeding of the City, except as permitted by law.

3.4.8 To the best of their ability, Council Members shall represent the official policies and positions of the City Council. When presenting their personal opinions or positions publicly, members shall explicitly state they do not represent the Council or the City.

3.4.9 Tracy City Municipal Code Provisions

3.4.9.1 Financial Interests in City Contracts Prohibited.

Section 2.04.050 of the Municipal Code prohibits members of the Council, appointed employees, the City Treasurer and members of City boards and commissions during their term of office, to contract or subcontract with the City.

Section 2.04.050 also requires a City Council Member to recuse (as defined by the Fair Political Practices Commission) themselves

from any vote regarding any Memorandum of Understanding between the City and any lawfully recognized bargaining unit in which a City Council member has an immediate family member. "Immediate family member" is defined as "any and/or all spouses, partners or adult children, whether they live in a single household or not" under this section of the TMC.

3.4.9.2 Nepotism.

The City of Tracy's Nepotism Policy prohibits the initial appointment of an individual to a position within the City of Tracy who has a marital or familial relationship, as defined in Section 4 of the Policy, with any member the City Council, City Manager, or City Attorney.

3.4.9.3 Use of City Property for Private Purposes by City Official/ Employee.

The use for private gain or advantage of City time, facilities, equipment and supplies, prestige, influence, or information obtained through one's City office or employment. No City-owned facilities, equipment or supplies, including autos, trucks, instruments, tools, supplies, machines, badges, identification cards, or other items which are the property of the City shall be used by an employee for personal or non-City business reasons except upon prior written approval of the City Manager. (City Personnel Rule 9.2 (d))

3.4.9.4 Political Activities Prohibited; Discrimination.

For informational purposes, the following provisions apply to City and contract employees and consultants:

1. No employee shall, while in uniform or during the employee's working hours, take an active part in any municipal or other political campaign.

2. No employee shall, while in uniform or during the employee's work hours, seek or accept contributions for or against a candidate or issue.
3. An employee may not seek or accept signatures to any petition for or against any such candidate or issue during their work hours.
4. No person in the classified service shall be employed, promoted, demoted, or discharged or in any way favored or discriminated against because of political opinions or affiliations or on any other basis protected by state and/or federal law.

3.4.10 California State Law Regarding Conflicts

While not enforceable by the City, there are four key areas of California State law that regulate the ethics of public officials.

3.4.10.1 Constitutional prohibitions

State law strictly forbids elected and appointed public officials from accepting free or discounted travel from transportation companies. The penalty for a violation includes the forfeiture of office.

3.4.10.2 Contractual conflicts of interest

This prohibition, found in Government Code Section 1090, applies to elected and appointed officials as well as other City staff members. It prohibits the City from entering into a contract if one of its members (i.e., a Council Member) is financially interested in the contract. If the bar (or prohibition) applies, the agency is prohibited from entering

into the contract whether or not the official with the conflict participates or not. In some limited circumstances, officials are allowed to disqualify themselves from participation and the agency may enter into the contract.

Financial interest has been defined to include employment, stock/ ownership interests, and certain membership on the board of directors of a for-profit or nonprofit corporation, among others. Violations can be charged as a felony. A person convicted of violating Section 1090 is prohibited from ever holding public office in the State.

3.4.10.3 Political Reform Act - Conflicts of Interest

The Political Reform Act (PRA) was adopted by the voters in 1974 and is the primary expression of the law relative to conflicts of interest (and campaign finance) in California. The Act created the Fair Political Practices Commission (FPPC), a five-member State board which administers the Act.

The Act and the regulations are complex and are continuously subjected to official interpretation. The following synopsis of key parts of the Act will be helpful in spotting issues; however, the FPPC and/or City Attorney should be consulted for further advice and clarification.

With respect to conflicts of interest, the FPPC has promulgated a regulation which establishes an analysis which assists in determining whether a public official is participating in a government decision in which they have a qualifying financial interest and whether it is reasonably foreseeable that the decision will have a material financial effect on the public official's financial interest, which is distinguishable from the effect the decision will have on the public generally.

3.4.10.3.1 Political Reform Act-Enforcement

The FPPC can assess administrative fines and penalties for violation of the Act. The District Attorney and the State Attorney General may prosecute violators as civil or criminal matters. Violators may also be removed from office pursuant to Government Code Section 3060.

3.4.10.4 Common Law Conflicts of Interest

This is the judicial expression of the public policy against public officials using their official position for private benefit. An elected official bears a fiduciary duty to exercise the powers of office for the benefit of the public and is not permitted to use those powers or their office for the benefit of any private interest. This common law doctrine continues to survive the adoption of various statutory expressions of conflict law.

3.4.10.5 Appearance of Impropriety

When participation in action or decision-making as a public official does not implicate the specific statutory criteria for conflicts of interest; however, participation still does not “look” or “feel” right, that public official has probably encountered the appearance of impropriety.

For the public to have faith and confidence that government authority will be implemented in an even-handed and ethical manner, public officials may need to step aside even though no technical conflict exists. An example is where a long-term nonfinancial affiliation exists between the public official and an applicant or the applicant is related by blood or marriage to the official. For the good of the community, members who encounter the appearance of impropriety should step aside.

3.5 AB 1234-Required Ethics Training

AB 1234 requires elected or appointed officials who are compensated for their service or reimbursed for their expenses to take two hours of training in ethics principles and laws every two years. Those who enter office after January 1, 2006 must receive the training within a year of starting their service. They must then receive the training every two years after that.

The training must cover general ethics principles relating to public service and ethics laws including:

- Laws relating to personal financial gain by public officials (including bribery and conflict of interest laws);
- Laws relating to office-holder perks, including gifts and travel restrictions, personal and political use of public resources, and prohibitions against gifts of public funds;
- Governmental transparency laws, including financial disclosure requirements and open government laws (the Brown Act and Public Records Act); Laws relating to fair processes, including fair contracting requirements, common law bias requirements, and due process

NOTE: State laws governing conflicts of interest are written to ensure that actions are taken in the public interest. These laws are very complex. Council Members should consult with the City Attorney, their own attorney, or the Fair Political Practices Commission for guidance in advance.

3.6 Code of Conduct Compliance and Enforcement

Consistent with this oath is the requirement of this Council policy to comply with the laws as well as report violations of the laws and policy of which they become aware.

3.6.1 A request for censure of a member of the Council may be submitted to the City Manager by any member of the Council ("Initiating Member"), with the support of another Council member ("Seconding Member"). Censure is a formal statement or resolution by the Council officially reprimanding a Council Member for conduct that may include sanctions. It is the intent of the Council

that a request for censure be used only for significant and/or repeated violations of this Code of Conduct and not a means to address politically or personally motivated disagreements amongst Council.

The request shall contain the specific charges on which the proposed censure is based. The City Manager shall deliver a copy of the request for censure and the charges to each member of the Council at least 72 hours after receipt of the request. The request for censure shall first be considered by a neutral mediator selected by the Presiding Judge of the Superior Court of California of the County of San Joaquin. The neutral mediator shall conduct an investigation and prepare a written analysis of the allegation and their preliminary findings and recommendation. Said investigation shall, at a minimum, include interviews with the Initiating Member and the member who is the subject of the request. The neutral mediator's recommendation shall be to: (a) set the matter for a censure hearing and whether censure is warranted or (b) no further action should be taken with respect to the request. The neutral mediator shall present its recommendation to the Council for its consideration and action within thirty (30) days of completing their investigation.

- 3.6.1.1 The censure request shall be agendized at the next regular Council meeting following receipt of the neutral mediator's written findings and recommendation. Council shall determine whether or not to accept the neutral mediator's recommendation. If the Council decides to set the matter for a censure hearing, it shall schedule it no sooner than two weeks after its determination to hear the matter. It may not schedule the matter during any previously scheduled excused absence of the subject Council Member. Written notice of the hearing shall be delivered in person to the member of the Council subject to the censure hearing at least ten (10) days in advance of the scheduled hearing. If the Council decides that no further action is required, Council may also request the Initiating Member either reimburse the City the cost of the neutral mediator's services from personal funds (not campaign funds), not to exceed \$2,500, or forgo a month's salary as Council Member. A report regarding the Initiating Member's compliance with that request shall be presented to Council within sixty (60) days of that request.
- 3.6.1.2 At the censure hearing, the member of the Council who is the subject of the request for censure shall be given the opportunity to make an opening and a closing statement, to call witnesses on their behalf and to question their accusers. The member subject to the charges may be represented by a person or persons of their choice whether or not an attorney at law and may have that representative speak or question

witnesses on their behalf. The questioning or cross-questioning of witness may be reasonably limited by the person chairing the hearing.

3.6.1.3 Testimony shall be taken only from witnesses having direct knowledge of facts or circumstances relevant to the specific charges under consideration. However, the rules of evidence and judicial procedure applicable in courts of law shall not be applied to this hearing, and the procedures shall be generally informal.

3.6.2 At the discretion of the Council, sanctions may be imposed as a result of a censure. These sanctions may be applied individually or in combination. They include, but are not limited to:

3.6.2.1 Public Admonishment - —A reproof or verbal warning directed to a Council Member about a particular type of behavior that violates City policy.

3.6.2.2 Revocation of Special Privileges —A revocation of a Council Member's Council Committee assignments, such as standing and ad hoc committees, regional boards and commissions, and other board/committee appointments. Other revocations may include temporary suspension of official travel, conference participation, and ceremonial titles.

3.6.3 Nothing in this Section shall limit Council's ability to informally address conduct considered to be not significant or a minor violation of this Code, which may include informal counseling from one Council member to another, and a Council member to a Council advisory body member.

CHAPTER 4 COMMUNICATIONS

4.1 Relationship/Communications with Staff

Staff serves the City Council as a whole, therefore:

- 4.1.1 A Council Member shall not direct staff in person or in writing to initiate any action, change a course of action, or prepare any report. A Council Member shall not initiate any project or study without the approval of the majority of the Council.
- 4.1.2 Requests for information and corresponding responses made by Council Members will be shared with the full Council.
- 4.1.3 Council Members shall not attempt to pressure or influence discussions, recommendations, workloads, schedules, or department priorities without first consulting with the City Manager and obtaining the approval of a majority of the Council.
- 4.1.4 When preparing for Council meetings, Council Members should direct questions ahead of time to the City Manager so that staff can provide the desired information at the Council meeting.
- 4.1.5 Any concerns by a member of the City Council regarding the behavior or work of a City employee should be directed to the City Manager privately to ensure the concern is resolved. Council Members shall not reprimand employees directly nor should they communicate their concerns to anyone other than the City Manager.
- 4.1.6 Council Members may direct routine inquiries to either the City Manager or appropriate department head.
- 4.1.7 Council Members serving on Council committees or as the City's representative to an outside agency may interact directly with City staff assigned to that effort as the City Manager's designee. The City

staff member so designated and assigned will keep the City Manager appropriately informed.

4.2 Council Relationship/Communication with Council Advisory Bodies

4.2.1 Council Members shall not attempt to pressure or influence board, commission, or committee decisions, recommendations, or priorities absent the approval of the majority of the Council.

4.2.2 It is a best practice that Council Members refrain from attending Board, Commission, and/or Committee meetings to avoid the appearance of impropriety.

4.3 Handling of Litigation and Other Confidential Information

4.3.1 All written materials and verbal information provided to Council Members on matters that are confidential and/or privileged under State law shall be kept in complete confidence to ensure that the City's position is not compromised. No disclosure or mention of any information in these materials may be made to anyone other than Council Members, the City Attorney, or City Manager.

4.3.1.1 Confidential materials provided in preparation for and during Closed Sessions shall not be retained and documents must be returned to staff at the conclusion of the Closed Session.

4.3.1.2 Council Members may not request confidential written information from staff that has not been provided to all Council Members.

4.4 Representing an Official City Position

4.4.1 City Council Members may use their title only when conducting official City business, for information purposes, or as an indication of background and expertise, carefully considering whether they are exceeding or appearing to exceed their authority.

- 4.4.2 Once the City Council has taken a position on an issue, all official City correspondence regarding that issue will reflect the Council's adopted position.
- 4.4.3 The Mayor is authorized to send letters on City letterhead stating the City's official position to appropriate legislators as long as it is consistent with the Council's Legislative Policy.
- 4.4.4 City letterhead may be used by Council Members only for official City business and/or to represent a policy action taken by the Council body.
- 4.4.5 If a member of the City Council appears before another governmental agency organization to give a statement on an issue affecting the City, the Council Member should indicate the majority position and opinion of the Council.
- 4.4.6 Personal opinions and comments may be expressed only if the Council Member clarifies that these statements do not reflect the official position of the City Council.

4.5 Quasi-Judicial Role/*Ex Parte* Contacts

The City Council has a number of roles. It legislates and makes administrative and executive decisions. The Council also acts in a quasi-judicial capacity or "like a judge" when it rules on various permits, licenses, and land use entitlements.

In this last capacity, quasi-judicial, the Council holds a hearing, takes evidence, determines what the evidence shows, and exercises its discretion in applying the facts to the law shown by the evidence. It is to these proceedings that the rule relative to *ex parte* contacts applies.

- 4.5.1 *Ex Parte* Contacts/Fair Hearings. The Council shall refrain from receiving information and evidence on any quasi-judicial matter while such matter is pending before the City Council or any agency, board, or commission thereof, except at the public hearing.

As an elected official, it is often impossible to avoid such contacts and exposure to information. Therefore, if any member is exposed to information or evidence about a pending matter outside of the public hearing, through contacts by constituents, the applicant or through site visits, the member shall disclose all such information and/or evidence acquired from such contacts, which is not otherwise included in the written or oral staff report, during the public hearing, and before the public comments period is opened.

Matters are "pending" when an application has been filed. Information and evidence gained by members via their attendance at noticed public hearings before subordinate boards and commissions are not subject to this rule.

4.6 No Attorney-Client Relationship

Council Members who consult the City Attorney, their staff, and/or attorney(s) contracted to work on behalf of the City cannot enjoy or establish an attorney-client relationship with said attorney(s) by consulting with or speaking to same. Any attorney-client relationship established belongs to the City, acting through the City Council, and as may be allowed in State law for purposes of defending the City and/or the City Council in the course of litigation and/or administrative procedures, etc.

CHAPTER 5 COUNCIL ADVISORY BODIES

5.1 Boards, Commissions, and Committees Generally

- 5.1.1 The Tracy Municipal Code establishes a Planning Commission to advise the Council on land use matters (Chapter 10.04) and a Parks and Community Services Commission (Chapter 7.16)
- 5.1.2 The rules of procedure and code of conduct that govern the City Council apply with equal force to all Council advisory boards and commissions.
- 5.1.3 The City Council may also establish by ordinance or resolution, boards, commissions, and committees to assist the Council in making its policy decisions. The City Council has the inherent power to create advisory bodies.
- 5.1.4 City boards, commissions, and committees (collectively "Council advisory bodies") provide policy recommendation to Council; they do not set or establish City policy or provide administrative direction to City staff.
- 5.1.5 City boards, commissions, and committees are advisory in nature and therefore do not represent City's official position on city matters.
- 5.1.6 Appointments to boards, commissions, and committees are made by a majority vote of the Council. Appointees to Council advisory bodies serve at the pleasure of the City Council.
- 5.1.7 The terms "board" and "commission" can be used interchangeably. Boards and commissions typically have broader policy and advisory responsibilities than committees which typically have much more focused advisory roles to the Council.

5.2 Board, Commission, and Committee Organization and Conduct

- 5.2.1 Annually, each board, commission, and committee elects one of their members to serve as the chair (presiding officer) and vice-chair.
- 5.2.2 Boards, commissions, and committees hold regular and special meetings as required. The conduct of board, commission, and committee meetings are governed by the same rules of policy and procedure as the City Council.
- 5.2.3 Boards, commissions, and committees should comply with all applicable open meeting and conflict-of-interest laws of the State.
- 5.2.4 Upon appointment or reappointment, Council advisory body members shall sign a Council Advisory Body Norms and Values statement (**Attachment 2**) affirming they have read and understand this City of Tracy City Council Code of Conduct.

5.3 Board, Commission, and Committee Appointments

- 5.3.1 Resolution No. 2004-152 establishes the board, commission, and committee appointment/selection process and requirements for residency.
- 5.3.2 The term of office for each board, commission, or committee member is 4 years, with the exception of the Measure V Residents' Oversight Committee which is 3 years.
- 5.3.3 The City Clerk provides application forms, maintains a listing of all applications received, and solicits applications when vacancies occur.

5.4 Boards, Commissions, and Committees- Vacancy and Selection/Appointment Processes

- 5.4.1 Resolution No. 2004-152 outlines procedures for filling a board, commission or committee vacancy and selection and appointment process. The Council appoints all City boards, commissions, and committee members.

5.4.2 Resignations may be submitted at any time to the City Council either directly or through the board, commission, or committee chair. Resignations are effective upon submittal.

5.5 Boards, Commissions, and Committees - Removal

A board member, commissioner, or committee member serves at the pleasure of the Council and may be removed at any time. The removal of a planning commission member must comply with TMC Section in accordance with the applicable procedure.

CHAPTER 6 COUNCIL FINANCIAL MATTERS

6.1 Compensation

6.1.1 Pursuant to Ordinance No. 1094, the Tracy Mayor and City Council receive a monthly salary. The amount is the salary limit established by the State Legislature for members of the City Council of general law cities having a population range within which the City of Tracy falls, as specified in California Government Code Section 36516(a).

6.1.2 The salary of the Mayor and City Council should be reviewed every two years.

6.2 Benefits

6.2.1 The California Government Code provides that Council Members may receive City-funded health, retirement, and other benefits. City-funded medical, dental, and life insurance plan benefits are provided. The Council Policy Providing City Paid Health Insurance for City Treasurer, City Clerk, and City Council, adopted by Resolution No. 2003-391, states that an elected official is not eligible for City-funded health benefits if the official or the official's spouse has employer-paid health insurance.

6.3 City Council Budget and Expenses

6.3.1 City Council Resolution No. 2007-075 provides policy guidance regarding Council expenditures for equipment, supplies and communications; travel; local expenses; and eligible reimbursements.

CITY OF TRACY CITY COUNCIL
NORMS AND VALUES STATEMENT

PREAMBLE

The residents and businesses of Tracy are entitled to have fair, ethical, and accountable local government. Such a government requires that public officials:

- Comply with both the letter and the spirit of the laws and policies affecting operations of the government.
- Be independent, impartial and fair in their judgment and actions.
- Use their public office for the public good, not for personal gain.
- Conduct public deliberations and processes openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Tracy City Council has adopted a Code of Conduct to encourage public confidence in the integrity of local government and its fair and effective operation.

City Council Members shall sign this Norms and Values statement upon assuming office and upon reelection to office as a symbol of each Council Member's continuing commitment to abide by the principles of this code.

1. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, Council Members shall work for the common good of the people of Tracy and not for any private or personal interest, and they will endeavor to treat all persons, claims, and transactions in a fair and equitable manner.

2. Comply with the Law

Council Members shall comply with the laws of the nation, the State of California, and the City in the performance of their public duties. These laws include, but are not limited to: the United States and California constitutions;

the Tracy City Municipal Code; laws pertaining to Council-Manager form of government, conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.

3. Conduct of Members

Council Members shall refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of other members of the City Council, boards, commissions, committees, staff, or the public.

4 Respect for Process

Council Member duties shall be performed in accordance with the processes and rules of order established by the City Council.

5. Conduct of Public Meetings

Council Members shall inform themselves of public issues, listen attentively to public discussions before the body, and focus on the business at hand.

6. Decisions Based on Merit

Council decisions shall be based upon the merits and substance of the matter at hand.

7. Communication

It is the responsibility of Council Members to share substantive information that is relevant to a matter under consideration that they have received from sources outside of the public decision-making process with all other Council Members.

8. Coordination with City Staff

Appropriate City staff should be involved when Council Members meet with officials from other agencies and jurisdictions to ensure proper staff support as needed and to keep staff informed.

9. Disclosure of Corruption

All City officials shall take an oath upon assuming office, pledging to uphold the constitution and laws of the City, the State, and the Federal government. As part of this oath, officials commit to disclosing to the appropriate authorities and/or to the City Council any behavior or activity that may qualify as corruption, abuse, fraud, bribery, or other violation of the law.

10. Conflict of Interest

In order to assure their independence and impartiality on behalf of the public good, Council Members shall not use their official positions to influence government decisions in which they have a financial interest or where they have an organizational responsibility or a personal relationship that would present a conflict of interest under applicable State law.

In accordance with the law, members shall file written disclosures of their economic interests and if they have a conflict of interest regarding a particular decision, refrain from participating in that decision unless otherwise permitted by law.

11. Gifts and Favors

Council Members shall not take advantage of services or opportunities for personal gain by virtue of their public office that are not available to the public in general. They shall refrain from accepting gifts, favors, or promises of future benefits that might compromise their independence of judgment or action or give the appearance of being compromised.

12. Confidential Information

Council Members shall respect and preserve the confidentiality of information provided to them concerning the confidential matters of the City. They shall neither disclose confidential information without proper legal authorization nor use such information to advance their personal, financial, or private interests.

13. Use of Public Resources

Public resources not available to the general public (e.g., City staff time, equipment, supplies, or facilities) shall not be used by Council Members for private gain or personal and/or campaign purposes.

14. Representation of Private Interests

In keeping with their role as stewards of the public trust, Council Members shall not appear on behalf of the private interests of a third-party before the City Council or any board, commission, or committee or proceeding of the City.

15. Advocacy

To the best of their ability, Council Members shall represent the official policies and positions of the City Council. When presenting their personal opinions or positions, members shall explicitly state that they do not represent the Council or the City.

16. Improper Influence

Council Members shall refrain from using their position to improperly influence the deliberations or decisions of City staff, boards, commissions, or committees.

17. Policy Role of Members

Council Members shall respect and adhere to the Council-Manager structure of Tracy City government as provided in State law and the City Municipal Code.

18. Positive Work Environment

Council Members shall support the maintenance of a positive and constructive environment for residents, businesses, and City employees.

19. Implementation

Ethics standards shall be included in the regular orientations for City Council candidates. Council Members entering office shall sign a statement affirming they read and understood the City of Tracy's City Council Code of Conduct.

20. Compliance and Enforcement

Council Members themselves have the primary responsibility to assure that ethical standards are understood and met and that the public can continue to have **full** confidence in the integrity of City government.

This City Council Norms and Values statement shall be considered to be a summary of the longer City Council Code of Conduct document. The City Council Code of Conduct document shall be considered to be the definitive document relating to ethical conduct by Tracy City Council Members.

I affirm that I have read and understand the City of Tracy City Council Norms and Values statement.

Signature

Date

CITY OF TRACY
COUNCIL ADVISORY BODY
NORMS AND VALUES STATEMENT

PREAMBLE

The residents and businesses of Tracy are entitled to have fair, ethical, and accountable local government. Such a government requires that public officials, including Council advisory body members:

- Comply with both the letter and the spirit of the laws and policies affecting operations of the government.
- Be independent, impartial, and fair in their judgment and actions.
- Use their public office for the public good, not for personal gain.
- Conduct public deliberations and processes openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, Council advisory body members are expected to adhere to the Code of Conduct adopted by the Tracy City Council to encourage public confidence in the integrity of local government and its fair and effective operation.

Council advisory body members shall sign this Norms and Values statement at the first meeting of the board, commission, or committee upon assuming office and, if applicable, upon reappointment to the board, commission, or committee as a symbol of each Council advisory body member's commitment to abide by the principles of this code during their term.

1. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, Council advisory body members shall work for the common good of the people of Tracy and not for any private or personal interest, and they will endeavor to treat all persons, claims, and transactions in a fair and equitable manner.

2. Comply with the Law

Council advisory body members shall comply with the laws of the nation, the State of California, and the City in the performance of their public duties. These laws include, but are not limited to: the United States and California Constitutions; the Tracy City Municipal Code; laws pertaining to the Council-

Manager form of government, conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.

3. Conduct of Council Advisory Body Members

Council advisory body members shall refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of Council Members; other members of the Council advisory body; other boards, commissions, or committees; staff; or the public.

4. Respect for Process

Council advisory body member duties shall be performed in accordance with the processes and rules of order established by the City Council.

5. Conduct of Public Meetings

Council advisory body members shall inform themselves of public issues, listen attentively to public discussions before the body, and focus on the business at hand.

6. Decisions Based on Merit

Council advisory body members shall base their decisions upon the merits and substance of the matter at hand.

7. Communication

It is the responsibility of Council advisory body members to share substantive information that is relevant to a matter under consideration that they have received from sources outside of the public decision-making process with all other Council advisory body members.

8. Coordination with City Staff

Appropriate City staff should be involved when Council advisory body members meet with officials from other agencies and jurisdictions to ensure proper staff support, as needed, and to keep staff informed.

9. Disclosure of Corruption

All City officials shall take an oath upon assuming office, pledging to uphold the Constitution and laws of the City, the State, and the Federal government. As part of this oath, officials commit to disclosing to the appropriate authorities and/or to the City Council any behavior or activity that may qualify as corruption, abuse, fraud, bribery, or other violation of the law.

10. Conflict of Interest

In order to assure their independence and impartiality on behalf of the public good, Council advisory body members shall not use their official positions to influence government decisions in which they have a financial interest or where they have an organizational responsibility or a personal relationship that would present a conflict of interest under applicable State law.

In accordance with the law, members shall file written disclosures of their economic interests and if they have a conflict of interest regarding a particular decision, refrain from participating in that decision unless otherwise permitted by law.

11. Gifts and Favors

Council advisory body members shall not take advantage of services or opportunities for personal gain by virtue of their public office that are not available to the public in general. They shall refrain from accepting gifts, favors, or promises of future benefits that might compromise their independence of judgment or action or give the appearance of being compromised.

12. Confidential Information

Council advisory body members shall respect and preserve the confidentiality of information provided to them concerning the confidential matters of the City. They shall neither disclose confidential information without proper legal authorization nor use such information to advance their personal, financial, or private interests.

13. Use of Public Resources

Public resources not available to the general public (e.g., City staff time, equipment, supplies, or facilities) shall not be used by Council advisory body members for private gain or personal and/or campaign purposes.

14. Representation of Private Interests

In keeping with their role as stewards of the public trust, Council advisory body members shall not appear on behalf of the private interests of a third party before the City Council or any board, commission, or committee, or proceeding of the City.

15. Advocacy

To the best of their ability, Council advisory body members shall represent the official policies and positions of the City of Tracy. When presenting their personal opinions or positions, members shall explicitly state that they represent neither the Council advisory body nor the City.

16. Improper Influence

Council advisory body members shall refrain from using their position to improperly influence the deliberations or decisions of City staff, boards, commissions, or committees.

17. Policy Role of Members

Council advisory body members shall respect and adhere to the Council-Manager structure of Tracy City government as provided in State law and the City Municipal Code.

18. Positive Work Environment

Council advisory body members shall support the maintenance of a positive and constructive environment for residents, businesses, and City employees.
Attachment 2 to City Council Code of Conduct

19. Implementation

Ethics standards shall be included in the regular orientations for Council advisory body members. Upon entering office and upon reappointment, Council advisory body members shall sign a statement affirming they read and understood the City of Tracy's City Council Code of Conduct.

20. Compliance and Enforcement

Council advisory body members themselves have the responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of City government.

Attachment 2 to City Council
Code of Conduct

The Council Advisory Body Norms and Values statement shall be considered to be a summary of the longer City Council Code of Conduct document. The City Council Code of Conduct document shall be considered to be the definitive document relating to ethical conduct by Tracy City Council advisory body members.

I affirm that I have read and understand the City of Tracy City Council Code of Conduct.

Signature

Date



San Joaquin County
CODE OF FAIR CAMPAIGN PRACTICES
 (Elections Code § 20440)

There are basic principles of decency, honesty, and fair play which every candidate for public office in the State of California has a moral obligation to observe and uphold in order that, after vigorously contested but fairly conducted campaigns, our citizens may exercise their constitutional right to a free and untrammelled choice and the will of the people may be fully and clearly expressed on the issues.

THEREFORE:

- (1) I SHALL CONDUCT my campaign openly and publicly, discussing the issues as I see them, presenting my record and policies with sincerity and frankness, and criticizing without fear or favor the record and policies of my opponents or political parties that merit this criticism.
- (2) I SHALL NOT USE OR PERMIT the use of character defamation, whispering campaigns, libel, slander, or scurrilous attacks on any candidate or his or her personal or family life.
- (3) I SHALL NOT USE OR PERMIT any appeal to negative prejudice based on a candidate's actual or perceived race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age, sexual orientation, sex, including gender identity, or any other characteristic set forth in Section 12940 of the Government Code, or association with another person who has any of the actual or perceived characteristics set forth in Section 12940 of the Government Code.
- (4) I SHALL NOT USE OR PERMIT any dishonest or unethical practice that tends to corrupt or undermine our American system of free elections, or that hampers or prevents the full and free expression of the will of the voters including acts intended to hinder or prevent any eligible person from registering to vote, enrolling to vote, or voting.
- (5) I SHALL NOT coerce election help or campaign contributions for myself or for any other candidate from my employees.
- (6) I SHALL IMMEDIATELY AND PUBLICLY REPUDIATE support deriving from any individual or group that resorts, on behalf of my candidacy or in opposition to that of my opponent, to the methods and tactics that I condemn. I shall accept responsibility to take firm action against any subordinate who violates any provision of this code or the laws governing elections.
- (7) I SHALL DEFEND AND UPHOLD the right of every qualified American voter to full and equal participation in the electoral process.

I, the undersigned, candidate for election to public office in the State of California or treasurer or chairperson of a committee making any independent expenditures, hereby voluntarily endorse, subscribe to, and solemnly pledge myself to conduct my campaign in accordance with the above principles and practices.

Print Name

Signature

Date

Office

PROVISIONS OF THE CODE OF FAIR CAMPAIGN PRACTICES

Chapter 5 of Division 20 of the California Elections Code

Chapter 5. Fair Campaign Practices

Article 1. General Intent

20400. The Legislature declares that the purpose of this chapter is to encourage every candidate for public office in this state to subscribe to the Code of Fair Campaign Practices.

It is the ultimate intent of the Legislature that every candidate for public office in this state who subscribes to the Code of Fair Campaign Practices will follow the basic principles of decency, honesty, and fair play in order that, after vigorously contested, but fairly conducted campaigns, the citizens of this state may exercise their constitutional right to vote, free from dishonest and unethical practices which tend to prevent the full and free expression of the will of the voters.

The purpose in creating the Code of Fair Campaign Practices is to give voters guidelines in determining fair play and to encourage candidates to discuss issues instead of untruths or distortions.

Article 2. Definitions

20420. As used in this chapter, "Code" means the Code of Fair Campaign Practices.

Article 3. Code of Fair Campaign Practices

20440. At the time an individual is issued his or her declaration of candidacy, nomination papers, or any other paper evidencing an intention to be a candidate for public office, the elections official shall give the individual a blank form of the code and a copy of this chapter. The elections official shall inform each candidate for public office that subscription to the code is voluntary.

In the case of a committee making an independent expenditure, as defined in Section 82031 of the Government Code, the Secretary of State shall provide a blank form and a copy of this chapter to the individual filing, in accordance with Title 9 (commencing with Section 81000) of the Government Code, an initial campaign statement on behalf of the committee.

20441. The Secretary of State shall print, or cause to be printed, blank forms of the code. The Secretary of State shall supply the forms to the elections officials in quantities and at times requested by the elections officials.

20442. The elections official shall accept, at all times prior to the election, all completed forms that are properly subscribed to by a candidate for public office and shall retain them for public inspection until 30 days after the election.

20443. Every code subscribed to by a candidate for public office pursuant to this chapter is a public record open for public inspection.

20444. In no event shall a candidate for public office be required to subscribe to or endorse the code.