Web Site: www.cityoftracy.org

Tuesday, April 6, 2021, 7:00 P.M.

Tracy City Hall, 333 Civic Center Plaza, Tracy

# 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 APRIL 6, 2021 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, April 6, 2021.

As always, the public may view the City Council meetings live on the City of Tracy's website at <a href="https://www.CityofTracy.org">www.CityofTracy.org</a> 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 agendized items before the start of the Council meeting at 7:00 p.m. Please send an email to <a href="mailto:publiccomment@cityoftracy.org">publiccomment@cityoftracy.org</a> 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:
  - o **Phone** by dialing (209) 831-6010, or
  - Online by visiting <a href="https://cityoftracyevents.webex.com">https://cityoftracyevents.webex.com</a> and using the following Event Number: 182 778 1059 and Event Password: TracyCC
  - o *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:
  - o 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:

o Consent Calendar: 10 minutes

o Items from the Audience: **15 minutes** 

o Regular Items: 10 minutes

Comments received by <u>publiccomment@cityoftracy.org</u>, 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 agendized 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
ANNOUNCEMENTS

#### CONSENT CALENDAR

- 1.A. ADOPTION OF MARCH 9, 2021, MARCH 16, 2021, AND MARCH 23, 2021 SPECIAL MEETING MINUTES, MARCH 16, 2021, REGULAR MEETING MINUTES AND MARCH 23, 2021 CLOSED SESSION MINUTES
- 1.B. APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH BARRY & WYNN
  ARCHITECTS, INC., OF DANVILLE, CALIFORNIA, FOR ARCHITECTUAL DESIGN
  SERVICES FOR THE POLICE MULTIPURPOSE REALITY BASED TRAINING FACILITY
  (CIP 71110) FOR A NOT-TO-EXCEED AMOUNT OF \$290,000
- 1.C. APPROVE THE FUNDING AGREEMENT WITH LEPRINO FOODS COMPANY TO FUND A NEW CAPITAL IMPROVEMENT PROJECT (CIP 72121) FOR THE IMPROVEMENTS AT THE INTERSECTION OF MACARTHUR DRIVE AND GRANT LINE ROAD

1.D. ACCEPT AN AWARD FOR THE \$500,000 GRANT FROM SJCOG'S JOBS BALANCING INVESTMENT FUND FOR OFF-SITE IMPROVEMENTS TO THE MIDDLEFIELD PROJECT

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- 1.E. APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH MARK THOMAS & COMPANY, INC., OF SACRAMENTO, CALIFORNIA FOR A NOT-TO-EXCEED AMOUNT OF \$585,901 TO PROVIDE PROFESSIONAL ENGINEERING SERVICES FOR THE PREPARATION OF ENVIRONMENTAL DOCUMENTS, PLANS, SPECIFICATIONS AND COST ESTIMATES FOR THE PROJECT, ROADWAY IMPROVEMENTS AND TRAFFIC SIGNAL INSTALLATION AT CORRAL HOLLOW ROAD AND LINNE ROAD INTERSECTION, AND AUTHORIZE AN APPROPRIATION OF \$295,000 FROM TIMP TRAFFIC FUND (F363) TO CIP 72104
- 1.F. RECEIVE AND AUTHORIZE STAFF TO SUBMIT THE ANNUAL PROGRESS REPORT FOR 2020 AND ANNUAL ELEMENT PROGRESS REPORT FOR 2020 TO THE OFFICE OF PLANNING AND RESEARCH, AND STATE HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT REGARDING THE IMPLEMENTATION OF THE GENERAL PLAN AND THE HOUSING ELEMENT
- 1.G. APPROVE MASTER PROFESSIONAL SERVICES AGREEMENTS WITH BARRY & WYNN ARCHITECTS, INC., AND THE KPA GROUP, INC. TO PROVIDE ON-CALL PROFESSIONAL ENGINEERING SERVICES FOR CAPITAL IMPROVEMENT PROJECTS, AND AUTHORIZE THE DEVELOPMENT SERVICES DIRECTOR TO EXECUTE NOTICES TO PROCEED RELATED TO THE AGREEMENTS, FOR A NOT TO-EXCEED AMOUNT OF \$600,000 FOR EACH CONSULTANT PER CALENDAR YEAR
- 2. ITEMS FROM THE AUDIENCE
- 3. REGULAR AGENDA
  - 3.A. RECEIVE UPDATE ON THE WESTSIDE SPECIFIC PLAN PROJECT (FORMALLY KNOWN AS TRACY GATEWAY)
  - 3.B. REQUEST FOR COUNCIL CLARIFICATION REGARDING RENEGOTIATING PARAMETERS OF THE SURLAND DEVELOPMENT AGREEMENT (DA) AND PROVIDE UPDATE REGARDING DEVELOPER'S INTEREST TO BEGIN DA NEGOTIATIONS
  - 3.C. <u>DISCUSS RECOMMENDED FUNDING PLAN APPROACH AND ALLOCATION FOR</u> AMERICAN RESCUE PLAN ACT (ARPA) AND PROVIDE DIRECTION TO STAFF
  - 3.D. <u>DISCUSS ROLE, MAKEUP, AND NECESSITY OF CITY BOARDS AND COMMISSIONS</u>
    AND PROVIDE DIRECTION TO STAFF
  - 3.E. <u>DISCUSS POTENTIAL AMENDMENTS TO THE CITY COUNCIL MEETING</u>
    PROTOCOLS AND RULES OF PROCEDURE TO ADDRESS COUNCIL'S REQUESTS
    AND PROVIDE DIRECTION TO STAFF
- 4. ITEMS FROM THE AUDIENCE

- 5. STAFF ITEMS
- 6. COUNCIL ITEMS AND COMMENTS
- 7. ADJOURNMENT

#### March 9, 2021, 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 special 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 Young called the meeting to order at 6:04 p.m.
- 2. Roll call found Council Members Arriola, Bedolla, Davis, Mayor Pro Tem Vargas, and Mayor Young present.
- 3. ITEMS FROM THE AUDIENCE Robert Tanner requested Council finish Legacy Fields, asked about an update on the Aquatics Park, and stated a Multi-General Center should be on hold
- 4. ACCEPT FINANCIAL FORECAST REPORT FROM MANAGEMENT PARTNERS;
  ADOPT COUNCIL GUIDING BUDGET PRINCIPLES; EXTEND COUNCIL AD-HOC
  FISCAL SUSTAINABILITY COMMITTEE; CONSIDER FISCAL SUSTAINABILITY
  STRATEGIES PROPOSED BY THE AD-HOC COMMITTEE; AND PROVIDE
  DIRECTION TO STAFF

Jenny Haruyama, City Manager provided opening comments.

Nancy Hetrick, and Steve Toler, Management Partners provided a presentation regarding financial sustainability and answered questions from Council.

Council Member Arriola, Ad Hoc Fiscal Sustainability Committee member provided comments regarding the recommended budget strategies and responded to Council questions.

Mayor Pro Tem Vargas, Ad Hoc Fiscal Sustainability Committee member provided comments regarding the recommended budget strategies, and responded to Council questions.

Robert Tanner suggested putting a two-year wage freeze in the union contracts, spoke about commissions and Council stipends costing approximately over \$300,000 and suggested they give up wages and stipends to close that gap.

Mira Woodworth asked how much the consultant project is costing the city and requested more details about their process such as did they consult staff with some of the recommendations.

Jeff Bordes serving as an Arts Commissioner stated with political and racial divide we now more than ever need the arts, shared support for the local art center at the Grand Theatre adding it would be a huge disservice to reduce arts in the community.

Kaylin Dell'Arringa voiced her concerns over the proposed \$1.54 million reduction to subsidies for recreation and cultural arts and the impact on The Grand.

Karin Schnaider, Finance Director responded to Council questions.

City Council questions and comments followed.

#### **ACTION:**

Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Vargas to adopt **Resolution 2021-023** approving the Financial Principles for the City of Tracy. Roll call found all in favor; passed and so ordered.

Motion made by Council Member Arriola and seconded by Mayor Pro Tem Vargas to direct staff to pursue the green/preferred proposed fiscal sustainability strategies.

City Council reviewed the following Fiscal Sustainability Strategies: Revenue Enhancements, Expenditure Controls/Cost Shifts, Service Delivery Alternatives, and Service Level Reductions.

Council Member Bedolla motioned to amend the current motion on the floor to direct staff to explore strategies number 1 through 11 and as is practice for staff to seek out funds to compensate where appropriate. There was no second to the motion.

Council Member Arriola asked if business license tax is the same for everyone, talked about timing for 2022 election, but because of large fiscal target of over \$4 million, what would be the cost of implementing a special election for that particular item.

Ms. Schnaider responded it is General Tax, so in order to go outside of normal general election we would have to declare a fiscal emergency to do that.

Leticia Ramirez, City Attorney added under the Election Code to have an item of that nature as a Measure on a Special Election Council would have to declare a fiscal emergency and state there is an eminent threat to provide services to the community. Staff could brief Council on the implications with doing that via memo confidentially. Mayor Pro Tem Vargas supported that.

Council Member Arriola was in support of item #1 but would like additional information on what that may look like. If special election is \$300,000, that is a difference of \$4 million we could obtain to balance our budget sooner so would like more information on that when staff brings that back.

Council Member Davis referred to item #5 under Revenue Enhancements and requested more information about what modifications would look like if we had to take a look at Public Works and Park Landscape.

Expenditure Controls/Cost Shifts:

Council Member Arriola talked about recreational and cultural programing, and would like to look into opportunities to develop programmatic solutions to continue to help supplement our lower income residents so they have the same opportunity to utilize the same recreational and cultural programing that everyone else has. Would like more assessment of that to bring back.

Mayor Pro Tem Vargas wanted to propose to give extra tools and latitude to staff on how we can facilitate that, as well as the community participating in arts, to explore and bring back with recommendations with other alternatives that are brought to us.

Service Delivery Alternatives:

Council Member Davis stated anything related to public service reduction, public safety, public works, parks maintenance and pavement standards are things she draws a hard line of reducing at all costs in a city that is growing the way we are.

ACTION:

Motion made by Council Member Arriola and seconded by Mayor Pro Tem Vargas to direct staff to pursue the green/preferred proposed fiscal sustainability strategies. Roll call found all in favor; passed and so ordered.

Karin Schnaider, Finance Director provided a brief overview regarding the extension of the Council Ad Hoc Fiscal Sustainability Subcommittee.

ACTION:

Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Vargas to adopt **Resolution 2021-024** extending the Council Ad Hoc Fiscal Sustainability Subcommittee for one-year term. Roll call found all in favor; passed and so ordered.

- 5. COUNCIL ITEMS AND COMMENTS None.
- 6. ADJOURNMENT Time: 8:06 p.m.

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

The above agenda was posted at the Tracy City Hall on March 4, 2021. The above are action minutes. A recording is available at the office of the City Clerk.

ATTEOT	Mayor	
ATTEST:		
City Clerk		

#### March 16, 2021, 5:00 p.m.

Tracy City Hall, 333 Civic Center Plaza, Tracy Web Site: www.ci.tracy.ca.us

Due to the COVID-19 emergency, the special 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 Pro Tem Vargas called the meeting to order at 5:11 p.m.
- 2. Roll call found Council Members Arriola, Bedolla, Davis, and Mayor Pro Tem Vargas present. Mayor Young arrived at 5:13 p.m.
- 3. ITEMS FROM THE AUDIENCE None
- 4. DISCUSS PROPOSED FY 2021-22 OPERATING BUDGET AND PROVIDE DIRECTION TO STAFF

Karin Schnaider, Finance Director, provided the staff report and proposed FY 2021-22 Operating Budget presentation.

There was no public comment.

City Council comments and questions followed.

#### ACTION:

Motion made by Council Member Arriola and seconded by Mayor Pro Tem Vargas to adopt the four FY 21-22 Budget Solutions (Use of 10% economic/budget stabilization, potential revenue recovery of \$1 million, select vacancy/hiring freeze savings, delay funding ISC-Vehicles), and also fund MCYSN and Facility Management and Homeless Support Services. Roll call found all in favor; passed and so ordered.

- 5. Council Items and Comments Council Member Davis thanked staff for the work that has gone into the proposed budget.
- 6. Adjournment: Time: 5:55 p.m.

#### **ACTION:**

Motion made by Council Mayor Pro Tem Vargas and seconded by Council Member Davis to adjourn closed session. Roll call found all in favor; passed and so ordered.

The above agenda was posted at the Tracy City Hall on March 11, 2021. action minutes. A recording is available at the office of the City Clerk.			I. The above are
		Mayor	
ATTEST:		•	

City Clerk

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

#### March 16, 2021, 7:00 p.m.

City Hall, 333 Civic Center Plaza, Tracy

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

Mayor Young led the Pledge of Allegiance.

Pastor Kal Waetzig, St. Paul's Lutheran Church offered the invocation.

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

Mayor Young announced the following: 2020 Firefighter of the Year – Captain Scott Byers, 2020 Police Officer of the Year – Corporal Erik Speaks, and 2020 Employee of the Year – Laura Smith, and proclamations for Essential Workers Appreciation Week – March 14 through March 21, World Autism Awareness Day – April 2, 2021.

- CONSENT CALENDAR Following the removal of consent items 1.B by Jenny Haruyama, City Manager, 1.E by Council Member Bedolla, 1.F by Council Member Davis and Alice English, and 1.G by Alice English, motion was made by Mayor Pro Tem Vargas and seconded by Council Member Arriola to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
  - 1.A <u>APPROVAL OF MARCH 2, 2021, CLOSED SESSION AND REGULAR</u>
    <u>MEETING MINUTES AND MARCH 9, 2021, CLOSED SESSION MINUTES</u> **Minutes were adopted**
  - 1.B RECEIVE AND AUTHORIZE STAFF TO SUBMIT THE ANNUAL PROGRESS REPORT FOR 2020 AND ANNUAL ELEMENT PROGRESS REPORT FOR 2020 TO THE OFFICE OF PLANNING AND RESEARCH, AND STATE HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT REGARDING THE IMPLEMENTATION OF THE GENERAL PLAN AND THE HOUSING ELEMENT Jenny Haruyama, City Manager removed the item to return on April 6, 2021.
  - 1.C APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH CSG
    CONSULTANTS, INC., OF PLEASANTON, CALIFORNIA FOR A NOT-TOEXCEED AMOUNT OF \$206,615 TO PROVIDE PROFESSIONAL
    ENGINEERING DESIGN SERVICES, THAT INCLUDES THE PREPARATION
    OF CONSTRUCTION DOCUMENTS SUCH AS PLANS, SPECIFICATIONS
    AND COST ESTIMATES FOR THE PAVEMENT REHABILITATION PROJECT

<u>FY 20-21, CIP 73178</u> – **Resolution 2021-025** approved the agreement with CSG Consultants, Inc.

- 1.D <u>DECLARE CERTAIN VEHICLES, EQUIPMENT AND COMMODITIES AS</u>
  <u>SURPLUS AND APPROVE THEIR SALE</u> **Resolution 2021-026** declared certain vehicles, equipment and commodities as surplus and approved their sale.
- 1.H APPROVE THE PARK IMPROVEMENT AND REFUND AGREEMENT FOR ELLIS DOG PARK, AND AUTHORIZE THE CITY CLERK TO FILE THE AGREEMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER Resolution 2021-027 approved the Park Improvement and Refund Agreement for Ellis Dog Park.
- 1.F APPROVE MASTER PROFESSIONAL SERVICES AGREEMENTS WITH KIMLEY HORN & ASSOCIATES, INC., MARK THOMAS & COMPANY, INC., AND ADVANCED MOBILITY GROUP, TO PROVIDE ON-CALL PROFESSIONAL ENGINEERING SERVICES FOR TRANSPORTATION PROJECTS, AND AUTHORIZE THE DEVELOPMENT SERVICES DIRECTOR TO EXECUTE NOTICES TO PROCEED RELATED TO THE AGREEMENTS, FOR A NOT-TO-EXCEED AMOUNT OF \$600,000 FOR EACH CONSULTANT PER CALENDAR YEAR

Council Member Davis and Alice English pulled the item for discussion.

Andrew Malik, Assistant City Manager provided the staff report.

Alice English requested clarification that the costs would not come out of General Fund.

#### **ACTION:**

Motion was made by Council Member Arriola and seconded by Council Member Davis to adopt **Resolution 2021-028** approving Master Professional Services Agreements with Kimley-Horn & Associates, Inc., Mark Thomas & Company Inc., and Advanced Mobility Group, Inc., to provide on-call professional engineering services for transportation projects and authorizing the Development Services Director to execute notices to proceed related to the agreements, for a not-to-exceed amount of \$600,000 for each consultant per year. Roll call found all in favor; passed and so ordered.

1.E ADOPT A RESOLUTION UPDATING THE MASTER SALARY SCHEDULE AND AMENDING THE CITY'S POSITION CONTROL ROSTER

Council Member Bedolla pulled the item for clarification of whether the item was related to the February resolution that came out of Council.

Karin Schnaider, Finance Director provided the staff report.

Kimberly Murdaugh, Human Resources Director responded to Council Member Bedolla's question.

**ACTION:** 

Motion was made by Council Member Bedolla and seconded by Council Member Davis to adopt **Resolution 2021-029** amending the City of Tracy Master Salary

Schedule and Position Control Roster. Roll call found all in favor; passed and so ordered.

1.G APPROVE (1) A RESOLUTION TO SUMMARILY VACATE A SEGMENT OF PARADISE ROAD FROM ITS INTERSECTION WITH SKYLARK WAY EASTWARD FOR APPROXIMATELY 2,200 FEET; AND (2) A RESOLUTION TO TERMINATE A TEMPORARY ACCESS EASEMENT AND TWO UTILITY EASEMENTS AND APPROVE A FIRST AMENDMENT TO THE DEFERRED IMPROVEMENT AGREEMENT FOR NORTHEAST INDUSTRIAL AREA (NEI), PHASE 2, PARCEL 28, PROLOGIS PARK OLIVERA (PROLOGIS – II), PROLOGIS PROPERTY

Alice English pulled agenda item 1.G for discussion to make sure that the public had the opportunity to comment.

Robert Armijo, City Engineer provided the staff report.

City Council questions followed.

#### ACTION:

Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Bedolla to adopt **Resolution 2021-030** approving the First Amendment to the Deferred Improvement Agreement, Northeast Industrial Area, Phase 2, Parcel 28, Prologis Park Olivera (Prologis II) – Prologis Property and approving the termination of a Temporary Access Easement and two (2) Temporary Storm Drain Easements. Roll call found all in favor; passed and so ordered.

#### ACTION:

Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Bedolla to adopt **Resolution 2021-031** summarily vacating Paradise Road from its intersection with Skylark Way eastward for approximately 2,200 feet. Roll call found all in favor; passed and so ordered.

2. <u>ITEMS FROM THE AUDIENCE</u> – Alice English shared her concerns regarding Mayor Pro Tem Vargas bringing up Transit Oriented Development (TOD) and Valley Link at the GMO workshop, spearheading TOD during election, stated there was no Council discussion at January 14 workshop about TOD being a priority, and did not see where Council gave staff direction to bring back an agenda item to discuss the TOD with the public.

Mayor Pro Tem Vargas disagreed with the comments and accusations made by Ms. English and requested the City Manager address what direction was given and how things get on the agenda.

Jenny Haruyama, City Manager responded to Mayor Pro Tem Vargas's request.

Justin Mattos shared concerns about the TOD, trying to take land on east side of town from MacArthur to Chrisman and from overpass to Hidden Lakes, Mayor Pro Tem Vargas saying she talked to landowners, but was it just the two majority landowners/farmers/developers.

Mayor Pro Tem Vargas disagreed with comments made by Mr. Mattos.

Justin Mattos continued stating residents voted down Measure Y, spoke about Council Members changing their tone, and should not have been pushed through.

Cecilia Guillen thanked the Council for all the work they have accomplished and expressed support for Valley Link and the Transit Oriented Development.

John Villalovoz shared support for the current Council and the Transit Oriented Development.

Council Member Arriola motioned to move agenda item 3.F to follow directly after item 3.C. Mayor Pro Tem Vargas seconded the request.

#### 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.

City Council comments and questions followed.

Dan Evans asked when the public would be able to get into Council Chambers.

City Council accepted the report.

3.B PUBLIC HEARING TO CONSIDER CITY'S RECOMMENDATION FOR AWARD OF LOCAL PRIORITY FUNDING ALLOCATIONS FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME INVESTMENT PARTNERSHIPS PROGRAM FUNDS FOR FISCAL YEAR 2021-2022 AND AUTHORIZE THE ASSISTANT CITY MANAGER TO EXECUTE THE FUNDING AGREEMENTS FOR THE PROGRAM

Barbara Harb, Economic Development Management Analyst, provided the staff report.

Mayor Young opened the public hearing.

Alice English thanked staff for the report, and stated it is great that the public knows how much work goes behind this and our Parks Commissioners work really hard.

Kelly Wilson, CEO of Boys and Girls Club of Tracy thanked the Parks Commission, subcommittee, staff and Council for continuing to prioritize our youth in Tracy, and expressed appreciation for this continued program.

Mayor Young closed the public hearing.

City Council comments followed.

#### ACTION:

Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Arriola, to adopt **Resolution 2021-032** recommending the award of local priority funding allocations for Community Development Block Grant (CDBG) and Home Investment Partnerships Program (HOME) Funds for Fiscal Year 2021-2022. Roll call vote found all in favor; passed and so ordered.

#### 3.C RECEIVE UPDATE ON HOMELESSNESS AND PROVIDE DIRECTION ON TEMPORARY EMERGENCY HOUSING FACILITY PROJECT, INCLUDING FUNDING STRATEGIES

Midori Lichtwardt, Assistant City Manager provided the staff report.

Tracy Lucca stated she has personally moved four people from the streets, asked about funding and information to relay to the homeless she works with.

Bubba Paris, Tracy Community Connections Center spoke about the eviction moratorium ending, and the number of homeless increasing drastically, and suggested Council take all of the recommendations staff has made.

Robert Tanner spoke about the Tracy homeless population increasing because of the leasing freeze going away in mid-August, suggested the City make the shelter bigger, using Measure V funding to clear out parks, and continue to go for grant funding.

Tim Silva shared his concerns regarding a deficit of \$1.5 million on operating budget on a temporary shelter, it is not what citizens of Tracy envisioned, and has talked to displaced residents and they are not going to go to the temporary shelter and will stay at El Pescadero Park.

Sharon Gardner-Losche shared support for the temporary homeless shelter and added she would like to believe we live in a city where community matters.

Peter Claffey shared concerns regarding the City not moving the unhoused and the shelter being built.

William Muetzenberg shared support for the Council's investment in the project and hoped we can ensure the unhoused population is treated with dignity.

City Council questions and comments followed.

Motion was made by Council Member Arriola to receive the update on homelessness efforts, including the status of the Arbor Road Project, and 1) proceed with the Temporary Emergency Housing Facility design and construction, 2) fund the shortfall using American Rescue Plan Act if eligible first and second general funds including Measure V funds and 3) direct staff to continue to pursue grant funding to offset project shortfall and future operating expenses. Mayor Pro Tem Vargas seconded the motion.

City Council comments followed.

Mayor Pro Tem Vargas made a friendly amendment to use grant money before Measure V money.

Council Member Arriola accepted the friendly amendment and clarified to first fund the entire project through grant funding to include the actual facility and operating expenses and then to use American Rescue Plan Act and finally to be General Funds including Measure V. Mayor Pro Tem Vargas seconded the amendment.

Jenny Haruyama, City Manager clarified this is for both the capital project and operating expenses.

#### **ACTION:**

Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Vargas to: 1) proceed with the Temporary Emergency Housing Facility design and construction, 2) direct staff to continue to pursue grant funding to offset project shortfall and future operating expenses, and 3) to fund shortfall by using grant opportunities, American Rescue Plan Act funds if eligible, and General Funds including Measure V. Roll call found all in favor; passed and so ordered.

#### **DEVIATION**

3.F FORM COUNCIL HOMELESSNESS ADVISORY COMMITTEE; APPOINT TWO COUNCIL MEMBERS TO SERVE ON THE COMMITTEE, AND PROVIDE DIRECTION TO STAFF

Midori Lichtwardt, Assistant City Manager, provided the staff report.

William Muetzenberg supported the formation of the advisory committee and stated people are experiencing hardships, and it is important to have services and treat the unhoused with dignity.

Peter Claffey shared concerns regarding the City of Tracy operating reactively instead of proactively regarding homelessness.

City Council questions and comments followed.

Motion was made by Council Member Arriola to form a City Council standing subcommittee, the Tracy Homelessness Advisory Committee and appoint Council Member Arriola and Council Member Davis to serve on the committee. Council Member Davis seconded the motion.

Council Member Bedolla expressed interest in being considered to serve on the committee. Mayor Pro Tem Vargas supported appointing Council Member Arriola and Council Member Bedolla to the committee.

Council Member Bedolla motioned to amend the motion on the floor for the two Council Members on the committee to be Council Member Arriola and Council Member Bedolla. Mayor Pro Tem Vargas seconded the motion.

City Council comments continued.

Council Member Bedolla withdrew his motion to amend the motion on the floor.

#### **ACTION:**

Motion was made by Council Member Arriola and seconded by Council Member Davis to adopt **Resolution 2021-033** forming the Tracy Homelessness Advisory Committee and appointing Council Member Arriola and Council Member Davis to serve on the newly formed committee. Roll call vote found all in favor; passed and so ordered.

3.D APPROVE 2021-2023 MULTI-YEAR AND SHORT-TERM STRATEGIC
PRIORITIES, AND WORKPLAN, AND PROVIDE DIRECTION TO STAFF, AND
ACCEPT CITY COUNCIL WORKSHOP REPORT AS JANUARY 5, 12, AND 14,
2021 SPECIAL MEETING MINUTES.

Jenny Haruyama, City Manager provided the staff report.

Mary Mitracos stated she was impressed with the goals Council has set, liked affordable housing and density, update of general plan, appreciate upcoming discussion on residential growth management and support of downtown and liked the continued discussion and supporting of the TOD and Valley Link.

Ubbo Coty spoke about Council pursuing the TOD in a very disingenuous way acting like this is something different. Citizens voted against Measure Y and the TOD, and requested Council stop pursuing the TOD.

Tim Silva shared his concerns regarding the TOD and asked if the bowtie area land has been secured from the railroad, gentrification of downtown area – has it been designated as a historical district, Council should start representing their constituent's needs, and suggested moving forward on a new TOD.

Alice English shared her concerns regarding the TOD going around Measure A, Valley Link having nothing to do with it, two business interests behind it, sneaking TOD on the agenda at the last minute, and Council having total disregard for voters.

Council Member Arriola objected to attacks on City staff.

Neil Prescott asked why Council is moving forward with TOD, requested removing the TOD from the work plan, Tracy voted against it, and why request input if you do not listen to the public.

Council Member Arriola objected to characterization of his statements by Mr. Prescott.

William Muetzenberg advocated his support for efforts to address Tracy's affordability to move towards building a walkable, bikeable city. TOD provides opportunity to assess the future of Tracy and become a success story.

Dan Evans stated Measure Y was voted against and Council should be honoring that. Council is pushing strategic priorities work plan through with TOD in it, and can only determine there is something else behind it.

Council Member Arriola objected to the characterization by statements by Mr. Evans.

Mayor Pro Tem Vargas responded she agreed with Council Member Arriola and seconded the sentiment.

Mark Connolly stated he wrote Measure A, and helped pose two initiatives prior to Measure Y. There is no inconsistency between Measure A and TOD. Downtown development can proceed. Measure Y and other initiatives that attempt to set aside the limits of the growth management ordinance for any reason are in conflict with Measure A. Mr. Connolly provided a history on what has occurred and responded to questions from Mayor Pro Tem Vargas.

City Council questions and comments followed.

Motion was made by Council Member Arriola to approve the 2021-2023 Multi-Year and Short-Term Strategic Priorities and Work Plan, and accept City Council Workshop Reports as January 5, 12, and 14, 2021 Special Meeting Minutes. Council Member Bedolla seconded the motion.

Council comments continued.

Council Member Arriola stated at the workshop on January 14, 2021, one thing Council had consensus was to prioritize COVID 19 recovery, important to prioritize COVID recovery related to economic development and public safety because that is the crisis we are faced with. Mayor Pro Tem Vargas supported the request.

Council Member Arriola asked Council Member Bedolla if he would second his friendly amendment to move COVID recovery to the top of economic development and public safety. Council Member Bedolla agreed.

#### **ACTION:**

Motion was made by Council Member Arriola and seconded by Council Member Bedolla to adopt **Resolution 2021-034** approving 2021-2023 Multi-Year and Short-Term Strategic Priorities and Workplan, and accept City Council Workshop Reports as January 5, 12, and 14, 2021 Special Meeting Minutes. Roll call found Council Members Arriola, Bedolla, Mayor Pro Tem Vargas and Mayor Young in favor; passed and so ordered. Council Member Davis opposed.

Mayor Young called for a recess at 10:53 p.m.

Mayor Young reconvened the meeting at 10:58 p.m.

3.E AUTHORIZE STAFF TO NEGOTIATE AN AMENDMENT TO THE
DEVELOPMENT AGREEMENT BETWEEN THE CITY OF TRACY AND
SURLAND COMMUNITIES, LLC FOR THE 321 ACRE ELLIS SPECIFIC PLAN
PROPERTY LOCATED AT THE NORTHWEST CORNER OF CORRAL

### <u>HOLLOW ROAD AND LINNE ROAD, AND PROVIDE NEGOTIATING</u> PARAMETERS

Andrew Malik, Assistant City Manager and Leticia Ramirez, City Attorney provided the staff report.

Mary Mitracos spoke about Council being individually liable to be held in contempt of court, believed the legal arguments are correct and the Development Agreement (DA) has been set aside, which means the City should be proceeding under the 2013 DA. Ms. Mitracos shared her concerns regarding the 2013 and 2018 DA's, and asked about the filing of the Irrevocable Offer of Dedication.

Alice English asked if the Development Agreement (DA) was revisited would it include the pool, does Council have the opportunity to make it better, get input from community, and asked if it affects the Avenues, and the process.

Mark Connolly, Attorney who litigated Development Agreement (DA) twice disagreed with the City Attorney, if anyone takes any action to implement the DA it violates the prohibitory injunction, which is still in effect even though there has been an appeal filed, it would be in contempt of court. The City should stop negotiating, and should ask Surland to live up to its obligation in the 2013 DA.

Steve Herum, representing Surland Companies stated they did not ask for negotiations, but will meet in good faith with the City. Mr. Herum shared his concerns regarding Mr. Connolly attempting to file a new lawsuit and set aside the aquatics center in its entirety, and asked Council to listen to the City Attorney, and not Mr. Connolly.

Adrianne Richardson, City Clerk announced there was correspondence received by Mark Connolly and Les Serpa which exceeded the word limit, but was provided to City Council by email and on the dais.

City Council questions and comments followed.

Mr. Herum responded to Council Member Davis's questions.

Council Member Davis suggested looking at developer benefits from the existing Development Agreement of 2018, making those benefits more mutually beneficial for both parties. Revisiting control over the design, questions about naming rights, equity and community access, pricing issues and costs, sponsorship, priority access, restrictions on how the swim center could be used and more than anything the overall price tag.

Mayor Pro Tem Vargas agreed with the points mentioned by Council Member Davis and was open to discussing and renegotiating the 2013 DA.

Council Member Arriola stated he was opposed to negotiations, but would be interested in what the rest of the Council's proclivity would be as to what could be included without discussing whether we will be actually doing it. Mayor Pro Tem Vargas supported that discussion.

City Council discussion continued.

Mayor Young stated because the DA is between both sides, if we are going to look at developer benefits she would like to look at every public benefit.

Mayor Pro Tem Vargas and Council Member Davis supported looking at every benefit.

Mayor Young stated as long as we are talking about public benefits, she would like to add that in the discussions with Surland to consider adding a gymnasium to the land area there.

Mayor Pro Tem Vargas supported the request but would like more latitude and have that conversation between Council, the language to be more open so it does not constrict us to an Aquatic Park and gymnasium. Like to see use for whatever needs the city has for recreation facilities or something like that.

Ms. Haruyama clarified the following: There is interest in exploring the developer benefits and balancing that with the public benefits, and specifically interest in naming rights, equity access, sponsorship, priority access, how the center is used, price tag, amenities and also heard adding consideration for a potential educational/recreational/cultural arts amenity that is kind of broad in nature to give us some flexibility.

Council discussion continued.

Motion was made by Council Member Bedolla to adopt a resolution authorizing staff to negotiate an amendment to the Development Agreement in its entirety between the City of Tracy and Surland Communities, LLC for the 321-Acre Ellis Specific Plan property located at the Northwest Corner of Corral Hollow Road and Linne Road. Council Member Davis seconded the motion.

Council Member Arriola asked if Council Member Bedolla would accept a friendly amendment to include the language stating *in accordance with holdings*.

Council Member Bedolla asked the City Attorney for clarity on the request and intent from the requestor. Ms. Ramirez suggested using the language *in accordance of state law*. Council Member Arriola responded his intent was to protect the city.

Council Member Bedolla felt confident in the motion and rejected the friendly amendment. Council Member Bedolla clarified his intention was to include in the motion all the items discussed during the item.

Council Member Arriola asked if in its entirety included amendments to the Development Agreement including the 2018 amendment, which has the injunction in place.

Ms. Ramirez responded she would provide more information to Council in a confidential memo about the issues discussed today in particular Mr. Connolly's argument and its impact on the Aquatic Center. Ms. Ramirez stated the

agreement Council is asking about amending, we can discuss that and can provide more info to Council in a confidential memo and have an open session item at a future date, but what is more important is the parameters.

Mayor Young stated her request as a friendly amendment is for a time parameter so staff can touch base with Surland to see if they are even willing to open up negotiations.

Ms. Ramirez responded staff meets with Surland every week on Wednesdays. Staff will endeavor, but cannot commit on their behalf. They also need time.

Mayor Young asked is there a way to have a check in as a part of the Measure V.

Ms. Ramirez responded staff can update Council via email.

#### ACTION:

Motion was made by Council Member Bedolla and seconded by Council Member Davis to adopt **Resolution 2021-035** authorizing staff to negotiate an amendment to the Development Agreement in its entirety (to include all items discussed) between the City of Tracy and Surland Communities, LLC for the 321-Acre Ellis Specific Plan property located at the Northwest Corner of Corral Hollow Road and Linne Road. Roll call found Council Members Bedolla, Davis, and Mayor Pro Tem Vargas in favor; passed and so ordered. Council Member Arriola and Mayor Young opposed.

- 4. ITEMS FROM THE AUDIENCE None
- 5. STAFF ITEMS Jenny Haruyama, City Manager provided an update on the following actions taken by the City Manager during the COVID emergency.
  - Approved the Improvement and Inspection Agreement (IIA) with LS-Tracy, LLC for the Ellis Phase 3 – Town & Country Tract 4007
  - Accepted the Construction of the Sullivan Park and Lester Huck Park Renovation Project – CIP 78149
  - Approved Amendment No. 1 to Professional Services Agreement with Municipal Resource Group, LLC for the Consultant to Perform an Impartial Analysis of the Fiscal Impacts of the Implementation of the South San Joaquin County Fire Authority personnel transition plan
- 6. COUNCIL ITEMS Mayor Pro Tem Vargas wished everyone, and her husband a happy Saint Patrick's Day.

Mayor Young wished everyone a happy Saint Patrick's Day, happy Good Friday and Resurrection Sunday.

ADJOURNMENT - Time: 12:31 am. Date: Wednesday, March 17, 2021

City Clerk

7.	ADJOU	JRNMENT – Time: 12:31 a.m. Date:	Wednesday, March 17, 2021
ACTIO	N:	, ,	n Vargas and seconded by Council Member d all in favor; passed and so ordered.
	_	enda was posted at the Tracy City Ha . A recording is available at the office	all on March 11, 2021. The above are e of the City Clerk.
			Mayor
ATTES	ST:		

#### TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

#### March 23, 2021, 4:30 p.m.

Tracy City Hall, 333 Civic Center Plaza, Tracy

- 1. CALL TO ORDER Mayor Young called the meeting to order at 4:30 p.m. for the purpose of a closed session to discuss the items outlined below.
- 2. ROLL CALL Roll call found Council Member Davis, Mayor Pro Tem Vargas, and Mayor Young present.

Council Member Bedolla arrived at 4:33 p.m.

Council Member Arriola arrived at 4:42 p.m.

- 3. ITEMS FROM THE AUDIENCE There was no public comment.
- 4. CLOSED SESSION
  - a. Threat to Public Services or Facilities (Gov. Code § 54957)
    - Consultation with Tracy Police Department Chief of Police
  - b. Conference with Labor Negotiators (Gov. Code § 54957.6)
    - <u>City Negotiators:</u>

      Jenny Haruyama

Jenny Haruyama, City Manager Kimberly Murdaugh, Human Resources Director Karin Schnaider, Finance Director Leticia Ramirez, City Attorney Tim Davis, Special Counsel

o <u>Employee Organizations</u>:

General Teamsters Local No. 439, IBT South County Fire Chief Officer's Association Tracy Fire Fighters Association

Tracy Mid Managers Bargaining Unit

Tracy Police Management Association

Tracy Police Officers' Association

Tracy Technical and Support Services Employee Association

- c. Conference with Legal Counsel Existing Litigation (Gov. Code § 54956.9(d)(1))
  - Mitracos v. City of Tracy et al. (San Joaquin County Superior Court Case No.: STK-CV-UWM-2018-5531)
- d. Conference with Legal Counsel Anticipated Litigation (Gov. Code § 54956.9)
  - Significant exposure to litigation pursuant to § 54956.9(d)(2). (One case).

e. Personnel Matter (Gov. Code § 54957)

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

Position Title: City Manager

There was no public comment.

- 5. RECESS TO CLOSED SESSION Motion was made by Council Member Davis and seconded by Mayor Pro Tem Vargas to recess the meeting to closed session at 4:39 p.m. Roll call vote found Council Members Bedolla, Davis, Mayor Pro Tem Vargas and Mayor Young present; passed and so ordered. Council Member Arriola absent.
- 6. RECONVENE TO OPEN SESSION The meeting reconvened to open session at 6:03 p.m.

Mayor Young recessed the closed session until after the end of the special meeting.

Mayor Young reconvened the closed session at 9:42 p.m.

- 7. REPORT OF FINAL ACTION None
- 8. COUNCIL ITEMS AND COMMENTS None
- 9. ADJOURNMENT Time: 10:04 p.m.

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

The agenda was posted at City Hall on March 18, 2021. The above are action minutes.

ATTEST:	Mayor	
City Clerk	<del></del>	

#### March 23, 2021, 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 special 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 Pro Tem Vargas called the meeting to order at 6:03 p.m.
- 2. Roll call found Council Members Arriola, Bedolla, Davis, Mayor Pro Tem Vargas and Mayor Young present.
- 3. ITEMS FROM THE AUDIENCE Alice English stated she has never been against Valley Link, but did not support having the UR1 with the TOD, referred to a Congressman Harder article regarding Valley Link, stated she completely support Valley Link and downtown businesses, but not the way it is being presented, and shared her concerns regarding Mayor Pro Tem Vargas.

Mayor Pro Tem Vargas responded that she did not agree with Ms. English, being misrepresented with a lot of comments made, asked the City Manager to make the Valley Link policies public, and added she never spoke ill of Ms. Ransom and Mr. Rickman.

Karen Moore thanked Council for their position they made on facility that is going to help the homeless population in our city.

Jim Bozeman asked Mayor Pro Tem Vargas to answer if she is currently or in the past been employed by local developer Mike Sandhu or any of Mr. Sandhu's businesses or affiliations, and is she currently or in the past been employed by local developer Mike Sandhu's relatives, specifically his daughter Jasmine Sandhu.

Mayor Pro Tem Vargas responded she has not in the past or present worked with Mr. Sandhu or his daughter.

Manuel Alvarez shared concerns about certain elected and appointed officials being lackeys of extremist ideology and betraying the public's trust, and 209 Times, Transparent Tracy, and Patriot lying for sport, redirection of URL's during elections, and asked for resignation of those certain elected and appointed officials.

Mayor Pro Tem Vargas disagreed with the comments stating she has never paid to redirect any pages to my address or emails, and has addressed it through the Tracy Press when it happened in 2018.

William Muetzenberg stated he was troubled by comments made regarding the TOD, adding many residents can barely afford to live in Tracy and asked Council to determine a variety of solutions that guarantee every Tracyite a place to call home.

Dan Evans, Patriot Coalition responded to Manuel Alvarez's comments stating he was not sure where the comments about racism came from, and are opposite to what he said.

4. RECEIVE A PRESENTATION ON MEASURE V COUNCIL REQUESTS, INCLUDING A HISTORICAL OVERVIEW OF THE BALLOT MEASURE AND PLANNED PROJECTS (SPECIFICALLY AMENITIES), IMPROVEMENTS REQUIRED TO COMPLETE LEGACY FIELDS PHASE 1, THE CITY'S CAPITAL IMPROVEMENT PROGRAM (CIP) PLANNING PROCESS, AND PROVIDE DIRECTION TO STAFF REGARDING PROJECT DELIVERY OPTIONS

Brian MacDonald, Parks and Recreation Director, Richard Joaquin, Parks Planning and Development Manager, and Karin Schnaider, Finance Director provided the staff report and presentation.

Robert Tanner supported finishing Legacy Fields Phase 1A through 1F, forget the Multi-Generational Center as there is no land. The next amenity should be the Aquatics Park and asked about the status of the Aquatic Park.

Michel Bazinet provided a brief history regarding Measure V. The numbers presented are creating an artificial sense of crisis, and there is more than enough money to finish Legacy Fields, build the Aquatic Center and build the Multi-Generational Center and other amenities.

Edward Graham stated he has been advocating for the completion of Legacy Fields for five years, and spoke about tournaments bringing revenue into Tracy, and shared his support for completing Legacy Field.

Marsha McCray stated there are multiple equally important amenities, should all be together as a community and commit to funding each project as it is ready to proceed, and Measure V amenities are an investment in our community and quality of life.

Alice English stated during COVID more people stayed at home and more purchasing was done locally, encouraged Council to complete Legacy Fields and revisit the Aquatic Center, need gymnasium but not at \$40 million, and have to complete one project first.

Pete Mitracos agreed Legacy Fields should be completed and spoke about the possibility of doing a gymnasium by itself in Legacy Fields area instead of having a large facility that cost \$40 million, shared support for starting the Nature Park, good idea to phase the swim center, and shared concerns about Aquatic Center maintenance costs.

Karen Moore supported the Aquatic Center, suggested Council look at a YMCA alternative, and described a YMCA amenity she had visited in Lebanon, Ohio and suggested getting a tour of the facility.

Troy Camacho, President of Tracy Babe Ruth stated Legacy Fields was intended to give Little League and Babe Ruth a home, more fields are needed, unfinished parking lots, fields and valley fever are issues, State tournaments are a tough sell with it not complete, and asked Council to consider finishing Legacy Fields as a high priority.

Paul Zwickey, Little League baseball stated as you discuss Legacy Fields to consider the phased approach, placing the Multi-Generational Center at Legacy Fields, and suggested completing Legacy Fields.

Dan Evans supported prioritizing and completing Legacy Fields before the Aquatic Center. Legacy Fields will bring revenue to businesses in the City, promote sports, people need to get out after COVID, and give Tracy something to be proud of.

Sali Graham requested Council finish what they started before beginning another project, and use Measure V funds to finish Legacy Fields.

Sherrie Mainarick requested finishing what the City started over six years ago. No to the Aquatic Center and yes to finishing Legacy Fields.

Brandi Marotta stated Measure V funding will be large enough to pursue several amenities consecutively, and urged Council to move forward, work together and create a place that the residents of Tracy can enjoy together.

Roy Hawkins requested Council not go back to the drawing board and vote yes in favor of finishing Legacy Fields, and proceed with the Aquatic Center.

Richard English requested completing Legacy Fields first which will continue generating revenue for our city and then talk about the swim center.

An Tran supported completing Legacy Fields so future families can enjoy what Tracy Little League has to offer, and requested using Measure V funds.

Henry Romero requested Council come to agreement and vote no on the Aquatic Center and yes on finishing Legacy Fields.

Lisa Jackson urged Council to consider using Measure V funds to complete the Legacy Fields facility prior to beginning any further projects.

Nicole Durrance urged Council to re-prioritize and fund the completion of Legacy Fields. As a health professional, saying no on Aquatics Center and yes on Legacy Fields as it would be safer.

Adrianne Richardson, City Clerk announced emails that exceeded the 250 word limit were received from Francisco Martinez (on behalf of Tracy Babe Ruth), Brandon Kanner (Tracy Tritons), Juan Soto, and were sent to City Council and a copy provided on the dais.

Mayor Young called a recess at 8:05 p.m.

Mayor Young reconvened the meeting at 8:11 p.m.

Motion was made by Council Member Arriola to adopt Option 3 - financing Legacy Fields and the Multi-Gen Center including the optional improvements and begin funding the Nature Park with Measure V revenues beginning in 2030. Mayor Pro Tem Vargas seconded the motion.

City Council questions and comments followed.

Mayor Pro Tem Vargas spoke about the \$200,000 Holly Sugar Complex public benefit for recreational purposes, and asked if the \$200,000 is part of the cash on hand or is something we can discuss as possible friendly amendment to policy consideration.

Jenny Haruyama, City Manager responded staff will take as an information request and make sure we include as part of the CIP discussion on April 20, 2021.

Mayor Pro Tem Vargas asked for a friendly amendment to the motion to add Prologis public benefit of \$4 million and utilize \$2 million for the Nature Park seed money funding to start process of planting, maybe a bench so we can start leveraging those dollars for future grant funding.

Mayor Pro Tem Vargas stated lets add the \$4 million to Option 3 to be utilized and request that no matter whether it is Measure V or public benefit dollars to have the friendly amendment to finance the Nature Park this year for seed money to look for funding from other sources. Looking for seed money to start the project – planting, irrigation, watering, trees to kick it off. Trees take a long time to grow. Council Member Arriola denied the friendly amendment.

Mayor Pro Tem Vargas asked for a formal motion to amend for funding for the Nature Park of \$2 million, if that comes from the public benefit or Measure V as long as we get some seed money to start the planting of the trees that will take decades to mature. Council Member Davis seconded the motion because of the proximity of the Nature Park to Legacy Fields.

City Council discussion continued.

Ms. Haruyama responded there is interest in getting seed money and getting the Nature Park off the ground. That will cost about \$800,000 in design, and there is \$350,000 available through other non Measure V funds, which leaves approximately \$500,000 that is needed. Council could table this and direct staff to pursue funding options for design, and staff could bring back as part of the capital discussion.

Council Member Davis was open to that suggestion and Mayor Pro Tem Vargas was open also and withdrew her motion.

Council Member Bedolla made a substitute motion to direct staff to pursue Option 4 – per staff report including a full build out of Legacy Fields including parking lot, paving and lighting improvements, and direct staff to use the Prologis Community Benefit Agreement funds towards a Multi-Generational Center and bring back discussion on the Nature Park during the CIP workshop. Council Member Davis supported the request.

Ms. Schnaider provided the timelines for all the options, and clarified the debt-servicing differences between Options 3 and 4.

Council Member Davis withdrew her support for Option 4, stating she did not want the Aquatic Center to be delayed, and liked the idea of the balance of Option 3 because it does not have the \$40 million, there is no construction plans or land for Multi-Generational Center, and Option 3 makes more sense. Liked to give community the best

of both worlds - Legacy Fields and Aquatic Center in a timely matter is why she is saying Option 3.

Council Member Arriola suggested a friendly amendment to phase not only the Multi-Generational Center, but other amenities. Mayor Pro Tem Vargas seconded the amendment.

Motion made by Council Member Arriola to adopt Option 3 – financing Legacy Fields and Multi-Generational Center including phasing of the Multi-Generational Center and other future amenities. This includes the optional improvements to Legacy Fields, and add the Nature Park as a Measure V amenity and would begin funding the Nature Park with Measure V revenue beginning in 2030.

Leticia Ramirez, City Attorney clarified that the Aquatics Center would be extended for one year.

Ms. Haruyama asked to clarification that using Measure V for funding of the Nature Park by 2030, is an assumption that capital has been paid for and ongoing maintenance is effective in 2030.

Council Member Arriola responded absolutely in accordance with our principals.

Ms. Haruyama stated that motion also assumes that Council is now making the Nature Park one of the priority amenities, and recommended that staff come back and show Council what that looks like because that was not originally part of our calculations.

Ms. Haruyama repeated the motion: Option 3 – extending completion date of the Aquatics Center by one year, financing Legacy Fields 1.E should be done in 2022, exploring the phasing of the gym and other amenities. Aquatic Center Phase 1 by 2025, Phase 2 by 2028, RFP starting with design for the gym could start in 2023 with ultimate completion in 2031. What is unknown is how the Nature Park affects all of this and is why it will come back to Council to see that and provide some options.

Mayor Young called for a recess at 9:32 p.m. due to technical difficulties.

Mayor Young reconvened the meeting at 9:37 p.m.

#### ACTION:

Motion made by Council Member Arriola and seconded by Mayor Pro Tem Vargas to adopt Option 3 – Titled: Financing Legacy Fields and Multi-Gen Center – which includes extending completion date of Aquatics Center by approximately one year and finance (debt service) with the amendment that the phasing of the Multi-Generational Center would include possible phasing of other future amenities (future amenities could include Nature Park). The amendment to that is to include the optional improvements to Legacy Fields so it is the full completion 1.E plus optional improvements and add the Nature Park as a Measure V amenity and to begin funding it at 2030 with Measure V Funds. Roll call found all in favor; passed and so ordered.

5. COUNCIL ITEMS AND COMMENTS – Council Member Arriola announced there will be an East Bay Community Energy (EBCE) webinar tomorrow at noon on Zoom. The

information is on the EBCE and City websites and will discuss switching and opting out. Council Member Arriola wished everyone a happy Easter.

Mayor Pro Tem Vargas proposed to invite Michael Tree, Executive Director of Valley Link to provide a short presentation and update in May and answer questions regarding policies on Valley Link. Mayor Young seconded the request. Mayor Pro Tem Vargas wished everyone a happy Easter.

Mayor Young wished everyone a happy Easter, and acknowledged Council Member Arriola's award by the National LGBT Bar Association of 40 best LGBT lawyers under 40 in the country.

6. ADJOURNMENT – Time: 9:42 p.m.

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

Mayor Young reconvened back to Closed Session at 9:42 p.m.

The above agenda was posted at the Tracy City Hall on March 18, 2021. The above are action minutes. A recording is available at the office of the City Clerk.

ATTEST:	Mayor	
City Clerk		

#### **AGENDA ITEM 1.B**

#### **REQUEST**

APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH BARRY & WYNN ARCHITECTS, INC., OF DANVILLE, CALIFORNIA, FOR ARCHITECTUAL DESIGN SERVICES FOR THE POLICE MULTIPURPOSE REALITY BASED TRAINING FACILITY (CIP 71110) FOR A NOT-TO-EXCEED AMOUNT OF \$290,000

#### **EXECUTIVE SUMMARY**

This is a request for approval of a Professional Services Agreement (PSA) for architectural and engineering design services for the Police Multipurpose Reality Based Training Facility (CIP 71110). The Police Multipurpose Reality Based Training Facility, CIP 71110, is an approved Capital Improvement Project that is funded as follows: \$265,164 General Fund Projects (F301), \$200,000 TIMP Public Safety Police (F364), and \$200,000 Equipment Replacement (F605). The total project budget is \$665,164 and there are sufficient funds available within the project for the PSA.

#### DISCUSSION

The existing Police Training building located at the Police Gun Range is a modular building that has exceeded its useful life. The building does not have functioning heating and ventilation systems and the flooring is failing.

CIP 71110, for a replacement structure, was approved as part of the FY19/20 Budget.

The new Training Facility will be an approximately 2,880 square foot temperature controlled structure that will provide a flexible open space that can be used for classroom instruction as well has physical training, and will allow for scenario training that simulates real world situations. In addition to the open space, there will be two first level and two second flexible spaces that can be used for offices or storage. The facility will have an elevated second level catwalk that will allow for observation of trainings in progress by both instructors and trainees. The new building will be constructed on a previously undeveloped area in the Gun Range Facility.

On October 22, 2020, the City issued a Request for Proposals (RFP) for the Police Multipurpose Reality Based Training Facility (CIP 71110). Proposals were received from the following consultants:

- Barry & Wynn Architects Danville, CA
- CSHQA Sacramento, CA
- FCGA Architecture Danville, CA
- IBI Group San Jose, CA
- KPA Group Pleasanton, CA
- NJA Architecture Lodi, CA
- NORR Architects Sacramento, CA
- SVA Architects Oakland, CA

- TAIT & Associates Rancho Cordova, CA
- WLC Architects Folsom, CA

After review of all proposals, staff determined that the proposal by Barry & Wynn Architects of Danville, CA, was the most responsive to the City's needs. After detailed negotiations with the consultant, a PSA with a not-to-exceed cost of \$290,000 was agreed upon.

#### STRATEGIC PLAN

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

#### FISCAL IMPACT

The Police Multipurpose Reality Based Training Facility, CIP 71110, is an approved Capital Improvement Project with a total project budget of \$665,164, which is funded as follows: \$265,164 General Fund Projects (F301), \$200,000 TIMP Public Safety Police (F364), and \$200,000 Equipment Replacement (F605). The total project budget is \$665,164 and there are sufficient funds available within the project for the PSA.

#### RECOMMENDATION

Staff recommends that the City Council, by resolution, approve a Professional Services Agreement with Barry & Wynn Architects, with a not-to-exceed amount of \$290,000 for design services for the Police Multipurpose Reality Based Training Facility, CIP 71110.

Prepared by: Ilene Macintire, PE, Senior Civil Engineer

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

Karin Schnaider, Finance Director Andrew Malik, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

#### ATTACHMENTS

Attachment A – PSA with Barry & Wynn Architects, Inc.

## CITY OF TRACY PROFESSIONAL SERVICES AGREEMENT WITH BARRY & WYNN ARCHITECTS FOR THE POLICE MULTIPURPOSE REALITY BASED TRAINING FACILITY, CIP 71110.

This Professional Services Agreement (**Agreement**) is entered into between the City of Tracy, a municipal corporation (**City**), and Barry & Wynn Architects, Inc., a California corporation (**Consultant**). City and Consultant are referred to individually as "Party" and collectively as "Parties."

#### Recitals

- A. City desires to retain Consultant to provide professional architectural and engineering design services; and
- **B.** On October 22, 2020 the City issued a Request for Proposals (RFP) for the architectural and engineering design services for the Police Multipurpose Reality Based Training Facility, CIP 71110 (**Project**). On December 4, 2020, the 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. 2021-\_\_\_\_ approved by Tracy City Council on April 6, 2021.

#### Now therefore, the Parties mutually agree as follows:

- 1. <u>Scope of Work</u>. 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: Steven Wynn, (CFO). 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. <u>Time of Performance</u>. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Consultant. Consultant shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.
- **2.1 Term.** The term of this Agreement shall begin on April 15, 2021 and end on June 30, 2022, unless terminated in accordance with Section 6. This Agreement may be extended for an additional 1 year by the City Manager following a written determination that Consultant has satisfactorily met all the requirements of this Agreement.

- 3. <u>Compensation</u>. 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 \$290,000. Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. Effective, January 1, 2022, Consultant's billing rates under this Agreement may be annually increased in January of each year by the lesser of 3% or the annual increase in the Cost of Living Index All Items, for the Sacramento Metropolitan Region. No work shall be performed by Consultant in excess of the total compensation amount provided in this section without the City's prior written approval.
- **3.2 Invoices.** Consultant shall submit monthly invoice(s) to the City that describe the services performed, including times, dates, and names of persons performing the services.
  - 3.2.1 If Consultant is providing services in response to a development application, separate invoice(s) must be issued for each application and each invoice shall contain the City's designated development application number.
  - **3.2.2** Consultant's failure to submit invoice(s) in accordance with these requirements may result in the City rejecting said invoice(s) and thereby delaying payment to Consultant.
- 3.3 Payment. Within 30 days after the City's receipt of invoice(s), City shall make payment to the Consultant based upon the services described on the invoice(s) and approved by the City.
- 4. <u>Indemnification</u>. 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. <u>Insurance</u>. Consultant shall, throughout the duration of this Agreement, maintain insurance to cover Consultant, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.
- **5.1** Commercial General Liability (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than \$4,000,000 general aggregate and \$2,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.
- **5.2** Automobile Liability (with coverage at least as broad as ISO form CA 00 01 07 97, for "any auto") "claims made" coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
- **5.3 Workers' Compensation** coverage shall be maintained as required by the State of California.

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- 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.
- **Termination.** The City may terminate this Agreement by giving ten days' written notice to Consultant. Upon termination, Consultant shall give the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant for this Agreement. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.
- 7. <u>Dispute Resolution</u>. 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.

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- **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. <u>Independent Contractor Status</u>. 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. <u>Conflicts of Interest</u>. 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. <u>Rebates, Kickbacks, or Other Unlawful Consideration</u>. 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. <u>Notices</u>. 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:

Ilene Macintire, PE Senior Civil Engineer City of Tracy, Development Services 333 Civic Center Plaza Tracy, CA 95376

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

Steven Wynn, AIA CFO Barry & Wynn Architects, Inc. 379 Hartz Ave Danville, CA 94526

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#### 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 <a href="http://www.dir.ca.gov/DLSR">http://www.dir.ca.gov/DLSR</a>. 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.

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- 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. <u>Signatures</u>. 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]

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

City of Tracy	Consultant
	Barry & Wynn Architects, Inc., a California
	corporation
D. Norway	Steven O. Uga
By: Nancy Young	By:_Steven Wynn (/
Title: Mayor	Title: CFO
Date:	Date: 2-22-21
Attest:	Federal Employer Tax ID No. <u>C8-0457</u> 271
	1 Man III I Darman
Adrianne Richardson, City Clerk	By:
ranamie raenardoon, ony olera	Title: CEO
	Date: 2-27-2 68-045727
Approved as to form:	
	Federal Employer Tax ID No
Leticia Ramirez, City Attorney	

#### Exhibits:

- Scope of Work, including personnel and time of performance Α (See Agreement Sections 1 and 2.)
- Compensation (See Agreement section 3.) В

#### EXHIBIT A - Scope of Work

#### Task 1: Project Management

\$17,000

#### The Consultant shall:

- Be the primary point of contact for all communications between the City and Project Team (subconsultants).
- b. Coordinate kickoff meeting with City staff and Project Team.
- c. Coordinate regular progress meetings between the City and project team
- d. Provide ongoing coordination with the project team on design issues.

#### Task 2: Preliminary/Conceptual Design Phase

\$49,000

#### The Consulate shall:

- a. Meet with City staff and stakeholders to define the project goals and building features.
- b. Prepare plan layout options (minimum of two) that meet the goals of the project. Plan layouts will be prepared taking into account the usage of a prefabricated building shell structure.
- c. Evaluate the construction cost of the options and explore cost savings alternatives if the costs exceed the City's construction budget.
- d. Through discussions with City staff, select a plan layout option for final design.
- e. Perform feasibility analysis for civil related issues and provide recommended solutions for the client and City's consideration.
- f. Prepare a final AutoCAD generated site plan base to be used for design and preparation of PS&E's.
- g. Prepare a Concept Cost Estimate based on preliminary plans.

#### **Task 3: Environmental Analysis**

\$2,500

#### The Consultant shall:

- a. Identify any environmental analysis that may needed for the project
- b. Provide miscellaneous civil related support to answer environmental questions.

It is our understanding based on the RFP that no new wet utility (sanitary sewer, storm drain, or water) service is required for the proposed facilities. We anticipate storm runoff would be sheet flow across the site and no new drainage facility is required. This scope of services does not include any wet or dry utility design or plan. It is also assumed that C.3 low impact development (LID) stormwater treatment measure is not required for the proposed improvements and only a site design measure in compliance with the C.3 Technical Guidance will be implemented.

#### Task 4: Geotechnical Evaluation

\$2,400

#### The Consultant shall:

- a. Review the existing geotechnical report prepared by Kleinfelder
- Determine if any additional geotechnical information is required
- c. Provide detailed scope of supplemental information request for City use

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Task 5: Permitting \$3,350

#### The Consultant shall:

 a. Provide miscellaneous civil engineering support and prepare exhibits for regulatory permits, if required (\*This scope of services does not include preparing permit applications or studies to support permit applications.)

#### Task 6: Reconnaissance and Field Surveys

\$11,700

#### The Consultant shall:

- a. Perform a site visit and reconnaissance.
- b. Review the existing topographic survey included in the RFP and determine additional field topo survey needed.
- c. Research, obtain and review existing utility base maps, record information and available information from the City.
- d. Perform topo field survey to supplement the existing topographic survey data included in the RFP.
- e. Update the existing topographic survey and prepare a computer generated topographic and existing condition plan for design and plan preparation purpose. It is assumed for this scope of services that the City will provide AutoCAD files and survey controls of the existing topographic survey included in the RFP.
- f. Prepare a record boundary based on record information and a title report (to be provided by the Client or the City).
- g. Make recommendations to the Client and the City pothole requirements, if needed, and prepare a pothole plan. This scope of services does not include potholing or pothole survey of any existing utilities. Should this work be required, the consultant will provide a separate scope of work and fee for City review and approval.

#### **Task 7: Construction Documents**

\$137,000

#### The Consultant shall:

- a. Review their past pre-engineered building projects and conduct a preliminary design of the building shell in order ascertain approximate structure member sizes and foundation loads.
- b. Design the non-prefabricated building structural elements, including the mezzanine structure, suspended catwalks, awning, and possibly exterior walls. The mezzanine structure is expected to be isolated from the building shell. The canopy and exterior stair landing are expected to be hung off the building shell. The nature of the exterior walls (engineered or pre-engineered) will depend on the results of the preliminary design phase.
- c. Prepare architectural and structural construction documents for the building. The prefabricated steel building shell will be listed on the plans as a deferred design-build element, subject to the requirements given on the plans and in the specifications. The stair structures will also be listed on the plans as a design-build deferred submittal. The plans will provide the required geometry and design loading for the building shell, including all gravity loading (dead and live loads, weight of roof-mounted solar panels and mechanical units), wind and seismic loading, and applied loads to the framing from the stair landing and the suspended catwalk. The specifications will clearly note the submittal requirements for prefabricated steel building shell, and will be written in such a way that a bidding General Contractor will be able to solicit bids from multiple pre-engineered building providers (e.g. Rigid Global Buildings, Metal Building Company, Olympia Steel Buildings, and others). All construction details for the non-prefabricated structural elements will be on the plans.

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- d. Prepare structural calculations for all designed, non-prefabricated, structural elements, including the suspended catwalk, mezzanine, awning, and building foundation.
- e. Prepare specifications.
- f. Prepare schedules of finishes and hardware.
- g. Provide Code Analysis for accessibility, egress, and fire.
- h. Provide Title 24 documentation for mechanical and envelope design, and lighting compliance.
- i. Provide plumbing design to within five feet of the building footprint.
- j. Provide HVAC design.
- k. Provide fire sprinkler performance specifications. Fire protection scope is to within five feet of building.
- I. Site layout to include site lighting and utility company services to building from existing services on site.
- m. Design of computer and telephone raceways, outlets, and backboard.
- n. Lighting plan to include selection of fixtures, fixture schedules, and branch circuiting.
- o. Provide one-line diagram, panel schedules, motor control centers and main switchboard elevation.
- p. Provide electrical system load calculations. Scope assumes that sufficient power is available onsite.
- q. Prepare 60% plans, specifications and estimates (PS&E's).
- r. Meet and review 60% comment with the client and the City, and prepare 90% PS&E's incorporating the City comment on the 60% PS&E's.
- s. Meet and review 90% comment with the client and the City, and prepare 100 PS&E's incorporating the City comment on the 90% PS&E's.
- t. Meet and review 100% comment with the client and the City, and prepare final bid documents incorporating the City comment on the 100% PS&E's. Electronic files and a mylar set of the final construction documents will be submitted.
- Submit construction plans for permit review and respond to plan check comments from the City of Tracy Building Dept.

#### Task 8: Bid Period Services

\$7,200

#### The Consultant shall:

- Attend a pre-bid meeting.
- b. Review and respond to questions from the bidding General Contractors and their subcontractors.
- C. Prepare Addenda or clarifications to the Construction Documents as necessary.

#### **Task 9: Construction Support**

\$41,000

#### The Consultant shall:

- a. Attend a pre-construction meeting.
- b. Review all submittals from the General Contractor, including most importantly the prefabricated metal building shell. Special attention will be given to the metal building plans, details and calculations to ensure that: 1) the shell structure has been designed in accordance with the requirements of the Construction Documents and Specifications, and 2) the shell structure will integrate seamlessly into the building as a whole.
- c. Respond to the General Contractor's RFI's.
- d. Perform structural observations and write Field Reports as necessary.
- e. Review contractor's change orders, if required.
- f. Prepare minor plan revisions.

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#### **Task 10: Record Drawings**

\$8,850

The Consultant shall:

- a. Prepare Record Drawings upon completion of the project based on redlined markup plans provided by the Contractor.
- b. Submit Record Drawings in AutoCAD and .PDF format
- c. Submit Record drawings on mylar for City permanent records
- d. Reimbursable expenses

#### **Task 11: Unanticipated Work**

\$10,000

This task is established to address additional work that may be required due to unanticipated conditions at the project site. No work is to be performed under this task without written authorization from the City.

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#### CITY OF TRACY POLICE DEPARTMENT

### PROPOSED PROJECT SCHEDULE (FROM DESIGN THRU BID COORDINATION AND AWARDING)

PROJECT TITLE	PROJECTED START DATE
CITY OF TRACY POLICE DEPARTMENT REALITY BASED TRANSING FACILITY	4/1/2021
PROJECT ADDRESS	ESTIMATED END DATE
TRACY POLICE DEPARTMENT FIREARMS TRAINING RANGE, TRACY CA	11/12/2021

APPROX, PROJECT DURATION in days

226

TASK NO.	TASK NAME	START DATE	END DATE	<b>DURATION</b> in days	COMMENTS
1	PROJECT MANAGEMENT	4/1/2021	10/8/2021	191	
1.1	Kickoff meeting(s) with CITY staff and Project Team	4/5/2021	4/8/2021	4	04/05/2021 Suggested Kickoff meeting
1.2	Regular progress meeting coordination with CITY staff and Project Team	4/1/2021	10/8/2021	191	
2	PRELIMINARY / CONCEPTUAL DESIGN PHASE	4/5/2021	5/14/2021	40	
2.1	Preparation of plan layout options to be reviewed with CITY staff and stakeholders	4/5/2021	5/14/2021	40	05/14/2021 Preliminary / Conceptual Design Submittal to the CITY for review
2.2	Construction Cost Evaluation Options and cost savings alternatives exploration	4/18/2021	5/7/2021	20	and different states
2.3	Civil feasibility analysis and recommendations to the CITY for consideration	4/25/2021	5/7/2021	13	
2.4	Submit final CAD generated site plan base background for main development and PS&E	5/3/2021	5/7/2021	5	
3	ENVIRONMENTAL ANALYSIS	4/18/2021	5/7/2021	20	
3.1	Project Team coordination with environmental consultant (if applicable)	4/18/2021	5/7/2021	20	
3.2	Coordination with Civil Team to provide supporting reference documentation	4/18/2021	5/7/2021	20	
4	GEOTHECNICAL EVALUATION	4/25/2021	5/7/2021	13	
4.1	Review and coordination of geotechnical report with Design Team and the CITY	4/25/2021	5/7/2021	13	
4.2	Evaluation if additional geotechnical supplemental information is required	4/25/2021	5/7/2021	13	
5	PERMITTING (CIVIL - REGULATORY PERMITS)	5/2/2021	5/14/2021	13	
5.1	Project Team coordination if additional miscellaneous supplemental civil documents are required	5/2/2021	5/14/2021	13	
6	RECONNAISSANCE AND RELD SURVEYS	4/11/2021	5/28/2021	48	
6.1	Site visit / survey, and investigation. Analysis of exisiting topo survery.	4/11/2021	4/30/2021	20	
6.3	Research and review existing utility base maps, record documents, and coordination with the CITY	4/11/2021	4/30/2021	20	
6.4	Update existing topo survey documentation, Preparation of record boundary documents	4/25/2021	5/21/2021	27	
6.5	Review of Civil documents and coordinate with the CITY for recommendations	5/23/2021	5/28/2021	6	
7	CONSTRUCTION DOCUMENTS	5/31/2021	10/8/2021	131	
<b>7</b> ,1	Review of preparation of preliminary design of the buildling shell - structural analysis	5/31/2021	6/7/2021	8	
72	Design development of non-prefabricated building structural elements	5/31/2021	6/7/2021	8	

#### **EXHIBIT B - Compensation**

#### **PROJECT FEES**

<del></del>	
Task 1: Project Management	\$17.000
Task 2: Preliminary/Conceptual Design Phase	\$49,000
Task 3: Environmental Analysis	\$2,500
Task 4: Geotechnical Evaluation	\$2,400
Task 5: Permitting	\$3,350
Task 6: Reconnaissance and Field Surveys	\$11,700
Task 7: Construction Documents	\$137,000
Task 8: Bid Period Services	\$7,200
Task 9: Construction Support	\$41,000
Task 10: Record Drawings	\$8,850
Task 11: Unanticipated Work	<u>\$10,000</u>
NOT TO EXCEED AMOUNT	\$290,000

#### **SUBCONTRACTORS**

The following subcontractors shall provide specialized services per the rate schedules attached

Finn Design Group, Inc.
Ruggeri-Jensen-Azar
Capitol City Design, Inc.
Turley & Associates Mechanical Engineering Group, Inc.
Leland Saylor Associates

#### **RATE SCHEDULES**

See attached.

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## Project Key Personnel and Hourly Rate Schedule for Police Multipurpose Reality Based Training Facility City of Tracy, California (effective January 4, 2021 thru December 31, 2023)

2023
\$245
\$185
\$185
\$140
THE REAL PROPERTY.



Effective January 1, 2021

3825 Hopyard Road, Suite 125 Pleasunton, CA 94588 (925) 737-1600 (925) 737-1601 FAX

#### 2021 STANDARD RATE SCHEDULE

#### **Engineering Services**

Principal		
Project Manager5	210.00	per hour
Senior Structural Engineer	200.00	per hour
Structural Engineer II	190.00	per hour
Structural Engineer I	175.00	per hour
Senior Project Engineer	165.00	per hour
Project Engineer II	155.00	per hour
Project Engineer I	150.00	per hour
Assistant Engineer III	140.00	per hour
Assistant Engineer II	130.00	per hour
Assistant Engineer I	120.00	per hour
Technical Services		
CAD Dept. Manager\$	160.00	per hour
Senior CAD Drafter	150.00	per hour
CAD Drafter IV	140.00	per hour
CAD Drafter III	130.00	per hour
CAD Drafter II	120.00	per hour
CAD Drafter I	110.00	per hour
Administrative Assistant	100.00	per hour
Secretary\$	85.00	per hour
Clerical Assistant	80.00	per hour
Other Services		
Sub-Consultants, Special Equipment, Reproductions, Materials, and Other Outside Cha	rees	
		ST + 15%
Court Appearances/Depositions (4 hours minimum)	450.00	per hour
Vehicle Transportation\$	0.80	
Copies & Printing: 81/2x11\$	0.20	per page
Copies & Printing: 11x17\$	0.40	per page
Large Format Bond Paper Plots/Copies		
Large Format Vellum Flcts		per sq.ft.
Large Format Mylar Flets	5.00	per sq.ft.
Unless specified by separate contract, a late payment charge (computed at the annual ra	te of 5%	
above the Federal Discount Rate) will be charged to any invoice balance commencing 3 after the date of issue.	o days	
after the date of issue.		

Subject To Revision



ENGINEERS # PLANNERS # SURVEYORS

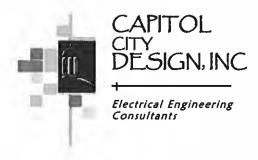
#### **BILLING RATE SCHEDULE**

# For City of Tracy (effective January 1, 2021 thru December 31, 2023)

	Title	Rate (\$/hour)			
Name		2021	2022	2023	
Eddie Sieu, PE	Principal / Sr. Project Manager	\$250.00	\$260.00	\$270.00	
Scott Shortlidge, PLS	Principal / Sr. Project Manager	\$240.00	\$250.00	\$258.00	
Alex Azar, PE	Project Manager	\$224.00	\$233.00	\$243.00	
David Terhune, PE	Project Manager	\$224.00	\$233.00	\$243.00	
Dominic Carucci, PE	Project Manager	\$224.00	\$233.00	\$243.00	
To be determined	Associate Engineer	\$198.00	\$205.00	\$213.00	
To be determined	Engineer	\$183.00	\$190.00	\$198.00	
To be determined	Sr. Technician	\$164.00	\$167.00	\$170.00	

#### **EXPENSE SCHEDULE**

- 1. All outside expenses will be billed at actual cost plus 15% including:
  - Delivery Service
  - Reproduction
  - Mileage Auto
  - Travel & Expenses



#### **HOURLY RATES**

PRINCIPAL / ELECTRICAL ENGINEER	\$ 150.00
PROJECT MANAGER	\$125.00
ELECTRICAL DESIGNER	\$110.00
AutoCAD	\$ 70.00
CLERICAL	\$ 60.00

#### **REIMBURSABLE RATES**

Expenses beyond the ordinary scope of the project will be reimbursed at the following rate:

OUTSIDE BLUEPRINTING/OUTSIDE CONSULTING/DELIVERY SERVICE	Cost plus 10%
TRAVEL	\$ 0.65 per mile
HOTEL	\$ 95.00 per night
IN-HOUSE PRINTING (delivery not included)	\$ 0.18 per s.f.
PLOTTED ORIGINALS VELLUM (delivery not included)	\$ 2.60 per s.f.
ELECTRONIC FILES (locked or tif files)	\$ 250.00 per file



#### **HOURLY RATES**

PRINCIPAL	\$ 215.00
SENIOR ENGINEER	\$ 195.00
SENIOR PROJECT MANAGER	\$160.00
PROJECT ENGINEER	\$ 145,00
DESIGNER	\$120.00
REVIT TECHNICIAN	\$ 110.00
AutoCAD OPERATOR	\$ 80.00
CLERICAL	\$ 70.00

#### REIMBURSABLE RATES

Expenses beyond the ordinary scope of the project will be reimbursed at the following rate:

OUTSIDE BLUEPRINTING	\$ 0.20 per s.f.
TRAVEL	\$ 0.56 per mile
HOTEL	\$ 95.00 per night
IN-HOUSE PRINTING (delivery not included)	\$ 0.20 per s.f.
PLOTTED ORIGINALS VELLUM (delivery not included)	\$ 2.60 per s.f.
ELECTRONIC FILES (locked or tif files)	\$ 250.00 per file



# COST ESTIMATING HOURLY BILLING RATES

#### 2020 Rates

Principal	\$221.00
Director of Pre-Construction Services/Managing Estimator	\$200.00
Senior Project Manager	\$180.00
Senior MEP Estimator	\$180.00
Senior Estimator	\$175.00
Estimator	\$149.00
Senior Scheduler	\$180.00
Scheduler	\$149.00
Technical Services	\$111.00

#### **Other Costs**

Deposition, Mediation, Arbitration, or Trial Fee	150% of Standard Rate
Reimbursable (lodging, travel, reproduction, Mileage @ IRS mileage rate, per diem, etc.)	Cost plus 5%
Consultants	Cost plus 5%
Rates increase 3% annually.	

Page 19 of 19

<b>RESOLUTION</b> 2	2021-
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APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH BARRY & WYNN ARCHITECTS, INC., OF DANVILLE, CALIFORNIA, FOR ARCHITECTUAL DESIGN SERVICES FOR THE POLICE MULTIPURPOSE REALITY BASED TRAINING FACILITY (CIP 71110) FOR A NOT-TO-EXCEED AMOUNT OF \$290,000

WHEREAS, The Police Multipurpose Reality Based Training Facility project was approved by as part of the Fiscal Year 19/20 Budget, and

WHEREAS, The Police Multipurpose Reality Based Training Facility will replace an obsolete modular structure at the Gun Range on South Tracy Boulevard, and

WHEREAS, A Request for Proposals for the Police Multipurpose Reality Based Training Facility Project was issued on October 22, 2020, and

WHEREAS, Ten proposals were received, and the proposal submitted by Barry & Wynn Architects, Inc. of Danville, California, was determined to be the most responsive to the City's needs, and

WHEREAS, A Professional Services Agreement (PSA) was negotiated with a not-to-exceed amount of \$290,000, and

WHEREAS, The Police Multipurpose Reality Based Training Facility, CIP 71110, is an approved Capital Improvement Project with a total project budget of \$665,164 and there are sufficient funds available within the project for the PSA;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby approves a Professional Services Agreement with Barry & Wynn Architects, Inc., with a not-to-exceed amount of \$290,000, for the Police Multipurpose Reality Based Training Facility Project (CIP 71110).

\*\*\*\*\*\*\*

The foregoing Resolution 2021-\_\_\_\_ was passed and adopted by the Tracy City Council on the 6<sup>th</sup> day of April 2021, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

#### **AGENDA ITEM 1.C**

#### **REQUEST**

APPROVE THE FUNDING AGREEMENT WITH LEPRINO FOODS COMPANY TO FUND A NEW CAPITAL IMPROVEMENT PROJECT (CIP 72121) FOR THE IMPROVEMENTS AT THE INTERSECTION OF MACARTHUR DRIVE AND GRANT LINE ROAD

#### **EXECUTIVE SUMMARY**

This agenda item, with City Council approval, would approve a Funding Agreement with Leprino Foods Company to fund improvements at the intersection of MacArthur Drive and Grant Line Road. Leprino Foods will pay for all costs associated with constructing the improvements.

#### **DISCUSSION**

Leprino Foods Company has a place of business located at 2401 N. MacArthur Drive Tracy, CA 95376 with a parking lot for its employees located across from the facility facing the northbound side of Grant Line Road. The Grant Line Road and MacArthur Drive intersection pedestrian crosswalks serve as pedestrian access to cross Grant Line Road for the employees. Recently, the City and Leprino were made aware of traffic and pedestrian conflicts relating to Leprino's employees crossing Grant Line Road at points other than at the intersection to go between Leprino's facility and the parking lot. There were also concerns that vehicles do not consistently yield to pedestrians crossing at the intersection when making a right-turn against a red traffic signal at the north and west crosswalks of the intersection.

Leprino met with the City to discuss possible solutions to the aforementioned traffic and pedestrian conflict concerns. The parties discussed proposed improvements to the intersection at N. MacArthur Drive and Grant Line Road, to address the safety concerns. Leprino has agreed to provide funding for the City to construct the proposed improvements in the agreement, to facilitate safe access for its employees between its facility and the parking lot.

The Improvements include the construction of a fenced median on Grant Line Rd, on the west side of the intersection of Grant Line Road and N. MacArthur Drive, and the installation of two pairs of blank out signs on the existing signal poles. The blank-out signs will be installed such that the southbound traffic turning westbound on Grant Line Road, and the eastbound traffic on Grant Line Road turning southbound on MacArthur Drive cannot turn on a red phase of the signal when the pedestrians have activated the pedestrian push buttons to cross the crosswalk on Grant Line Road, west of N. MacArthur Drive. The Improvements will also include striping adjustments to the existing stop bar at the crosswalk.

Agenda Item 1.C April 6, 2021 Page 2

#### 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

Staff is requesting a new CIP (72121) for the improvements at the intersection of MacArthur Drive and Grant Line Road. This project will be paid for by the funding agreement from Leprino Foods Company, as they are responsible for 100% of the actual costs of constructing the improvements.

#### RECOMMENDATION

Staff recommends that the City Council approve, by resolution, the Funding Agreement with Leprino Foods Company to fund a new Capital Improvement Project (CIP 72121) for the improvements at the intersection of MacArthur Drive and Grant Line Road intersection.

Prepared by: Anju Pillai, 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 – Funding Agreement with Leprino Foods Company

#### **City of Tracy**

#### **FUNDING AGREEMENT**

This Funding Agreement ("Agreement") is entered into and is effective on the date of the last signature, between the City of Tracy ("City"), a California municipal corporation and Leprino Foods Company ("Leprino"), a Colorado corporation. City and Leprino may each be referred to as "Party" and may together be referred to as the "Parties."

#### RECITALS

- A. Leprino has a place of business located at 2401 N. MacArthur Drive Tracy, CA 95376 with a parking lot for its employees located across its facility facing the northbound side of Grant Line Road (Rd).
- B. An existing pedestrian crosswalk is located at the intersection of N. MacArthur Drive and Grant Line Rd. The intersection pedestrian crosswalk may serve as pedestrian access to cross Grant Line Rd.
- C. Recently, the City and Leprino were made aware of traffic and pedestrian conflicts relating to Leprino's employees crossing Grant Line Rd at points other than at the intersection to go between Leprino's facility and the parking lot, and that vehicles do not consistently yield to pedestrians crossing at the intersection when making a right hand turn against a red traffic signal.
- D. Leprino met with the City to discuss possible solutions to the aforementioned traffic and pedestrian conflict concerns. The Parties discussed proposed improvements to the intersection at N. MacArthur Drive and Grant Line Rd, as well as improvements to the median on Grant Line Rd (hereinafter "Improvements"), to address the traffic safety concerns. Leprino has agreed to provide funding for the City to construct the Improvements to facilitate access for its employees between its facility and the parking lot.
- E. This Agreement provides for the timing and procedures for funding the Improvements.

NOW, THEREFORE, the Parties agree as follows:

#### 1. Purpose.

The purpose of this Agreement is to provide for deposits by Leprino to City of certain costs incurred by City related to construction of Improvements.

#### 2. Allocation of Costs.

The City will complete design and receive competitive bids for the construction of the Improvements in accordance with the Public Contract Code. The City's opinion of probable projects costs for the Improvements is \$118,440.

- **2.1.** Leprino is responsible for 100% of the actual costs of constructing the Improvements.
- **2.2.** The Improvements include the construction of a fenced median on Grant Line Rd, on the west side of the intersection of Grant Line Rd and N. MacArthur Drive, and the

installation of two pairs of blank out signs on the existing signal poles. The blank-out signs will be installed such that the southbound traffic turning westbound on Grant Line Rd, and the eastbound traffic on Grant Line Rd turning southbound on MacArthur Drive cannot turn on a red phase of the signal when the pedestrians have activated the pedestrian push buttons to cross the crosswalk on Grant Line Rd, west of N MacArthur Drive. The Improvements will also include striping adjustments to the existing stop bar at the crosswalk.

The City, after completing the design of the Improvements, will receive competitive construction bids in accordance with the Public Contract Code. The award of the construction contract will be contingent on the execution of this Agreement. The City shall issue the notice to proceed after award of the construction contract by the City, execution of this Agreement, and receipt of initial payment from Leprino as specified in this Agreement. Construction shall commence by the terms of the of construction agreement by the City and the successful bidder (typically 30 days).

#### 3. Payment Schedule.

#### 3.1. Design Costs.

Leprino is responsible for payment of "Design Costs" for the Improvements. "Design Costs" are the costs paid to the City for staff work and any design consultant hired by the City to develop plans and specifications, as well as design support during construction, for the construction contract. The amount of estimated Design Costs to be deposited by Leprino as per the Deposit Schedule below and shall be in the amount of \$13,000.

#### 3.2. Construction Costs.

Construction costs associated with the Improvements are designated as either "Hard Costs" or "Soft Costs." "Hard Costs" are the construction costs paid to the construction contractor by the City pursuant to the construction contract entered into as a result of the public bidding process. "Soft Costs" are the construction management, inspection, and a contingency amount. Leprino is responsible for payment of both Hard and Soft Costs to City for the Improvements. The amount of estimated Soft Costs to be deposited by Leprino as per the Deposit Schedule below shall include a contingency amount equal to (10%) of the total amount of the Hard Costs, plus construction management (including inspection and staff time) and design support as listed below.

Contingency amount (10% of \$86,310) \$8,630

Construction Management, Staff Time and Inspection \$10,500

#### 3.3. Deposit Schedule.

3.3.1. Leprino shall deposit with City 100% of Design Costs, Hard Costs, and Soft Costs that it is responsible for funding of the Improvements. The deposit for the Design Costs shall be payable at the execution of this Agreement and the Hard Costs and Soft Costs shall be paid within ten business days after City's award of the construction contract, by the City. City's execution of the construction contract shall be contingent upon City's receipt of such funds from Leprino.

**3.3.2.** All deposits shall be returned to Leprino as provided herein. Within 45 days after completion of construction and acceptance of Improvements by the City,

City will reconcile the amount of Design, Soft, and Hard Costs received against the amounts spent or needed to complete the construction of Improvements listed in this Agreement.

#### 4. Project Management.

- 4.1. City will be solely responsible for all decisions regarding project management, and Leprino's role will be limited to funding the Improvements. Representatives of the City and Leprino shall meet on an as needed basis during the course of construction to discuss any relevant issues regarding work progress as the same relate to the budget for the project.
- 4.2. City will inform Leprino in writing of any change order relating to construction of the Improvements that would increase the Hard Costs by more than 20%. Leprino must inform City in writing within 48 hours of any concerns for such change orders. The Parties intend that change orders should be funded by contingency funds that have already been deposited with the City at the time of the change order pursuant to Section 3.2, above, provided that sufficient contingency funds are available as reasonably determined by the City. The Parties also intend to work together in good faith to expeditiously assist City in timely approval of change orders to avoid potential claims or delays from the contractor.
- 4.3. If, at any time prior to completion of the Improvements, the City reasonably determines that the actual costs to the City of constructing the Improvements which Leprino is responsible for funding will exceed the total of Leprino's deposits of Design, Hard Costs, and Soft Costs required under Section 3.3, above, City may notify Leprino of the amount of anticipated exceedance. Upon such notice from the City, Leprino shall, within five business days, make an additional deposit with the City in an amount equal to the anticipated exceedance in estimated Design, Hard Costs and Soft Costs, to satisfy Leprino's Design, Hard Costs and Soft Costs deposit obligations under Section 3.2, above.

#### 5. Miscellaneous.

**5.1. Notices.** Notices required to be given under this Agreement shall be in writing and must be served by email, and may also be served personally or by first class mail to:

City of Tracy	<u>Leprino</u>			
Development Services Director 333 Civic Center Plaza Tracy, CA 95376 [Insert Email]	Leprino Foods Company 2401 N. MacArthur Drive Tracy, CA 95376 jma@leprinofoods.com			
With a copy to:	With a Copy to:			
City Attorney 333 Civic Center Plaza Tracy, CA 95376	Legal Department 1830 38 <sup>th</sup> Ave. Denver, CO 80211			

5.2 No Agency, Partnership, or Joint Venture. No agency, partnership or joint venture relationship is intended to be created by this Agreement. Leprino solely is funding the City's costs to construct Improvements and has no control over the work or how the work is to be performed. City shall solely control and be responsible for the work and how the work is to be performed, including the safety of all City contractors, subcontractors, and affiliates.

- **5.3. Attorneys' Fees.** If legal action is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorneys' fees, costs and expenses incurred.
- **5.4. Counterparts.** This Agreement may be signed in counterparts and when signed by all parties constitutes a binding agreement. Counterparts which are transmitted electronically shall be as effective as originals.
- **5.5. Modifications.** This Agreement may be modified only in writing signed by both parties.
- **5.6. Waivers.** Waiver of a breach or default under this Agreement does not constitute a continuing waiver, or the waiver of a subsequent breach.
- **5.7. Jurisdiction.** This Agreement shall be governed by the laws of the State of California. Any legal proceeding related to the Agreement shall be filed and heard in court in San Joaquin County.
- **5.8. Entire agreement.** This Agreement comprises the entire, integrated understanding of the parties and supersedes prior negotiations, representations or agreements.

SIGNATURE PAGE FOLLOWS

### Signatures

City of Tracy	Leprino
	Leprino Foods Company
	a Colorado corporation
By:	
Nancy D. Young Mayor	By: Br &
Date:	Title: Engineering Manager
	Title: Ensureering Manager  Date: 1/16/2/
Attest:	By: Mort
	Title: Plan + Manager
	Date: 3/16/2021
Adrianne Richardson, City Clerk	
Approved as to form:	
Leticia Ramirez, City Attorney	

<b>RESOL</b>	UTION	2021-	

APPROVING THE FUNDING AGREEMENT WITH LEPRINO FOODS COMPANY TO FUND A NEW CAPITAL IMPROVEMENT PROJECT (CIP 72121) FOR THE IMPROVEMENTS AT THE INTERSECTION OF MACARTHUR DRIVE AND GRANT LINE ROAD

WHEREAS, Leprino Foods Company has a place of business located at 2401 N. MacArthur Drive Tracy, CA 95376 with a parking lot for its employees located across its facility facing the northbound side of Grant Line Road, and

WHEREAS, The Grant Line Road and MacArthur Drive intersection pedestrian crosswalks serve as pedestrian access to cross Grant Line Road for the employees, and

WHEREAS, Recently, the City and Leprino were made aware of traffic and pedestrian conflicts relating to Leprino's employees crossing Grant Line Road at points other than at the intersection to go between Leprino's facility and the parking lot, and

WHEREAS, There were also concerns that vehicles do not consistently yield to pedestrians crossing at the intersection when making a right-turn against a red traffic signal at the north and west crosswalks of the intersection, and

WHEREAS, Leprino met with the City to discuss possible solutions to the aforementioned traffic and pedestrian conflict concerns, and

WHEREAS, Leprino has agreed to provide funding for the City to construct the proposed improvements in the agreement, to facilitate safe access for its employees between its facility and the parking lot, and

WHEREAS, The Improvements include the construction of a fenced median on Grant Line Road, on the west side of the intersection of Grant Line Road and N. MacArthur Drive, and the installation of two pairs of blank out signs on the existing signal poles, and

WHEREAS, The Improvements will also include striping adjustments to the existing stop bar at the crosswalk, and

WHEREAS, Staff is requesting a new CIP (72121) for the improvements at the intersection of MacArthur Drive and Grant Line Road and this project will be paid for by the funding agreement from Leprino Foods Company, as they are responsible for 100% of the actual costs of constructing the improvements;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy, hereby approves the Funding Agreement with Leprino Foods Company to fund a new Capital Improvement Project (CIP 72121) for the improvements at the intersection of MacArthur Drive and Grant Line Road.

\* \* \* \* \* \* \* \* \* \* \* \*

Resolution 20 Page 2	)21		
	oregoing Resolution 2021 2021, by the following vote:	_ was adopted by the Tracy City Council on the 6 <sup>th</sup>	
AYES: NOES: ABSENT: ABSTAIN:	COUNCIL MEMBERS: COUNCIL MEMBERS: COUNCIL MEMBERS: COUNCIL MEMBERS:		
ATTEST:		MAYOR	
CITY CLERK			

#### AGENDA ITEM 1.D

#### **REQUEST**

# ACCEPT AN AWARD FOR THE \$500,000 GRANT FROM SJCOG'S JOBS BALANCING INVESTMENT FUND FOR OFF-SITE IMPROVEMENTS TO THE MIDDLEFIELD PROJECT

#### **EXECUTIVE SUMMARY**

This item provides Council with an opportunity to receive a grant award of \$500,000 from San Joaquin Council of Governments (SJCOG) and award a Middlefield Project up to \$500,000 for construction of off-site improvements along Corral Hollow Road. This grant is funded by the jobs balancing investment fund designed to create new employment in the County along regional transportation infrastructure improvements and will help fund off-site project improvements on Corral Hollow Road along the property frontage. The fund was created as a local economic development incentive tool to fund transportation improvements along the regional transportation network needed to attract jobs to San Joaquin County and to provide an essential strategic funding mechanism to assist in attracting employers. Economic Development staff engaged SJCOG staff regarding this Grant after learning from the project applicant that the commercial / retail project may not move forward based on higher than anticipated project costs. No General Fund monies will be used for the development of this commercial / retail project. The Project is estimated to create 175 jobs at buildout.

#### **DISCUSSION**

#### Project Background

The Middlefield Project was approved by Tracy City Council on July 27, 2020. It is located on a 2.44-acre parcel at the southeast corner of Corral Hollow Road and Middlefield Drive and consists of an automotive service station, electric vehicle charging station, and a convenience store. The Project is estimated to create 175 jobs at buildout. On-site and off-site transportation improvements include construction of driveways, sidewalk curb and gutter, a left turn lane, roadway widening, and median reconstruction. The applicant requested assistance with public improvements to help the financial performance of the Project.

City of Tracy Economic Development staff engaged SJCOG staff in June of 2020 regarding a grant opportunity to fund the City's offsite requirement for the Middlefield project. The Project is located on the Regional Transportation Infrastructure Fund (RTIF) roadway network. City of Tracy worked with SJCOG staff and Project applicant to meet the requirements of the RTIF Jobs Balancing Investment Fund (JBIF) program and have the funding approved by the SJCOG Board in August 2020.

#### RTIF Background

The SJCOG Board approved the creation of the RTIF Jobs Balancing Investment Fund in April 2015. The fund was created as a local economic development incentive tool to fund the transportation improvements needed to attract job-creating firms to San Joaquin

County and to provide an essential strategic funding mechanism to assist in attracting employers to the region. This is consistent with the policies and strategies in SJCOG's long-range transportation planning document, the Regional Transportation Plan. Since the approval, SJCOG staff has promoted the program with the handful of projects going beyond the proposal stage and none being awarded prior to the Middlefield Project.

#### FISCAL IMPACT

The property owner is responsible for the off-site improvements of their Project. The City applied for and was awarded a \$500,000 grant from SJCOG to mitigate some of the costs of these improvements.

#### STRATEGIC PLAN

This agenda item does not relate to the Council's Strategic Plans.

#### **RECOMMENDATION**

Staff recommends that City Council accept an award for the \$500,000 grant from SJCOG for off-site improvements to the Middlefield Project.

Prepared by: Michael Nimon, Economic Development Manager

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

Karin Schnaider, Finance Director Andrew Malik, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

## ACCEPTING AN AWARD FOR THE \$500,000 GRANT FROM SJCOG'S JOBS BALANCING INVESTMENT FUND FOR OFF-SITE IMPROVEMENTS TO THE MIDDLEFIELD PROJECT

WHEREAS, Staff recommends receiving a grant award of \$500,000 from San Joaquin Council of Governments (SJCOG) to award a Middlefield Project up to \$500,000 for construction of off-site improvements along Corral Hollow Road, and

WHEREAS, This Project will create new employment in the County along regional transportation infrastructure improvements and funds the Developer's offsite requirement for improvement of Corral Hollow Road along the property frontage, and

WHEREAS, This Project would create 175 jobs at buildout;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby approves an award for the \$500,000 grant from SJCOG's Jobs Balancing Investment Fund for off-site improvements to the Middlefield project.

The foregoing Resolution 2021-\_\_\_\_ was passed and adopted by the Tracy City Council on the 6<sup>th</sup> day of April 2021, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

#### REQUEST

APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH MARK THOMAS & COMPANY, INC., OF SACRAMENTO, CALIFORNIA FOR A NOT-TO-EXCEED AMOUNT OF \$585,901 TO PROVIDE PROFESSIONAL ENGINEERING SERVICES FOR THE PREPARATION OF ENVIRONMENTAL DOCUMENTS, PLANS, SPECIFICATIONS AND COST ESTIMATES FOR THE PROJECT, ROADWAY IMPROVEMENTS AND TRAFFIC SIGNAL INSTALLATION AT CORRAL HOLLOW ROAD AND LINNE ROAD INTERSECTION, AND AUTHORIZE AN APPROPRIATION OF \$295,000 FROM TIMP TRAFFIC FUND (F363) TO CIP 72104

#### **EXECUTIVE SUMMARY**

Roadway Improvements and Traffic Signal Installation at Corral Hollow Road and Linne Road Intersection, is an approved Capital Improvement Project, CIP 72104. The City is experiencing overall development in this region. This project is needed to mitigate the growing demands of vehicular traffic, and improve the level of service at the intersection. Currently, the City does not have the appropriate staffing resources to complete the design services of the project in-house. The City issued a Request for Proposals (RFP) seeking qualified consultants for completing the design services for this project, and selected Mark Thomas & Company, Inc., of Sacramento, California. This request is for approval of a Professional Services Agreement (PSA) with Mark Thomas & Company, Inc., for the design services, including the preparation of environmental documents, plans, specifications and cost estimates for the project, Roadway Improvements and Traffic Signal Installation at Corral Hollow Road and Linne Road Intersection, CIP 72104.

#### DISCUSSION

Roadway Improvements and Traffic Signal Installation at Corral Hollow Road and Linne Road Intersection, is an approved Capital Improvement Project. Currently, both Corral Hollow Road and Linne Road are one lane in each direction at this intersection.

This project entails the widening of Corral Hollow Road in Tracy, California, from just north of the UPRR right-of-way at W. Linne Road to approximately 500' south of W. Linne Road. The road will be widened to accommodate two lanes in each direction on Corral Hollow Road at the Linne Road intersection, with appropriate lane transitions. The project limits will not extend beyond the Delta Mendota Canal to the south on Corral Hollow Road. The number of lanes on Linne will depend upon a subsequent traffic analysis and the right of way acquisition process.

Proposed improvements consist of the replacement of the existing two-lane roadway on Corral Hollow Road, construction of new travel lanes, median, curbs, sidewalks and installation of new signage and striping. There will be significant improvements required within UPRR right-of-way at the railroad tracks. An appropriate drainage system will be designed to accommodate the run-off from this intersection improvement.

The proposed improvements also require new traffic signals at the intersection, a presignal for southbound traffic on Corral Hollow Road before the UPRR railroad tracks,

streetlights, and coordination/relocation of affected existing franchise utilities. The project will also entail right-of-way acquisitions to accommodate the necessary widening at the intersection.

Staff applied for and was allocated a competitive grant in FY19/21. The City was awarded \$330,000 under a Congestion Mitigation and Air Quality (CMAQ) grant for the construction of a traffic signal which would improve the traffic operations at this intersection.

On August 17, 2020, the City issued a Request for Proposals (RFP) for the design services of the Roadway Improvements and Traffic Signal installation at Corral Hollow Road and Linne Road Intersection, CIP 72104. On September 29, 2020, the City received a total of three (3) proposals.

Staff reviewed and determined that from the proposals received that Mark Thomas & Company, Inc, possesses the skills, experience and certification required to provide the design services for the project.

Staff negotiated with Mark Thomas & Company, Inc. to provide engineering design services for this project on a time and material basis, for an amount not-to-exceed \$585,901, which is reasonable and competitive.

#### 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 current available budget for design is \$290,900 and an appropriation of \$295,000 from the TIMP Traffic Fund (F363) is needed to award this project for design services. There is CMAQ (Congestion Mitigation and Air Quality) Funds of \$330,000 allocated for construction for this project.

#### <u>RECOMMENDATION</u>

Staff recommends that the City Council, by resolution, approve a PSA with Mark Thomas & Company, Inc., with a not-to-exceed amount of \$585,901, for the project Roadway Improvements and Traffic Signal Installation at Corral Hollow Road and Linne Road Intersection, and authorize an appropriation of \$295,000 from TIMP Traffic Fund (F363) to CIP 72104.

Prepared by: Anju Pillai, PE, Senior Civil Engineer

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

Karin Schnaider, Finance Director Andrew Malik, Assistant City Manager Agenda Item 1.E April 6, 2021 Page 3

Approved by: Jenny Haruyama, City Manager

## <u>ATTACHMENTS</u>

Attachment A – PSA with Mark Thomas & Company, Inc.

#### CITY OF TRACY

# PROFESSIONAL SERVICES AGREEMENT WITH MARK THOMAS & COMPANY INC., FOR ROADWAY IMPROVEMENTS AND TRAFFIC SIGNAL INSTALLATION AT CORRAL HOLLOW ROAD AND LINNE ROAD INTERSECTION, CIP 72104

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

#### Recitals

- **A.** City desires to retain Consultant to deliver a wide range of services including, but not limited to, project management, preliminary and final Engineering including preparation of plans, specifications and estimate (PS&E), environmental document preparation, railroad and utility coordination, preparation of plats and legal description for right of way acquisition and community involvement for the Roadway Improvement and Traffic Signal installation at Corral Hollow Road and Linne Road Intersection, CIP 72104. The consultant will serve as the central coordinator for all activities between the consulting team, City staff and other agencies.
- **B.** On August 17, 2020 the City issued a Request for Proposals (RFP) for the design services of the Roadway Improvement and Traffic Signal installation at Corral Hollow Road and Linne Road Intersection, CIP 72104 (**Project**). On September 29, 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.

<b>D</b> . 1	This Agree	ement is being	executed	pursuant to	Resolution	No	approved by	Tracy	City
Council	on	, 2021.							

#### Now therefore, the Parties mutually agree as follows:

- 1. <u>Scope of Work</u>. 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: James Pangburn, PE. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit "A," nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.
- 2. <u>Time of Performance</u>. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Consultant. Consultant shall submit all requests for time extensions to the City in writing no later

than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

- **2.1 Term.** The term of this Agreement shall begin on April 15, 2021 and end on April 15, 2023, unless terminated in accordance with Section 6. This Agreement may be extended for an additional one year by the City Manager following a written determination that Consultant has satisfactorily met all the requirements of this Agreement.
- 3. <u>Compensation</u>. 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 \$585,901.00. Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the total compensation amount provided in this section without the City's prior written approval.
- **3.2 Invoices.** Consultant shall submit monthly invoice(s) to the City that describe the services performed, including times, dates, and names of persons performing the services.
  - **3.2.1** If Consultant is providing services in response to a development application, separate invoice(s) must be issued for each application and each invoice shall contain the City's designated development application number.
  - **3.2.2** Consultant's failure to submit invoice(s) in accordance with these requirements may result in the City rejecting said invoice(s) and thereby delaying payment to Consultant.
- **3.3 Payment.** Within 30 days after the City's receipt of invoice(s), City shall make payment to the Consultant based upon the services described on the invoice(s) and approved by the City.
- **4.** <u>Indemnification</u>. 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.

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- **5.2 Automobile Liability** (with coverage at least as broad as ISO form CA 00 01 07 97, for "any auto") "claims made" coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
- **5.3 Workers' Compensation** coverage shall be maintained as required by the State of California.
- **5.4 Professional Liability** "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Consultant in an amount not less than \$1,000,000 per claim.
- **5.5 Endorsements.** Consultant shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions:
  - **5.5.1** The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."
  - **5.5.2** For any claims related to this Agreement, Consultant's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.
- **5.6 Notice of Cancellation.** Consultant shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Consultant shall immediately obtain a replacement policy.
- **5.7 Authorized Insurers.** All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- **5.8 Insurance Certificate.** Consultant shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance and endorsements, in a form satisfactory to the City, before the City signs this Agreement.
- **5.9 Substitute Certificates.** Consultant shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.
- **5.10** Consultant's Obligation. Maintenance of insurance by the Consultant as specified in this Agreement shall in no way be interpreted as relieving the Consultant of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Consultant may carry, at its own expense, such additional insurance as it deems necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.
- **Termination.** The City, or Consultant may terminate this Agreement by giving ten days' written notice. 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. <u>Dispute Resolution</u>. 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. <u>Notices</u>. 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:

<u>To City</u>:
Development Services Department
Attn: Robert Armijo, P.E

City Engineer 333 Civic Center Plaza

Tracy, CA 95376

To Consultant:

To Consultant:

Mark Thomas & Company, Inc. Attn: Matt Brogan, P.E Principal, Vice President 701 University Avenue, Suite 200

Sacramento, CA 95825

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 <a href="http://www.dir.ca.gov/DLSR">http://www.dir.ca.gov/DLSR</a>. 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.

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- **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.** <u>Signatures.</u> 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]

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

City of Tracy	Consultant Mark Thomas & Company, Inc. California corporation
By: Nancy D. Young Title: Mayor Date:	By: Rubert A. Himes Zach Siviglia Title: President Vice President Date: 03/09/2021
Attest:	Federal Employer Tax ID No. 94-1451490
Adrianne Richardson, City Clerk	By: Matthew (Matt) Brogan R. Matt Brogan Title: Secretary Date: 03/09/2021
Approved as to form:	
Leticia Ramirez, City Attorney	

# Exhibits:

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

#### EXHIBIT A - Scope of Work

The Consultant will follow the scope of work below for the Roadway Improvements and Traffic Signal Installation at Corral Hollow Road and Linne Road Intersection project in the City of Tracy (City). In addition to the original RFP scope, additional tasks have been included to incorporate the widening of Linne Road to its ultimate roadway width. In the performance of this scope of services, the Consultant will diligently perform this scope of work and will be responsible for items of work under this contract to the extent that issues arising from the performance of these services are within reasonable control, and the Consultant obligation to indemnify and defend are limited to the extent actually caused by the Consultant in the performance of this scope of work. The Consultant will provide contract documents (final) design services needed to perform the tasks noted below. All reports and/or studies, renderings and exhibits, plans and specifications, calculations, etc. developed by the Consultant will at a minimum comply with San Joaquin County and the City of Tracy Standards. Electronic file deliverables will be in PDF (Portable Document Format), Microsoft (MS) Word, Microsoft (MS) Excel, and/or CAD (Autodesk AutoCAD Civil 3D 2018 format).

#### TASK 1. PROJECT MANAGEMENT

#### Task 1.1. Project Management

This task includes project management time to manage the scope tasks below. The Consultant Project Manager will plan, organize, direct and monitor project work activities and resources in accordance with contracted scope, schedule and budget. This task includes performing ongoing general project management with the client, subconsultants and stakeholders including preparing contract paperwork, monthly status reports, memo's, letters and e-mail, making phone calls and maintaining project files.

#### Task 1.2. Meetings

The Consultant will hold Project Development Team (PDT) meetings with subconsultants and the City to ensure mutual understanding of the intended purposes, objectives, milestones and deliverables of the project. The Consultant will distribute a master Critical Path Method (CPM) schedule as a draft for review by the PDT. The draft CPM schedule will then be updated using comments received from the PDT. The CPM schedule will be updated at major project milestones and will be prepared using Microsoft Project software.

Meetings will generally be held centered on or near key project milestones. The Consultant will take the lead in conducting the meetings including preparation and distribution of the meeting agenda, arrangement of attendance of meeting participants, and preparation and distribution of meeting minutes, including the recap of actions to be taken prior to the next meeting. This scope assumes a PDT meeting once per month until the project is completed for a total of 12 PDT meetings.

#### Task 1 Deliverables:

- Meeting Agendas and Minutes (12 Meetings)
- Monthly Status Reports
- CPM Master Schedule, Updated Monthly

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# TASK 2. PRELIMINARY ENGINEERING (CONCEPTUAL PLANS)

# Task 2.1. 30% Conceptual Plans

The Consultant will prepare conceptual (30%) plans for the Project based on San Joaquin and City standards and guidelines. Within this task, Consultant will prepare up to two conceptual layouts for the project that will focus on achieving the City's widening goals while keeping right of way take and costs to a minimum. The concept plans will include review of design features (such as lane widths, bike lane widths, sidewalk gap closures, retention basin location, identify potential conflicts, and will be shared with the City for feedback. Kimley-Horn will support the Consultant in developing up to two (2) conceptual plans. Kimley-Horn will develop the traffic signal, lighting, and fiber optic interconnect elements of the conceptual plan. Refinements will be made during the PS&E task. Plan sheets will be prepared at 1"=20'. This task includes one round of comments and revisions to be implemented in the next phase.

# Task 2.2. Draft Drainage Memo

The Consultant will prepare a Drainage Memo that will analyze the existing topography of the project site and determine the runoff within the project limits. These calculations will be used to appropriately size a detention basin to collect and retain runoff in peak storm events. The Consultant will identify tributary areas and use the Rational Method to determine the appropriate size for the detention basin. Methods and calculations will comply with the City of Tracy's Design Standards as well as the Citywide Storm Drainage Master Plan.

#### Task 2 Deliverables:

- 30% Concept Plans (pdf)
- Draft Drainage Design Memo

# TASK 3. ENVIRONMENTAL ANALYSIS

Based on preliminary research, the Consultant assumes CEQA has already been completed with the Corral Road Widening Project – Phase 2 Project. The IS/MND prepared in June 2020 will cover this project from a CEQA standpoint, and additional technical studies will be required to support the NEPA CE.

#### Task 3.1. NEPA Compliance

#### Task 3.1.1. Preliminary Environmental Study (PES) Form

Kimley-Horn will draft a PES Form for City review with respect to the proposed project details. The City reviewed PES Form will be submitted to Caltrans for review and approval. Kimley-Horn will be available for one site visit with Caltrans and the City to review the area and take comments on the PES Form. The Caltrans-approved PES Form will act as the work scope for the required NEPA compliance documentation.

Caltrans will provide a NEPA Categorical Exclusion (CatEx) following their approval of the supporting technical studies identified below, pursuant to Section 23 USC 326, 23 CFR 771 activity (c)(23). Caltrans will also prepare a Draft Environmental Commitments Record (ECR).

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# Task 3.1.2. Technical Study Work Program

Kimley-Horn proposes to prepare technical studies in conformance with the National Environmental Policy Act of 1969 (NEPA), pertinent FHWA regulations, Caltrans' Environmental Handbook, and the California Environmental Quality Act (CEQA). Consultant will coordinate with Caltrans staff to formalize the specific content and format requirements for each study. The Consultant team has developed the following technical study work plan to satisfy the City and Caltrans' environmental requirements (budgets for the following tasks assume responses on two consolidated, non-conflicting sets of City / Caltrans review comments).

# Task 3.1.2.1. Air Quality Impact Assessment and Conformity Determination

Consultant will prepare a Project of Air Quality Concern (POAQC) checklist. Accordingly, the following air quality technical study will be completed:

Kimley-Horn will assess air quality emissions in accordance with the San Joaquin Valley Air Pollution Control District's (SJVAPCDs) recommended methodologies set forth in the SJVAPCD CEQA Air Quality Guidelines. The following outlines the approach:

- Construction Emissions. Kimley-Horn will calculate construction emissions using the most current version of CalEEMod. Emissions will be calculated based on the scope of the project, applicantprovided assumptions regarding construction equipment and scheduling, and associated vehicle trips. The air pollutant emissions during construction will be compared to the SJVAPCD thresholds of significance. Construction-related mitigation will be identified as necessary.
- Operational Emissions. Kimley-Horn will quantify operational emissions (i.e., area and mobile source) related to area sources and local/regional vehicle miles traveled. Project emissions will be compared to the SJVAPCD thresholds of significance. Additionally, pursuant to recent case law (i.e., Sierra Club v. County of Fresno), Kimley-Horn will qualitatively address the project's potential to impact human health.
- Health Risk/Localized Impacts. Based on the construction emissions modeling, Kimley-Horn will
  conduct screening-level dispersion modeling and risk calculations to determine potential health
  risks associated with project construction. Kimley-Horn will also coordinate with the EDCAQMD
  to identify existing permitted sources and review existing mapping to determine potential health
  risks to future on-site receptors (i.e., workers). This scope assumes a screening level analysis. If
  potential impacts are identified at the screening level a full health risk assessment would be
  required under a separate scope and fee.
- Carbon Monoxide Concentrations. The analysis of localized CO impacts will be assessed based on traffic data provided by the project traffic engineers and the SJVAPCD's guidelines. In the event that a quantitative analysis of CO concentrations is required, per the SJVAPCD's guidelines, Kimley-Horn will model CO concentrations at one (1) affected intersection, consistent with Caltrans' Transportation Project-Level Carbon Monoxide Protocol using peak traffic hour volumes and levels of service at key intersections provided by the project traffic engineer. Kimley-Horn will use the ARB's EMFAC2014 and CALINE4 models to conduct the CO hot spot analysis for one (1) intersection, as modeled in the traffic analysis.
- Plan Consistency. Consistency of the project's regional emissions will be evaluated against the SJVAPCD Clean Air Plan. The determination of Clean Air Plan consistency is primarily concerned with the long-term influence of a project on air quality in the San Joaquin Valley Air Basin.

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# Task 3.1.2.2. Biological Resources – Natural Environment Study – Minimal Impact (NEPA)

As a subconsultant to Kimley-Horn, Horizon will prepare a Natural Environment Study-Minimal Impact (NES-MI) using the current Caltrans NES MI template. HORIZON will develop the information required by NES-MI and will prepare the text necessary to complete the template. This will include the preparation of text not required in the Biological Resources CEQA Consistency Memorandum, including descriptions of physical and biological conditions, habitat connectivity, natural communities; federal, state, and local regulations; tables of special-status species potentially occurring; and a description of the biological field surveys that were previously conducted for the Corral Hollow IS/MND.

Horizon assumes that the Corral Hollow IS/MND provides adequate biological information to infer natural communities, habitat types, and species presence. Therefore, no survey will be necessary. This task assumes the preparation of a wetland delineation (Aquatic Resource Delineation Report) is not necessary and will not be conducted. Time and effort for regulatory permitting (e.g., Section 404 of the Clean Water Act, Section 401 of the Clean Water Act, Incidental Take Permit, or Section 7 of the Endangered Species Act Biological Assessment) or agency coordination is specifically excluded from this scope of work.

# Task 3.1.2.3. Cultural Resources – <u>Section 106 NEPA Documentation</u> Screening Memo

As a subconsultant to Kimley-Horn, Horizon will prepare a screening memo to be submitted to Caltrans with the PES form with the intent of demonstrating that no significant effects would occur and that the project is "screened out" from further analysis no further documentation is required.

<u>Optional Task:</u> If Caltrans determines the project is not eligible as a screened project, the following cultural resources documentation will be completed in compliance with Section 106 of the National Historic Preservation Act. Tasks under this scope of services shall follow Caltrans guidelines as set forth in Standard Environmental Reference, Volume 2, "Cultural Resources Procedures," and in the "Programmatic Agreement" among the Federal Highway Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer (SHPO). This will include the preparation of an Archaeological Survey Report, Historic Resources Evaluation Report and Historic Property Survey Report, as described below:

Archaeological Survey Report. After preparing the archaeological APE map and conducting the Records Search described in Task 1.2, Horizon will conduct a pedestrian archaeological survey of areas not previously covered under the Corral Hollow IS/MND. HORIZON will prepare an Archaeological Survey Report (ASR), which will include the archaeological APE map and information from the Records Search and tribal consultation described in Task 1.2. The ASR will repackage information from the cultural resources report prepared for the Corral Hollow Road Widening Phase 2 Linne Road to I-580 project, where possible.

**Historic Resources Evaluation Report.** The RFP for the current project noted that there will be "significant improvements" within the UPRR right-of-way; therefore, the UPRR will be recorded and evaluated for listing in the National Register of Historic Places and the California Register of Historical Resources by a qualified architectural historian. Historic period buildings located in the parcel to the east of Corral Hollow Road, which will be within the architectural APE, will also be recorded and evaluated.

**Historic Property Survey Report.** Horizon will prepare a Historic Property Survey Report, per Caltrans standards. In the event that the project would affect a historic resource, Horizon will a prepare a scope of work and cost estimate for the preparation of a Section 106 Finding of Effect,

which may include an avoidance plan in order to obtain a finding of no adverse effect, and the provision of support to Caltrans in Section 106 Consultation with SHPO.

# Task 3.1.3. Community Impact Assessment Technical Memo

Kimley-Horn will prepare a Community Impact Assessment (CIA) that addresses Land Use and Growth; Farmland Impacts; Social and Equity Impacts; Economic Impacts; Relocation Impacts; and Environmental Justice. The CIA will follow guidance found in the Community Impact Assessment, Volume 4 of the Caltrans Environmental Handbook. Kimley-Horn will analyze one build alternative and a No-Build alternative in the CIA. The CIA will evaluate changes in land use and potential growth inducement resulting from the project, as well as, describe consistency with local and regional land use and transportation plans and policies.

Kimley-Horn will prepare a Farmlands Assessment Form AD-1006, which determines if the project meets the threshold for consultation with the Natural Resources Conservation Service (NRCS) on farmland impact. It is assumed the project would not result in significant impact on farmlands per Form AD-1006. Should it be found that the project would result in a significant impact on farmlands per Form AD-1006, Caltrans will submit the AD-1006 to NRCS for a 45-day review and any associated coordination effort from Kimley-Horn, related to a significant impact on farmlands, would be included under a separate scope and fee.

The CIA will analyze changes in community cohesion, public services, access, and circulation. The project team will work closely with SJCOG to determine access and circulation impacts and methods for minimizing those effects consistent with the traffic analyses. The CIA will qualitatively discuss economic impacts, focusing on the businesses in the City of Tracy that could be directly or indirectly affected by the Project, and discuss changes in accessibility, traffic flow, and ingress/egress for businesses. In compliance with Executive Order (EO) 12898, U.S. Department of Transportation's environmental justice strategy, and Caltrans policies and procedures, the CIA will include an assessment of whether the proposed Project results in disproportionately adverse impacts on minority or low-income populations. Kimley-Horn will use the Council on Environmental Quality's established definitions and methods for environmental justice analysis. Kimley-Horn will coordinate with SJCOG and other local planning and public works departments, as needed, to determine projected cumulative conditions for the CIA.

#### Task 3.2. CEQA Compliance

#### Task 3.2.1. Preparation of Mitigated Negative Declaration Addendum (Optional Task)

Kimley-Horn will prepare an Addendum to the adopted Mitigated Negative Declaration (MND) for the Corral Hollow Road Widening Phase 2 Linne Road to I-580 project.

State CEQA Guidelines Section 15164 provides general guidance regarding Addendums; however, it defers to Section 15162 to determine whether circumstances warrant preparation of a Subsequent MND. In other words, if the project fails to meet Section 15162 criteria, an Addendum may be appropriate. This finding must consider factors such as changes in the scope of the proposed project relative to the approved project, changes in surrounding circumstances that have occurred since the Final EIR was certified, and the discovery of new information that was not known at the time the previous MND was adopted. The Addendum test is the ability to provide substantial evidence showing that the proposed project would not create new significant adverse impacts or increase the severity of a significant adverse impact identified in the previous Final MND.

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For the environmental analysis, it is important to demonstrate that adequate consideration has been given to all the environmental topics previously analyzed as part of the adopted Final MND and sufficient documentation is provided to support the determination that the Addendum is the appropriate CEQA documentation. Therefore, Kimley-Horn proposes to use the CEQA Environmental Checklist as the basis for the analysis. For each topic on the checklist, a brief summary of the findings from the adopted Final MND will be provided. Kimley-Horn anticipates that the results of the technical studies described above will conclude that the proposed project's impacts are consistent with the adopted Final MND. Should the technical study analysis identify potential new impacts or more significant impacts, additional analysis may be required under a separate scope of work. Given the recent adoption of the Corral Hollow Road Widening Phase 2 MND, this scope or work assumes that no new biological or cultural surveys are required.

The State CEQA Guidelines do not specify the content or format for an Addendum. Kimley-Horn recommends the Addendum consist of the following: (1) Purpose of the Addendum; (2) Project Background; (3) Project Description, which would provide a project setting discussion; (4) Environmental Analysis; and (5) Conclusions. This scope of work assumes one round of comments on the proposed addendum.

# Task 3.3. Environmental Meetings and Coordination

This task includes up to two meetings with the City to address application and processing questions. Kimley-Horn to use these meetings to review project status, resolve outstanding issues, and continue a dialogue in an effort to maintain the project schedule.

# Task 3.4. Initial Site Assessment (ISA) with Testing (Optional Task)

Crawford & Associates, Inc. (CAInc) will perform the following tasks to provide an Initial Site Assessment (ISA) to evaluate the project corridor and adjacent properties for evidence of recognized environmental conditions (RECs) and/or potential RECs that may significantly impact the project. This work will be performed in support of the *Roadway Improvements and Traffic Signal Installation (CIP 72104)* project, as outlined in the City of Tracy's *Request for Proposals* (dated August 17, 2020). The project corridor comprises ±200' of Corral Hollow Road north of the UPRRR tracks, ±1,200 of Corral Hollow Road south of the UPRR tracks, and ±600 feet of W. Linne Road. The project includes widening Corral Hollow Road to add two additional traffic lanes, widening W. Linne Road to add turn pockets, and installation of traffic signals and lighting. The proposed scope of work to perform the ISA will include:

- Review and discuss the project with the design team.
- Review available project documents and reports including; existing ISA/ESA reports for nearby projects, APN parcel maps, site geology and ground water data. The Consultant will review this information for evidence of suspected or known contamination/hazardous materials issues (such as pesticide usage, railroad alignments, industrial parks, orchards, etc.).
- Conduct a limited site reconnaissance to observe current land use and indications of potential contamination at the site, and to view publicly accessible portions of the adjacent properties.
- Review owner representative provided information, if available, regarding past and present operations conducted within or adjacent to the project alignment to assess the potential for RECs.
- Review historical aerial photographs, topographic maps, and soil maps of the site and surrounding properties for indications of site use and potential sources of contamination.

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- Perform federal, state, and city records review for indications of the use, misuse, or storage of hazardous and/or potentially hazardous materials on or near the site. The federal, state, and local database search will be provided by a professional record check service.
- Collect soil samples at up to eight (8) locations (three (3) samples at each location, for a total of twenty-four (24) soil samples) to screen for the presence of aerially deposited lead, petroleum hydrocarbons and agricultural chemicals. Collect one (1) sample each of the white and yellow traffic striping to evaluate metal content.
  - o All soil samples (24) will be analyzed for total lead. Samples with lead concentrations above threshold will be further analyzed for soluble lead using WET and TCLP protocol. For budgeting purposes, the Consultant assumed 30% of the samples will be analyzed for soluble lead.
  - Because of the presence of agricultural land adjacent to the west side of Corral Hollow Road, four (4) samples will be analyzed for organochlorine pesticides and organophosphates.
  - Eight (8) samples collected adjacent to the UPRR tracks and the businesses on the east side of Corral Hollow Road will be analyzed for petroleum hydrocarbons.
  - o The white traffic striping paint will be analyzed for total lead, and the yellow traffic striping paint will be analyzed for total lead and total cadmium. Samples with metal content above threshold concentrations will be analyzed for soluble concentrations as described above.
- Based on the results of the database search, site review, review of historical aerial photographs and topographic maps, land use review, analytical results, and existing assessments, CAInc will determine the risk of potential hazardous materials within and adjacent to the project area.
- Prepare a report summarizing the findings of the review, site reconnaissance, and analytical results. The Consultant will address identified potential contamination and hazardous material impacts to provide recommendations for additional investigation and analysis, as appropriate.

# Task 3.5. Biological Resources Field Survey – NEPA (Optional Task)

If the Corral Hollow IS/MND does not adequately describe applicable conditions to the project area for the NES-MI, Horizon will conduct one reconnaissance-level survey of the BSA described in Task 2.1, to evaluate the suitability of habitat within the BSA for federally protected wildlife species, including but not limited to vernal pool fairy shrimp, vernal pool tadpole shrimp, valley elderberry longhorn beetle, California red-legged frog, California tiger salamander, white-tailed kite, northern harrier, Swainson's hawk, and San Joaquin kit fox. The reconnaissance-level survey will be conducted to reflect species-specific habitat requirements, applicable regulatory guidance, locally relevant and current best available scientific information. Survey results will be used to map natural communities/habitat types and assess habitat for federally protected species. Horizon's survey will include evaluation of habitat for federally protected plant species that may occur within the BSA. The results of this survey will inform and provide an accurate description of current conditions within the project area and evaluation of potential to support federally protected biological resources relevant to NEPA.

#### Task 3 Deliverables:

- PES Form
- Air Quality Impact Assessment and Conformity Determination
- Natural Environment Study-Minimal Impact (NES-MI)
- Section 106 NEPA Documentation, Screening Memo

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- Community Impact Assessment Technical Memo
- Mitigated Negative Declaration Addendum
- Draft and Final Initial Site Assessment (ISA)

#### TASK 4. GEOTECHNICAL EVALUATION AND REPORT

# Task 4.1. Geotechnical Evaluation and Report

Crawford and Associates will perform the following tasks as a part of their geotechnical investigation of the project site:

# Kickoff, Field Preparation, and Permitting

- Meet with the design team to review the crossing concepts and discuss the project design needs, goals, and schedule;
- Determine exploration locations, determine site access, and mark the exploration locations for USA;
- Obtain a City of Tracy Encroachment Permit

#### **Subsurface Exploration**

- Drill three borings to 5-10 feet deep on the shoulder with a truck-mounted drill rig
- The Consultant will sample continuously in the upper 5 feet ad at 5-foot intervals thereafter. Standard Penetration Test and Modified California drive sampling with a 140-pound automatic hammer with a 30-inch drop will be performed within the borings to obtain samples and blow count information
- Bulk samples of the upper 2 feet of subgrade material will be obtained for R-value testing
- The borings will be backfilled with native soil cuttings

#### **Laboratory Testing**

CAI expects to perform the following laboratory tests, which will be finalized considering the project design and the findings of our field investigation.

- Moisture content/unit weight,
- Grain size analysis, hydrometer, and/or plasticity index for soil classification,
- · Corrosivity testing for structural material considerations, and
- R-value for pavement thickness analysis.

#### **Laboratory Testing**

CAI will prepare a report containing:

- Project description and scope of services
- Site description, geology, historical geotechnical information, and subsurface soil and ground water conditions
- Laboratory test results
- Key geotechnical design and construction considerations and recommendations including rigid and flexible pavement recommendations, flatwork, trench backfill, earthwork
- Risk management and limitations
- Vicinity map, site plan, and boring logs.

#### Task 4 Deliverables:

Draft and Final Pavement Investigation Report

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#### TASK 5. PERMITTING

# Task 5.1. Environmental Permitting

This task includes coordination with SJCOG to obtain coverage under the SJMSCP for project impacts to species of special concern. Consultant permitting staff would, in coordination with the City, facilitate up to two meetings with SJCOG to discuss location and extent of impacts by species, and then confirm the materials necessary for coverage for this project. Consultant scope assumes 32 hours of staff time to complete the coordination and gather project information necessary to obtain coverage for a project with the anticipated low level of impact. If additional effort is required, Kimley-Horn can complete this work upon authorization at then-current hourly rates.

Task 5 Deliverables:

SJMSCP Permit

# TASK 6. RAILROAD AND PUC COORDINATION

# Task 6.1. UPRR/CPUC Coordination and Design Review

The City has already taken the first steps in UPRR/CPUC coordination which included a field diagnostic meeting. UPRR's subconsultant, RailPros, has provided a New Interconnected Crossing Report for the intersection that includes timing calculations as well as redlines on the preliminary geometrics. These recommendations will be included in final design and will be provided to the CPUC and UPRR at the 60% submittal. The Consultant will address comments at the 60%, 90%, and 100% submittals until concurrence is obtained.

Kimley-Horn assumes a pre-signal indication will be implemented on the southbound approach to operate a track clearance phase. Kimley-Horn also assumes the field diagnostic meeting covered topics such as track clearance operation, implementation of railroad preemption circuits, etc. It is assumed that there will be a review at each of the milestone submittals (60%, 90%, 100%) until concurrence is achieved by all parties on the improvements.

#### Task 6.2. GO-88B Application

Once concurrence in the improvements is reached between the City, CPUC, and UPRR, The Consultant will prepare and submit the General Order 88-B Application to the CPUC to authorize modifications to the existing crossing.

Kimley-Horn will provide the technical information relevant to installation of the traffic signal for the preparation of complete GO 88-B application package. The application package will include all necessary attachments, including plans, graphics, calculations, and any other supporting information. Kimley-Horn assumes up to two (2) GO 88-B package submittals.

#### Task 6 Deliverables:

- "15% Concept Plans" Exhibit
- Tabulated Comments from Design Review (pdf)
- GO-88B Application (pdf, Word)

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# TASK 7. OTHER COORDINATION

# Task 7.1. Utility Coordination

The Consultant will perform research at the City, County, State, utility companies and other agencies to obtain as-builts and record maps of the project limits. This includes preparation and mailing of the Utility "A" letter upon City approval. The Consultant will obtain utility mapping from utility companies and develop a utility base map. A Utility Matrix will be created to track discussions and data received from utility agencies.

At PS&E level, The Consultant will build on this early coordination and prepare:

- Utility "B" Letters Maps showing the utility mapping, the proposed improvements, and potential conflicts with the project's improvements. These letters will be sent to utility owners for verification.
- Utility "C" Letter Final plans along with a letter stating liability and relocation agreement (if applicable) will be sent to the utility companies before the project goes out to construction.

This coordination will also include following the Local Assistance Procedural Manual (LAPM), which will require the following documents from the City:

- Notice to Owner (Exhibit 14-D)
- Report of Investigation (Exhibit 14-E)
- Utility Agreement (Exhibit 14-F), if relocations are required

These forms will be incorporated into the Right of Way Certification (Exhibit 13-A or 13-B), which will be needed for the Request for Authorization to Proceed with Construction (Exhibit 3-D)

Kimley-Horn will take the lead on coordinating with PG&E for new traffic signal service and preparing necessary service application documents. Kimley-Horn will work closely with The Consultant and the City to set up the new service account consistent with the City's protocols and procedures.

# Task 7.2. Property Owner Coordination Support

Property acquisitions will be needed to complete the roadway widening on Corral Hallow Road. The Consultant will support the City with a property owner impact exhibit, showing the areas needed from each parcel to construct the project. This task will also include the attendance of one pre-appraisal meeting in the field with the City's appraiser.

The adjacent property to the project sees a large number of heavy trucks daily. The Consultant will work with the property owner to understand their truck circulation and incorporate their preferred trucking route into the project. A truck route exhibit will be provided to visually understand operations and allow for better communication between the property owner and City.

#### Task 7 Deliverables:

- Utility "A", "B", and "C" letters
- Notice to Owner (Exhibit 14-D), Report of Investigation (Exhibit 14-E), Utility Agreement (Exhibit 14-F)
- Property Owner Impact Exhibit (pdf)
- Pre-Appraisal Field Meeting (1)
- Truck Route Exhibit (pdf)

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# TASK 8. RECONNAISSANCE AND FIELD SURVEYS

The Consultant will collect field data of existing topographic features along with above ground surface visible utilities to aid in preparation of the project base map. The survey limits for Corral Hollow Road begin at the existing end of sidewalk on the west side of Corral Hollow Road, approximately 225' North of UPRR, and end at the northerly edge of the Delta Mendota Canal to the South. Topographic data will be collected up to approximately 20-40 feet beyond existing right of way of Corral Hollow Road depending on design needs. The survey limits for W. Linne Road begin at the intersection of Corral Hollow Road & W. Linne Road. Topographic data will be collected within the existing right of way or up to existing fence lines.

Data will be collected for the UPRR tracks and original ground surrounding tracks, approximately 40' (East & West) behind edge of pavement. It is assumed a UPRR flagger will not be required and data collected within UPRR right of way will be obtained remotely from outside said right of way with a terrestrial scanner.

The Consultant will coordinate with the City and local agencies to obtain necessary utility record maps and include the mapping information on the base map. Any utility maps obtained by The Consultant shall be provided to the City. This task assumes no underground utility locating services and does not include locating potholes.

Based upon information gathered, The Consultant will compile an electronic base map including a Digital Terrain Model with 1-foot contours. The Consultant will run break lines as appropriate, include elevation spot shots, surface visible utilities and other relevant features from the Topographic Survey. *Task 8 Deliverables:* 

Topographic Base Mapping (C3D)

#### TASK 9. RIGHT OF WAY

It is assumed the following parcels (identified by assessor parcel number) will be impacted by the project and will require a boundary survey and obtaining preliminary title reports to delineate property lines and existing easements:

- APN 253-110-200
- APN 253-110-002
- APN 253-020-120
- APN 240-140-330
- APN 240-010-070
- APN 244-010-080
- APN 253-110-290

The Consultant will obtain up to seven (7) Preliminary Title Report (cost is reflected in ODC's) and any easements and encumbrances discovered in the reports will be clearly marked and identified.

The Consultant will perform services for right of way acquisition, which includes acquisition exhibits identifying the gross parcel area and proposed right of way take for private owners. Along with an exhibit for proposed easement along UPRR property.

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Legal descriptions and 8.5"x11.5" plats will be drafted for right of way acquisition for up to seven (7) parcels as described above (not including UPRR parcel) and Temporary Construction Easements for up to two (2) of the seven (7) parcels identified for acquisition.

#### Task 9 Deliverables:

- Acquisition Exhibits (7)
- Legal Descriptions and 8.5"x11.5" plats (7)
- Temporary Construct Easements (2)

#### TASK 10. CONSTRUCTION DOCUMENTS

#### Task 10.1. Quality Assurance/Quality Control

The Consultant Quality Control plan consists of established procedures for performing the work (which are reassessed with each project), including methods for design calculations, establishing appropriate levels of design development for intermediate submittals, identification of regularly scheduled plan reviews, design checklists, and methods of project documentation. Specific methods for QA/QC will include:

- The Consultant Quality Assurance Manager will perform an independent review of the project plans, estimates, and reports at each submittal for consistency, constructability, and accuracy.
- Design Technicians will use a "review stamp" for each round of changes which will track who
  commented on the plans, who checked the drafting, and when the final product was
  reviewed again by the design engineer.

The Consultant will implement and maintain these quality control procedures during the preparation of plans and documents throughout the project.

#### Task 10.2. 65% Plans

The Consultant team will build upon the 30% conceptual plans and prepare draft construction documents for the Project using Caltrans and City standards and guidelines. The PS&E package will be submitted to the City for review. The plans will include the following sheets:

Description	Scale	Sheet Count
Title Sheet	n/a	1
Typical Cross Sections	n/a	2
Key Map and Control	n/a	1
Layouts	1"=20'	6
Construction Details	Varies	4
Temporary Water Pollution Control	1"=20'	5
Drainage and Utility Plans	1"=20'	5
Drainage and Utility Profiles	1"=20'	3
Drainage and Utility Details	Varies	2

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Traffic Handling Plans	1"=20'	5
Signing and Striping Plans	1"=20'	5
Electrical Plans, Quantities, and Details	Varies	5
Total Roadway Sheets		44

#### Task 10.3. 90% Plans

Following the 60% PS&E submittal, the Consultant team will revise the plans based on comments from the City. This task will include the effort needed to obtain final design approval and produce the final construction documents.

#### Task 10.4. 100% Plans

Following the 90% PS&E submittal, the Consultant team will revise the plans based on comments from the City. Final plans will be produced for bidding purposes.

#### Task 10.5. Construction Estimates

The Consultant will prepare construction estimates to accompany the 65%, 95%, and 100% plan sets.

#### Task 10.6. Specifications

The Consultant will prepare the special provision contract documents using the City's standard boilerplate. Documents will be compiled using a combination of City of Tracy and Caltrans Standard Specifications. Specifications will be drafted with the 90% plans and finalized with the 100% plans.

# Task 10.7. Final Drainage Memo

The Consultant will incorporate comments received from the Draft Drainage Memo and will provide the City a Final Drainage Memo for the Project.

#### Task 10 Deliverables:

- Plans (60%, 90%, 100% Submittals) Full Size PDF's or Hard Copies as Needed
- Special Provisions (90% and 100%) MS Word
- Construction Cost Estimate (60%, 90%, and 100%) MS Excel
- Final Drainage Memo (pdf)

# TASK 11. BID PERIOD SERVICES AND LIMITED DESIGN SUPPORT DURING CONSTRUCTION

#### Task 11.1. Bidding Assistance

The Consultant will provide assistance to the City during the bidding process of the project. The work may include answering bid inquiries from prospective bidders, attending pre-bid meetings, and preparing addenda to the PS&E documents during the advertisement period. The Consultant has provided a "budget" amount to be used on a time and materials basis as requested by the City. Any time spent beyond this budget will require a contract amendment. Kimley-Horn will provide as-needed support during advertised and award of the construction contract. This task will include responding to bid inquiries, analyzing bids, and attending a pre-bid meeting (if needed). Kimley-Horn assumes up to 20 hours for this task.

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# Task 11.2. Railroad Preemption Testing and Implementation

#### **Bench Testing**

If requested, Kimley-Horn will bench test the traffic signal controller and preemption operations in a City controller cabinet prior to live deployment at the project intersection. Kimley-Horn's services will include:

- Proposed railroad preemption interconnect bench test coordination and support. This effort will
  include working closely with the City, the City's controller manufacturer (McCain Traffic Supply),
  and UPRR to schedule the bench testing and coordinate the necessary components to conduct
  the test.
- Coordination with the City to incorporate the preemption timing into the City's traffic controller that will be used for the preemption bench test.
- Technical support during the bench testing, working with the City and McCain to troubleshoot issues identified during testing.

# **Field Testing and Implementation**

Kimley-Horn will provide coordination and technical support services during the field testing and implementation of the proposed railroad preemption interconnect system.

Kimley-Horn will coordinate with the City, McCain, UPRR, and the construction contractor to schedule the field testing and implementation of the railroad preemption operations and provide technical support to troubleshoot issues identified during testing.

#### Task 11 Deliverables:

None

# TASK 12. CONSTRUCTION (OPTIONAL TASK)

#### **Task 12.1. Construction Support**

The Consultant will assist the City during construction of the project. The work may include responding to Requests for Information (RFIs) by the contractor, providing consultation and interpretation of the contract documents, preparing Contract Change Orders (CCOs), reviewing shop drawings, and attending construction meetings and field visits. The Consultant has provided a "budget" amount to be used on a time and materials basis as requested by the City. Any time spent beyond this budget will require a contract amendment.

#### Task 12.2. As-Built Drawings

Upon completion of construction and during project closeout, The Consultant will prepare record drawings from a redlined set (provided by the City) documenting revisions to the final conformed bid set for City records.

#### Task 13 Deliverables:

Record Drawings (As-Builts) in Electronic Format

#### **ASSUMPTIONS AND EXCLUSIONS**

- Conceptual 30% plans will not exceed more than 2 different layout options.
- Interim drainage improvements/recommendations will be based on the Geotech report for the larger Corral Hallow Road Widening Project.

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- No infiltration rate calculations are included with this scope.
- A Diagnostic Field Review Meeting with the CPUC and UPRR has already been conducted and will not be needed.
- The existing roadway will not be used as a part of the proposed roadway section and a
  pavement overlay or rehabilitation is not included. If it will, drilling/coring of the existing section
  with traffic control would be required at an additional cost.
- The fee for a City encroachment permit is waived
- Work hours in the field are weekdays, 7 am to 5 pm.
- Drilling in the UPRR ROW is not required
- The design traffic index will be provided prior to the completion of field work
- The City will complete the Request for Authorization for Construction Documents required to bid the project.
- PTE'S Will be letters only. The Consultant will not negotiate or discussion compensation.
- As-builts (if any exist) will be provided by City
- No SWPPP / SMARTS Support needed from The Consultant
- The City will responsible for printing and distributing all notification materials such as fliers and posters, as well as posting social media updates to the City's existing communication channels.
- No hydraulic modeling will be completed as part of the proposed project.
- It is assumed that the proposed project will not cause a significant encroachment into the floodplain or a change in the water surface elevation. No FEMA coordination, or Conditional Letter of Map Revision (CLOMR) will be required.
- No Central Valley Flood Protection Board (CVFPB) coordination will be required.

# **KEY PERSONNEL**

- Matt Brogan, PE, Principal in Charge
- James Pangburn, PE, Project Manager
- Ed Noriega, PE, QA/QC
- Jonathan Hernandez, PE, Project Staff, Civil Engineering
- Matt Magaw, PE, Project Staff, Civil Engineering
- Kwasi Akwabi, PE, Traffic Signals, Lighting (Kimley-Horn)
- Nikita Petrov, PE, FOI, Traffic Signals, Lighting (Kimley-Horn)
- Ben Crawford, PE, GE, Geotechnical (Crawford & Associates)
- Garry Horton, PE, Railroad Coordination
- Brandon Benton, PLS, Survey
- Marcy Kamerath, CPSWQ, QSD, Environmental (Kimley-Horn)

# **PROJECT SCHEDULE**

The Consultant will complete this project in accordance with the schedule shown on the following page.

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City of Tracy – Professional Services Agreement with Mark Thomas & Company, Inc.

											Ī	Subcon	Subconsultants	
MARK THOMAS	S Sr. Project Manager	S Sr. Project Engineer	( seesign Engineer )	regenery years 22	S Project Surveyor	≥ 5. Survey © Technician	X 2 Person Field Crew	25 Sc Project Instruosos &	12 kn Project Totanibroo 2 급	Total Hours	Total MT Cost	& brotwerJ easteioossA	Kimley-Horn	FOTAL COST
1.0 PROJECT MANAGEMENT				ı										
1.1 Project Management	12	.28	ı					12	32	24	\$5,400		1	\$56,480
	80	40	0	0	0	0.	0	12	12	144	\$31,880	\$0	\$0	\$31,880
2.0 PRELIMINARY ENGINEERING (CONCEPTUAL PLANS)														
2.1 30% Conceptual Plans 2.2 Braft Brainage Memo	9	40	120	Ī			Ī	Ī		10.1	\$22,440	1 1		\$8,420
Subtotal Phase 2	9	48	180	0	0	0	0	0	0	232	\$30,860	\$0	\$0	\$30,860
3.0 ENVIRONMENTAL ANALYSIS														4
3.1 NEPA Compliance 3.1.1 Preliminary Environmental Study (BES) Form		85	6	Ì	İ	ı				0.00	\$1.750		5.780	\$7.530
										O	\$0			\$0
3.1.2.1 AD Impact Assessment & Conformity Determination 3.1.2.2 Richard Resources - MFs. (Mill.)		2	9 4	Ī	Ī					9 4	\$840	' '	10,270	\$11,110
m		7	4							9	\$840		096	\$1,800
3.1.3 Community Impact Assessment Technical Memo		2	4 4	Ī	1	Ì	Ī	Ī		9 4	\$840	'	25,000	\$25,840
	G	- CA	33	c	G	c	G	c	c	- TO	\$5,950	0\$	\$47,265	\$53,215
A O GEOTECHNICAI EVALUATION & REPORT														
4.1 Geotechnical Evaluation & Report		00								00	\$1,520	17,355	·	\$18,875
Subtotal Phase 4.	0	00	0	0	0	0	0	0	0	00	\$1,520	\$17,355	\$0	\$18,875
5.0 PERMITTING			1											
5.1. Environmental Permitting.	G	00 0	c	•	•	•	-	c	•	00 0	\$1,520	. 00	13,895	\$15,415
Supplies France S										0	076,14	ne	\$13,895	\$15,415
6.0 RAILROAD & PUC COORDINATION	5	0.0	Q q							000	0.00		0	010 004
6.2 GO-888 Application	90	20	2							28	\$5,880	1	5,160	\$11,040
Subtotal Phase 6	28	09	09	0	0	0	0	0	0	148	\$25,580	\$0	\$8,730	\$34,310
7.0 OTHER COORDINATION														
		W	80							88	\$10,720	1	1,630	\$12,350
5.2 Property Owner Loordination Support Subfotal Phase 7	4	20	160	0	0	0	0	0	0	184	\$23,240	- \$0	\$1,630	\$12,520
An inc. the contract a section of refer to the contract of the				H										
8.U RECOMMASSANCE & HELD SURVEYS 8.1 Recommissance & Field Surveys		4	60	12	24	99	48			162	\$30,360	ľ	3,850	\$34,210
Subtotal Phase 8	0	7	8	12	24	99	48	0	0	162	\$30,360	\$0	\$3,850	\$34,210
9.0 RIGHT OF WAY														
9.1. Right of Way		ľ	C	22	88	140	00 0			258	\$40,130			\$40,130
Subtotal Phase 9	9	0		777	88	140	0	0		867	\$40,130	n¢	n¢	\$40,130
10.6 CONSTRUCTION DOCUMENTS										0	040040			000
	37	40	160							208	\$12,240	1 1	11.590	\$39,670
	0	40	130							178	\$24,630	1	18,425	\$43,055
10.4 100% Plans 10.5 Construction Estimates	00	40	120							168	523,480		26,865	550,345
		09	3							09	\$11,400	1	ľ	\$11,400
10.7 Final Drainage Memo		8	40			•				48	\$6,120	7 8	-	\$6,120
Subtotal Phase 10	36	236	530	0	0	0	0	0	0	802	5115,150	20	\$56,880	\$172,030
11.0 BID PERIOD SERVICES														
11.1 Bidding Assistance		20								20	53,800		90	53,800
	0	20	0	0	0	0	0	0	0	20	\$3,800	05	\$15,000	\$18,800
TOTAL LOUIDS	153	763	090	24	113	300	95	13	113	2006				
OTHER DIRECT COSTS	761	407	Ope	1		907	ac		77	2000	\$14,400	os	\$17,365	\$31.765
TOTAL COST	\$39,520	\$87,780	\$110,400	\$7,310	\$19,040	\$26,780	\$15,680	\$1,800	\$1,680	Ī	\$324,390	\$17,355	\$164,615	\$506,360

EXHIBIT B - Compensation

THORM AS A Project Manager  Sa St. Project Manager  Sa St. Project Manager  Sa St. Project Engineer	1 Toenigon Engineer 1											
S 21. Prospect Manuger												
		SurveyManager	Project Surveyor	Sr. Survey 130 130	S 2 Person Field Crew 80	Sr Project Accountant	Sc. Project Coordinator	Total	Total MT Cost	Crawford & Associates	монуэлші	TOTAL COST
OPTIONAL TASKS												
3.1.2.3A ASR/HRER/HPSR (Horizon-Sub to KHA)								0	0\$		23,445	\$23,445
Preparation of Mitigated Negative Dedaration Addendum	2 4							9	\$840	•	11,770	\$12,610
Initial Site Assessment (ISA) with Testing	2 4							9	\$840	16,901		\$17,741
Biological Resources Field Survey - NEPA								0	0\$		3,585	\$3,585
Construction Support	40 80							120	\$16,800			\$16,800
As-Built Drawings	4 40							44	\$5,360		'	\$5,360
Subtotal Optional Tasks 0	48 128	0	0	0	0	0	0	176	\$23,840	\$16,901	\$38,800	\$79,541
TOTAL HOURS - OPTIONAL 0	48 128	0	0	0	0	0	0	176				
OTHER DIRECT COSTS - OPTIONAL										\$0	0\$	0\$
TOTAL COST - OPTIONAL \$0 \$9,	\$9,120 \$14,720	0\$	0\$	0\$	0\$	0\$	0\$		\$23,840	\$16,901	\$38,800	\$79,541

<b>RESOLUTION</b>	2021-
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APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH MARK THOMAS & COMPANY, INC., OF SACRAMENTO, CALIFORNIA, FOR A NOT-TO-EXCEED AMOUNT OF \$585,901 TO PROVIDE PROFESSIONAL ENGINEERING DESIGN SERVICES, THAT INCLUDES THE PREPARATION OF ENVIRONMENTAL DOCUMENTS, AND CONSTRUCTION DOCUMENTS SUCH AS PLANS, SPECIFICATIONS AND COST ESTIMATES FOR THE PROJECT, ROADWAY IMPROVEMENTS AND TRAFFIC SIGNAL INSTALLATION AT CORRAL HOLLOW ROAD AND LINNE ROAD INTERSECTION, AND AUTHORIZE AN APPROPRIATION OF \$295,000 FROM TIMP TRAFFIC FUND (F363) TO CIP 72104

WHEREAS, Roadway Improvements and Traffic Signal Installation at Corral Hollow Road and Linne Road Intersection is an approved Capital Improvement Project (CIP), and

WHEREAS, This project entails the widening of Corral Hollow Road in Tracy, California, from just north of the UPRR right-of-way at W. Linne Road to approximately 500' south of W. Linne Road, and the road will be widened to accommodate two lanes in each direction on Corral Hollow Road at the Linne Road intersection, with appropriate lane transitions, and

WHEREAS, The project limits will not extend beyond the Delta Mendota Canal to the south on Corral Hollow Road, and

WHEREAS, The proposed improvements consist of the replacement of the existing two lane roadway on Corral Hollow Road, construction of new travel lanes, median, curbs, sidewalks and installation of new signage and striping and there will be significant improvements required within UPRR right-of-way and is required extensive coordination with UPRR, and

WHEREAS, An appropriate drainage system will be designed to accommodate the runoff from this intersection improvement, and

WHEREAS, The proposed improvements also require new traffic signals at the intersection, a pre-signal for southbound traffic on Corral Hollow Rd before the UPRR railroad tracks, street lights, and coordination/relocation of affected existing franchise utilities, and

WHEREAS, The project will also entail right-of-way acquisitions to accommodate the necessary widening at the intersection, and

WHEREAS, On August 17, 2020 the City issued a Request for Proposals (RFP) for the design services of the Roadway Improvements and Traffic Signal installation at Corral Hollow Road and Linne Road Intersection, CIP 72104, and

WHEREAS, On September 29, 2020, the City received a total of three (3) proposals, and

WHEREAS, City has determined that from the proposals received, Mark Thomas & Company, Inc, possesses the skills, experience and certification required to provide the design services for the project, and

Resolution 202 Page 2	21
design service	EAS, Staff negotiated with Mark Thomas & Company, Inc. to provide engineering as for this project on a time and material basis, for an amount not-to-exceed ch is reasonable and competitive, and
\$295,000 from	EAS, The current available budget for design is \$290,900 and an appropriation of the TIMP Traffic Fund (F363) is needed to award this project for design services CMAQ (Congestion Mitigation and Air Quality) Funds of \$330,000 allocated for or this project;
hereby approv not-to-exceed Installation at	THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy res a Professional Services Agreement with Mark Thomas & Company, Inc., for a amount of \$585,901, for the Roadway Improvements and Traffic Signal Corral Hollow Road and Linne Road Intersection, and authorize an appropriation om TIMP Traffic Fund (F363) to CIP 72104.
	* * * * * * * *
	regoing Resolution 2021 was passed and adopted by the Tracy City 6 <sup>th</sup> day of April, 2021, by the following vote:
AYES: NOES: ABSENT: ABSTAIN:	COUNCIL MEMBERS: COUNCIL MEMBERS: COUNCIL MEMBERS: COUNCIL MEMBERS:

ATTEST:

CITY CLERK

MAYOR

#### **AGENDA ITEM 1.F**

# **REQUEST**

RECEIVE AND AUTHORIZE STAFF TO SUBMIT THE ANNUAL PROGRESS REPORT FOR 2020 AND ANNUAL ELEMENT PROGRESS REPORT FOR 2020 TO THE OFFICE OF PLANNING AND RESEARCH, AND STATE HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT REGARDING THE IMPLEMENTATION OF THE GENERAL PLAN AND THE HOUSING ELEMENT

#### **EXECUTIVE SUMMARY**

State law requires cities to submit an Annual Progress Report and an Annual Element Progress Report (APR) about the implementation of the General Plan and the Housing Element respectively during the previous calendar year to the Office of Planning and Research (OPR) and California Department of Housing and Community Development (HCD) by April 1st of each year. Legislation adopted in 2017 has expanded the scope of the APR and makes cities who fail to submit an APR for two consecutive years subject to streamlined approvals for certain infill affordable housing projects qualifying under the new legislation. State law further requires that the APRs be considered at a public meeting during which the public is given the opportunity to provide written and oral comments.

This item asks Council to receive the APR for 2020 and authorize staff to submit the report to OPR and HCD.

# **DISCUSSION**

State law requires each city to adopt a comprehensive, long-term general plan for its physical development and that of land outside its boundaries that bears a relationship to a city's planning activities. Government Code Section 65302 mandates that certain topics or "elements" be included in the General Plan depending on the jurisdiction such as land use, circulation, and housing.

The City of Tracy's General Plan, adopted in 2011, "provides a vision for the future and establishes a framework for how Tracy should grow and change over the next two decades." The General Plan provides direction through 2025. The City's Housing Element was adopted in March 2016 for the time period of 2015-2023 in accordance with the housing element update cycle for jurisdictions in the San Joaquin Council of Governments region. The Housing Element contains an identification and analysis of projected housing needs and the City's goals, policies, and objectives regarding the preservation, improvement, and development of housing.

Government Code Section 65400(a) requires that a planning agency or planning department submit APRs to the legislative body of a local agency, OPR and HCD on or before April 1<sup>st</sup> each year, but no later than 60 days after April 1<sup>st</sup>, that contains the following information for the previous calendar year (January 1<sup>st</sup> – December 31<sup>st</sup>):

- The status of the General Plan and the progress of its implementation, and
- The local agency's progress in meeting its share of regional housing needs,

which is commonly referred to as the Housing Element portion of the APR or Annual Element Progress Report, including the agency's "efforts to remove governmental constraints to the maintenance, improvement, and development of housing" under the Housing Element, and

 The degree to which the General Plan complies with the OPR's guidelines and the date the General Plan was last revised.

The Planning Division of the Development Services Department compiled information provided by all City departments to prepare the City's General Plan portion of the APR for 2020 (Attachment A) in accordance with the APR Guidelines issued by the OPR (Attachment B), where jurisdictions have the ability to report the required information in any form. The City's General Plan portion of the APR is in a table format organized by General Plan Element, the objectives and corresponding action items within each Element, and a description of the implementation status for each action item for the reporting year of 2020. A number of these action items have been completed or currently in process, whereas a majority are continuously ongoing as further described in Attachment A. For example, 21 action items relating to improvements to City roadways. utility, parks, and other infrastructure are in process now as the City is undergoing its Master Plan updates. An example of a completed action item is the publication of local businesses success stories in the City Newsletter, which was done with the launch of the Economic Development newsletter in Fall 2020. The City's progress in meeting its regional housing needs allocation (RHNA) is contained in the Housing Element portion of the APR (Annual Element Progress Report) for 2020 (Attachment A). Table B of this APR shows that during the current Housing Element cycle, the City has issued permits for all of its allocated share of the above-moderate category and 62 permits of the moderate income category, with 766 units remaining in the moderate-income category, 705 units in the low income category, and 980 in the very-low income category. This report also contains data on housing activity applied for, approved, issued, and constructed in the reporting year, in accordance with the reporting instructions prepared by HCD (Attachment C). In December 2020, HCD updated the Annual Element Progress Report form and instructions for additional information now required to be reported for the reporting calendar year:

- Updates related to AB 1255 (Chapter 661, Statutes of 2019), which requires cities to make a central inventory of specified surplus land and excess land identified pursuant to law on or before December 31 of each year.
- Updates related to AB 101 (Chapter 159, Statutes of 2019), relating to Local Early Action Planning (LEAP) grant reporting.
- Updates related to AB 83 (Chapter 15, Statutes of 2020), requiring reporting of hotel/motel conversions to residential units and adding mobilehome park preservation as an eligible activities in the optional reporting table for rehabilitated, converted, and preserved units.

State regulations require that the Annual Element Progress Report be prepared using HCD's instructions, definitions, and form. The form is created by HCD and cannot be altered. Jurisdictions are instructed to enter data in certain required cells, with optional cells marked with an asterisk. Where no such entry exists, the cell is to remain blank. Due to the significant amount of data requested and the requirement that the APRs be heard at a public meeting prior to submission to the state, staff had limited time to

compile and enter all the required and requested optional data before the due date of April 1. Due to these time constraints, staff has provided all required data and only the optional data that was readily available. (Prior APN data is not readily available and therefore has not been reported. HCD has indicated to staff that there are not many jurisdictions who have been providing this optional data.) One of the City's efforts related to housing activity described in the APR is City Council's direction to implement strategies to encourage and increase workforce/affordable housing as described in the staff report and scope of work approved by the City Council on March 3, 2020.

### STRATEGIC PLAN

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

# FISCAL IMPACT

Staff resources used to prepare these reports are included in the Development Services Department's operating budget for FY 2020-2021.

#### RECOMMENDATION

Staff recommends that City Council receive the Annual Progress Report for 2020 and Annual Element Progress Report for 2020, and, by resolution, authorize staff to submit the reports to OPR and HCD.

Prepared by: Kimberly Matlock, Associate Planner

Reviewed by: Bill Dean, Assistant Development Services Director

Karin Schnaider, Finance Director Andrew Malik, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

#### <u>ATTACHMENTS</u>

Attachment A – City of Tracy Annual Progress Report for Reporting Year 2020 and Annual Element Progress Report for 2020

Attachment B – Excerpt from OPR's 2017 General Plan Guidelines

Attachment C – Housing Element Annual Progress Report Instructions, December 2020

# Attachment A

# **City of Tracy Annual Progress Report**



**Reporting Year 2020** 

#### Introduction

The purpose of this report is to give an update on the progress in implementing the City of Tracy General Plan for the reporting year of 2020.

The City of Tracy General Plan was adopted on February 1, 2011 and provides the City with direction through the year 2025. The General Plan contains the Land Use Element, the Community Character Element, the Economic Development Element, the Circulation Element, the Open Space and Conservation Element, the Public Facilities and Service Element, the Safety Element, the Noise Element, and the Air Quality Element. Each element contains goals, objectives, policies, and action items to guide development within city limits and growth within the sphere of influence as properties in the sphere annex into the City. These elements address all the required contents of a General Plan as mandated by Government Code section 65302(a) that were applicable at the time of its adoption.

Adopted at the same Council meeting as the General Plan and published in a separate document is the City's Sustainability Action Plan, a comprehensive strategy to achieve communitywide sustainability in the sectors of greenhouse gas emissions, energy, transportation and land use, solid waste, water, agriculture and open space, biological resources, air quality, public health, and economic development. The goals and measures in the Sustainability Action Plan further the environmental goals identified in the General Plan.

The City of Tracy Housing Element was published under separate cover and was adopted on March 15, 2016 for the beginning January 1, 2015 through December 31, 2023 and subsequently certified by the Department of Housing and Community Development. A copy of the 2020 progress report on the City's implementation of the Housing Element is attached to this report in the format required by California Department of Housing and Community Development (HCD).

This report is presented to the Tracy City Council for review and acceptance at a public meeting held on March 16, 2021. A copy of the City Council resolution that directs staff to submit the report to Office of Planning and Research (OPR) and HCD will be provided to OPR and HCD with the submission of the report.

General Plan Element	Objective	Action Item	2020 Status Notes
		A1. Amend the zoning code and map for overall consistency with the General Plan.	Rezoning is occurring site-by-site for conformity with the land use designation established by the General Plan. In 2020, the zoning code was amended to permit a range of housing types in the CBD zone consistent with General Plan densities (Ordinance 1282) and to implement location restrictions on tobacco retailers (Ordinance 1303).
		A.2 Initiate process to adjust Sphere of Influence proposed in this General Plan with the Local Agency Formation Commission (LAFCo) and with the community members in the affected areas.	Completed prior to the reporting year.
	LU-1.1 Establish a clearly defined urban form and city structure.	A.3 Conduct a formal review the General Plan every five years, or more frequently if necessary. In particular, the Land Use Designation Map should be reviewed to ensure that the amount and location of land designated in various categories meets community goals.	The General Plan is amended as needed. In 2020, the General Plan was amended to address land use changes in the Tracy Hills Specific Plan area (Resolutions 2020-074, 2020-186, & 2020-180). In 2020, two areas within the Sphere of Influence were approved by LAFCo for annexation into City limits: the Tracy Village project area (Resolution 1417 & 1420) and the Alvarez-owned area (Resolution 1423).
		A.4 Take actions necessary to ensure that Specific Plans are in conformance with the General Plan.	In 2020, several Specific Plan amendments took place, including updates to the Northeast Industrial Specific Plan regarding maximum building heights (Ordinance 1299), updates to the I-205 Corridor Specific Plan to allow breweries (Ordinance 1281), and updates to the Tracy Hills Specific Plan to revise the land use plan of the development area and garage standards (Ordinances 1294, 1298, 1301, & 1302).
	and orderly expansion of	A1. Develop criteria or amended criteria for inclusion in the GMO Guidelines or other implementation tools, to guide the issuance of RGA's. Such criteria may include assigning new or modified priorities to development projects or areas based on location, mix of housing types, use of "green" building features and practices, and other factors.	On February 4,2020, the City Council identified a 16-point action plan to address affordable/workforce housing, which will be funded by grants obtained by the City the (Local Early Action Planning grant (LEAP) and SB2 Planning grant). Work to begin in 2021.
		A1. Prepare a Downtown Urban Design and Specific Plan.	A draft completed and presented to the City Council, but it was not adopted due to community opposition. Work is now shifted to develoing a transit-oriented development plan to support downtown revitalization and the Valley Link project.
Land Use	LU-5.1 Target new uses for the Downtown to reinforce its role	A2. Continue the Central Business District (CBD) Downtown in-lieu parking fee and the Downtown Incentive Area.	The CBD Zone Parking In-Lieu Fee Pilot Program is active through October 26, 2025 (Resolution 2019-160).
	as the heart of the City.	A3. Develop short- and long-term parking strategies to address parking issues, including the evaluation of a parking garage to serve the Downtown.	The Tracy City Center Association (TCCA) conducted a survey to assess availability of parking during the summer months and school year in 2019. On July 16, 2019, TCCA presented short, medium, and long-term parking recommendations to the City Council. The Council directed staff to work with TCCA to explore these concepts further, and no changes to downtown parking policies occurred in 2020.
	_	A1. Conduct a review as necessary of areas that are subject to flooding, as identified in flood plain maps prepared by the Federal Emergency Management Agency (FEMA) (Figure 8-1 in the Safety Element) or the Department of Water Resources (DWR).	Will be done as necessary.
		A2. Amend the Land Use Element as necessary to reflect any new flood plain maps when provided by FEMA or DWR.	Will be done as necessary.
		A1. Provide written comments to San Joaquin County on all proposed significant development projects in the Planning Area in accordance with the above-stated policies.	The City regularly communicates with the County.
	LU-8.1 Participate proactively in land use decision making within	A2. Testify in opposition to development proposals that are not consistent with the policies stated herein at all San Joaquin County public hearings.	On-going as necessary. In 2020, the City had discussion with San Joaquin County regarding industrial developments on Schulte Rd and the necessity to meet City standards. The City responded to multiple development requests in the City's sphere including a potential large place of worship to the north of City limits.
		A3. Pursue an intergovernmental agreement with San Joaquin County to the extent legally permissible to implement the above-stated goals.	The City regularly communicates with the County.
	LU-9.1 Undertake measures to reduce greenhouse gas emissions and improve the sustainability of actions by City government, residents, and businesses in Tracy.	A1. Implement the Sustainability Action Plan and monitor its effectiveness as funding allows, ideally every five years, by conducting a greenhouse gas emissions inventory. Adjust the Sustainability Action Plan as needed every five years and as funding allows based on these calculations to ensure that the City is on track to meet its greenhouse gas emissions reduction target.	The City's first greenhouse gas (GHG) emission inventory was done for baseline year 2006 and updated for year 2010. In 2019, the City began working on updating the GHG inventory using year 2018, but it has not yet been completed due to lack of data and resources.
	CC-1.3 Enhance the unique quality of the city through the use of art and entryway treatments.	A1. Implement the entry monument recommendations of the City's Civic Art Plan.	On-going.
	CC-1.5 Provide underground utilities throughout Tracy.	A1. Use of funding available through the Public Utilities Commission to underground utilities in parts of the City that have above-ground utilities shall be continued.	The City has over \$3 million in Rule 20A funding through PG&E. The City has initiated an Undergrounding District for Valpico Rd between Tracy Blvd and Corral Hollow Rd.  The City has othertentative projects in the pre-planning stage, including undergrounding utilities on Mt. Oso Ave and on Valpico Rd between Tracy Blvd and MacArthur Dr.
	CC-3.1 Identify and preserve cultural and historic resources.	A1. Update, expand and maintain inventories of Tracy's historic resources, using criteria and methods that are consistent with State and federal guidelines.	On-going as feasible.
	1 (1-5) / Size and decion	A1. Conduct a study to modify and narrow residential street standards from the current width requirements. The goal will be to reduce vehicle speeds, improve visual character and increase pedestrian safety in neighborhoods while also maintaining traffic flow.	Completed prior to the reporting year.
Community	CC-6.2 Design neighborhoods to foster interactions among residents and to be responsive to the human scale.	A1. Develop design guidelines or pattern book(s) that ensure that overall neighborhood and housing design promotes the urban design principles set forth in the Community Character Element and enhances Tracy's "hometown feel."	Completed prior to the reporting year. The Design Goals and Standards was revised in 2019 to include residential front yard landscape standards (Resolution 2019-137).
Character	and administration of the second	A1. Continue proactive code enforcement and nuisance abatement programs to ensure that Tracy's neighborhoods remain attractive and free of public nuisances.	On-going. The City's Code Enforcement Division merged with the Police Department in 2019 to provide Code Enforcement with additional resources and authority. Code Enforcement opened/investigated 2,096 cases and closed 2,220 cases during 1/1/2020 through 12/31/2020. Of these total cases, 32 of these were call-outs and emergencies associated with encampments.

General Plan Element	Objective	Action Item	2020 Status Notes
	CC-6.3 Preserve and enhance the character of existing residential neighborhoods.	A2. Work collaboratively with homeowners associations and other community groups to address nuisances, eliminate blight and ensure that community aesthetic standards are maintained.	Homelessness was a primary focus of the City in 2020. A total of 137 reported encampments were investigated in which one Code Enforcement Officer spends approximately 70-85% of his work schedule dedicated to addressing encampments. Fifteen outreach efforts to the transient community via Operation Helping Hands were conducted, allowing City staff to reach 15-25 people per visit. No Orders to Vacate were issued for dangerous and substandard buildings, no unsafe buildings were demolished, 180 Notice and Orders/Orders to Abate or Show Cause were issued for nuisances on private property, and 325 Administrative Citations were issued for non-compliant properties with fees ranging from \$100 to \$500 each, totaling \$278,000. Received and heard one appeal involving building code violations, heard by the Building Board of Appeals. Conducted fifteen inspections associated with marijuana grow operations; nine inspections of substandard buildings related to structure fires; and two inspections of vehicles into buildings.
Community	CC-8.2 Preserve the historic character of the Downtown.	A1. Continue to implement streetscape improvements in the Downtown.	Completed in 2019, the City installed the Downtown decorative street lighting program. The City continues to work with private organizations to implement other improvements downtown, such as installation of a clock and benches donated by the Sunrise Rotary Club.
Character	CC-8.3 Revitalize the	A1. Prepare a Downtown Urban Design and Specific Plan that incorporates the <i>Downtown Urban Design and Implementation Plan (August 2000)</i> .	A draft completed and presented to the City Council, but it was not adopted due to community opposition.
	Downtown by strengthening its urban design character.	A2. Continue to implement the <i>Downtown Urban Design and Implementation Plan</i> , Grand Theater project, Civic Center project, Downtown Infrastructure and Streetscape project and the Multi-Modal Station project.	Aside from the Downtown Plan, all were completed prior to the reporting year.
	ED-1.1 Attract emerging growth industries in order to increase	A1. Create a marketing and communications program to promote Tracy to the region, the Bay Area, and the nation, based upon the recommendations in the City's Economic Development Strategy.	On-going. The Economic Development Division regularly attends trade shows, meets with businesses, puts out articles and advertisement in industry publications, and works with brokers to market Tracy.
	salaries to meet the current and	A2. Evaluate the Strategic Plan, including "targets" on the periodic basis.	On-going. The Strategic Priorities for Fiscal Years 19/20 and 20/21 are Economic Development, Governance, Quality of Life and Public Safety. New Strategic Priorities are forthcoming.
		A3. The City shall explore ways to provide incentives to attract higher-wage jobs to the City.	Completed prior to reporting year. City staff continues to monitor business attraction efforts, competitiveness, and effectiveness of incentives.
		A1. Continue to provide business assistance services, including visitation to existing businesses.	On-going. The Economic Development Division frequently meets with existing businesses to provide business expansion, hiring, workforce training, market trends, and financing incentives to local businesses. During COVID, this effort largely focused on small business retention and financial relief assistance.
		A2. Publicize local businesses success stories in the City Newsletter.	The City publishes an Economic Development newsletter that shares business success stories, business resources, community news, and trends. The newsletter launched in the Fall of 2020.
		A1. Publish and distribute a document that effectively outlines permitting and licensing procedures and fees.	Completed prior to reporting year.
		A2. Maintain a centralized economic development and land information system.  A3. Monitor "cost of doing business" in Tracy relative to the Bay Area and the Central Valley to keep apprised of Tracy's competitive position.	Completed prior to reporting year. On-going.
	procedures, and information on available City services for businesses.	A4. Investigate the use of incentives to assist in attracting key higher-end office and industrial users.	On-going. The Economic Development Division markets the City's advantages, including incentives, to businesses in target industries. Staff continues to track local incentive packages relative to those in comparable cities and States to make sure Tracy remains competitive.
	ED-4.1 Ensure an adequate, balanced supply of all land uses for future economic development.	A1. Monitor current and future land supply needs for industrial, office and retail growth.	On-going. The City executed a contracted with CoStar, a leading provider of commercial real estate information & analytics to monitor local property availability and lease activity. It also continues to utilize services from GIS.
		A1. Expand the Downtown Revitalization Task Force.  A2. Monitor and evaluate parking and pedestrian improvements.	On-going in collaboration with the Tracy City Center Association. On-going as feasible.
	ED-6.1 Support and expand Tracy's Downtown for a wide range of uses.	A3. Develop benchmark statistics on the Downtown to identify opportunities for expansion. Examples of benchmark statistics include vacancy rates, rental rates, merchant mix and sales tax revenues.	On-going. City staff attends all Tracy City Center Association board and committee meetings from which opportunity sites, vacancy and rental rates, and merchant mix topics are frequently discussed. Additionally, the City calculates and provides current and trending sales tax data for inclusion in the district's annual State of the District presentation.
Economic Development		A1. Work with developers to identify and implement various State incentives that may be available to qualified employers.	On-going. The City partners with the San Joaquin County Economic Development Department to conduct business visits to provide state, regional, and local incentive information that focuses on job creation, workforce training, and tax credit incentives available to qualified employers.
		A1. Survey businesses to identify additional workforce preparedness needs.	On-going. The City surveys businesses through business retention efforts as well as through our Chamber of Commerce's Business Visitation program. City staff meets with businesses directly so that the City can provide specific resources and discuss their needs more directly.
	ED-7.1 Identify and improve workforce training to support business expansion and attraction.	A2. Consult with institutions of higher learning, regional partnerships, and state agencies dedicated to workforce issues (e.g., California Employment Development Department).	On-going. The City is currently working with Delta College, the Adult Schools and School Districts of Manteca, Tracy, Lathrop, Lodi, and Stockton, Prologis, San Joaquin County Economic Development Department, San Joaquin County WorkNet, the University of the Pacific, and the Delta Sierra Educational Alliance to develop and create a certification pathway for adults and recent high school graduates to enter the Transportation, Logistics, Manufacturing, and Distribution industry.
		A1. Create database of economic conditions and indicators such as job growth by sector (North American Industry Standard Classification), skill sets of employed residents (Labor Market Survey), employment by industry, lease rates, land costs, operating expenses and relevant legislation.	On-going. Economic Development Division staff continues to track various citywide and regional data sources and publish key performance indices in various marketing, newsletter, and other communications.
	oligoling monitoring system to	A2. Publish annual reports of recent economic trend (e.g., "State of the City").	On-going.
	track economic vitality, identify changing conditions, and respond to rapidly new economic development opportunities.	A3. Conduct surveys on the economic climate and conditions in Tracy.	On-going. The City released its third retail survey on December 19, 2019 and collected data on types of retailers and restaurants most desired. A new survey is planned in the next 18 months to capture consumer changes and preferences induced by COVID.

General Plan Element	Objective	Action Item	2020 Status Notes
		A4. Continue to expand network of research tools to assist with identifying industry trend to include site selectors, interviews with businesses in target industries, brokers, investors, developers, as well as industry associations.	On-going.
	ED-9.1 Maintain and enhance the financial viability of the City.	A1. Maintain impact fees for new development to cover costs of providing public facilities and	On-going. Every new development is responsible for funding their impact fees for their projects.
	CIR-1.1 Implement a hierarchical street system in which each street serves a specific, primary function and is sensitive to the context of the land uses served.	A1. Update the Roadway Master Plan upon adoption of the General Plan. The Roadway Master Plan should contain the following information: -Improvement needs and ultimate right-of-way for 50 years, based on development anticipated by the General Plan and foreseeable development based on proposed projects, current absorption rates for nonresidential properties and historical population growth ratesAppropriate street classifications for arterial and collector roadways as well as innovative concepts such as boulevards and other roadway types not currently employed in the City of Tracy. These roadway designs should reflect context-based design principles Detailed connectivity standards for arterials, collectors, and local streets. These connectivity standards should further refine minimum and maximum spacing of facilities and traffic control devices identified in the Roadway Classification Standards in Section B of this Element.	The Roadway Master Plan was well underway throughout 2020 and a draft is currently under review my staff. City staff expects to present the draft plan to the City Council in summer or fall 2021.
		A2. Prepare Precise Plan Lines studies for major new roads and widenings, and consult with Caltrans for new interchanges identified in the Roadway Master Plan in order to define the rights-of-way needed to construct further facilities.	These were completed pursuant to the current Roadway Master Plan, and it's expected these will be updated based on the updated Master Plan when it is complete.
		A3. Consult with San Joaquin and the City of Lathrop to ensure the adequate rights-of-way are preserved in the City's Sphere of Influence.	On-going.
	CIR-1.3 Adopt and enforce LOS standards that provide a high level of mobility and	A1. Evaluate the performance of the roadway system or portion of the roadway system on an asneeded basis based on existing traffic volumes, LOS and other traffic operational issues, and accident locations.	On-going.
	accessibility for all modes for residents and workers.	A2. Maintain an up-to-date record of intersections exempted from the City's LOS standards.	None of the streets are exempted from City LOS.
	CIR-1.4 Protect residential areas	A1. Update the truck route designations periodically as needed.	On-going as needed.
	from commercial truck traffic.	A2. Maintain a map of truck routes in the City.	Completed prior to reporting year.
	CIR-1.6 Maximize traffic safety for automobile, transit, bicycle	A1. Monitor and record accident locations and prepare a regular summary of accident locations.	On-going. Reports are prepared for collision data by intersection on a quarterly basis.
Circulation	users, and pedestrians.	A2. Explore traffic calming techniques for existing areas of the city.	On-going as needed.
	CIR-2.1 Support regional planning and implementation efforts to improve interregional highways and interregional travel efficiency.	A1. Prepare a plan line study that identifies and preserves necessary right-of-way north of I-205 within the City of Tracy that allows the future construction of a route parallel to I-205.	This correlates with a regional effort that did not result in any activity in 2020.
	CIR-2.2 Discourage interregional travel from diverting from freeways onto Tracy streets.	A1. Conduct a study to quantify the level of traffic diverting from I-205 onto Tracy roadways.	Underway as part of the traffic model being done for the Roadway Master Plan update.
		A1. Update the City of Tracy Bikeways Master Plan on an as-needed basis.	The Bikeways Master Plan update began in mid-2019. It will be under the umbrella of the Roadways Master Plan.
	CIR-3.1 Achieve a comprehensive system of citywide bikeways and pedestrian facilities.	A2. Update the City of Tracy Roadway Master Plan to include bicycle routes.  A3. Maintain a map of existing bicycle facilities in the city.	The Roadway Master Plan update was in process throughout 2020.  Completed prior to reporting year.
		A4. Incorporate bicycle and pedestrian facilities into the roadway design standards of the	The Roadway Master Plan update was in process throughout 2020.
		Roadway Master Plan.  A5. Seek local, State and federal funding for bicycle improvements identified in updates to the	
		Bikeways Master Plan.	On-going as available.
	CIR-4.1 Promote public transit as an alternative to the automobile.	A6. Improve city-wide pedestrian access as funding becomes available.  A1. Maintain transit facility design guidelines that clearly specify expectations for all types of development.	On-going as feasible.  On-going. Every development application received is reviewed by the Transit Division for transit system improvement needs. These improvements are communicated to project applicants and implemented as part of the project or as conditions of approval.
		A2. Maintain a map of existing transit facilities in this city.	Completed prior to reporting year.
	CIR-4.2 Work to achieve connectivity between all modes of transportation.	A1. Create a Multi-Modal Transportation Master Plan that addresses the movement of people, goods and services within the City and from the City to the surrounding region. Modes of travel that should be included in this Master Plan include: automobile, transit, freight, air, bicycle, and pedestrian transportation. The plan shall consider short-term and long-term actions to preserve rights-of-way for future transportation options, such as light-rail.	These concepts, including the Valley Link rail plan, are folded into the Roadway Master Plan, which was in process throughout 2020.
	OSC-4 Provision of parks, open space, and recreation facilities	A1. Update the Parks Master Plan on a regular basis.	The Parks Master Plan is typically updated every five years. The Plan began its update process in 2019 and was well underway throughout 2020, expected to be presented to the City Council in summer or fall 2021.
	and services that maintain and	A2. Expand partnerships with the school districts that operate within the Planning Area to	On-going. The City regularly coordinates its parks and open space near schools for
	improve the quality of life for Tracy residents.	enhance and create new joint use facilities.  A3. Explore the development and funding of a regional park, possibly 60 to 100 acres in size,	joint use opportunities.  The Nature Park Master Plan and associated environmental review was adopted by
Open Space and Conservation	OSC-4.2 Ensure that new development is responsible for providing parks and recreation facilities throughout the City of Tracy.	A1. Conduct the required studies to implement the increased parks standard.	the City Council in February 2021.  The Parks Master Plan (PMP) is the governing document that establishes goals related to level of service in our park system. The City is currently undergoing an update to the PMP which will include modernizing the standards for level of service based on existing conditions in our community. That would include setting standards and goals for things such as walking distances to neighborhood and community parks.
	OSC-4.3 Establish a regional linear parkway system that meets recreational, open space and transportation needs.	A1. Work with San Joaquin County to explore creating a large recreational area between the City and Mountain House which can serve as a community separator as well as provide valuable needed recreational facilities to both communities.	The City worked with San Joaquin County to explore this opportunity during a previous reporting year, but the County did not have the available capital funds.

General Plan Element	Objective	Action Item	2020 Status Notes
		A1. Prepare a comprehensive plan for areas outside of the City that identifies important areas for non-urban uses, analyzes appropriate methods of preserving agricultural and non-urbanized land, develops funding mechanisms for the purchase of land or agricultural easements and identifies methods of administration. This study should include, but is not limited to, the following: -An analysis of the impact that open space programs would have on the cost of housingThe feasibility and advisability of the Holly Sugar property forming the base for an open space program and/ or be part of such a programThe identification of alternate funding tools for open spaceAn evaluation of alternate methods of preserving open space, such as the purchase of property or development rights, buying the first rights of refusal in the event of a potential sale or developer dedicationDevelopment of specific policies guiding the purchase of undeveloped lands including only purchasing land from willing land owners, respecting the rights of property owners when seeking to purchase open spaces for the public good and paying fair market value based on third-party appraisals of landA survey to determine the public's interest in open space programs and preferred methods for paying for the purchase and maintenance of open space. Specific information on the public's desire to increase sales, property and parcel taxes or issue General Obligation bonds to pay for the acquisition and maintenance of open space lands should be included in the studyAn analysis of an open space dedication requirement for all new residential development projects.	This is being done as part of the Parks Master Plan update, which includes identifying the 1000-plus acres of open space near the Legacy Fields Sports Complex.
		A2. Partner with non-profit organizations, such as the Central Valley Farmland Trust, to identify and purchase land and easements within the Planning Area.	On-going. Project applicants are required to participate in the City's agricultural mitigation fee program by paying the established fees to the City on a per-acre basis for the loss of important farmland. Fees paid toward the City's program are collected and distributed to the Central Valley Farmland Trust, which are used to fund conservation easements on comparable or better agricultural lands to provide compensatory mitigation.
		A3. Pursue a cooperative effort with the City of Lathrop and San Joaquin County to implement an open space community separator program.	Not yet begun.
Open Space and Conservation		A1. Study programs that encourage "green" building, such as the LEED (Leadership in Energy & Environmental Design) program developed by the US Green Building Council, and consider code amendments that encourage "green" construction.	(specifically the California Energy Code and the California Green Building Standards Code). The City of Tracy locally adopts and enforces these codes.
deve	OSC-5.2 Ensure that development is designed for	A2. Develop a program to educate the public about energy efficiency technologies and practices for homes and businesses, such as solar panels and low-energy appliances.	The City regularly educates property owners and developers through its typical development and plan check review processes for new construction and all remodel work.
	maximum energy efficiency.	A3. Partner with public utilities to establish and promote a program for home weatherization and solar retrofit.	The City has partnered with various agencies in the past in relation to particular energy-saving/green programs.
		A4. Develop design guidelines for residential construction to address the placement of solar panels.	Title 24 does have some requirements that regulate the location of solar panels.  Staff regularly works with design professionals on panel locations to ensure that the greatest efficiency can be gained by avoiding shadowing by structures/trees/objects as well as taking into consideration building orientation.
	OSC-5.3 Promote sustainability and energy efficiency and conservation through the City's direct actions.	A1. Develop emergency contingency energy plans, in cooperation with other local agencies and regional suppliers, to assure needed energy supplies and significant reduction in non-essential consumption during periods of abrupt energy shortage.	Completed prior to reporting year in coordination with PG&E.
		A2. Develop or otherwise make available information to developers and citizens on energy efficient and conserving building design and technologies, including enhanced wall and ceiling insulation, thermally efficient glazing, and efficient heating and cooling equipment and household appliances.	The City frequently has conversations with interested homeowners, contractors, building owners, business owners or designers at the front counter, during the plan check or inspection process. Primarily, however, the plans examiner is enforcing the state requirements as it relates to such energy saving during the plan review process with the project applicant or designer.
		A3. Review, and revise if necessary, the zoning ordinance and building codes, to allow for a variety of energy efficiency technologies so long as the revisions do not adversely impact human health or safety or conflict with other goals in this General Plan.	On-going. The building codes allow for a variety of energy efficient technology as long as such does not adversely affect the intent of the mandated codes.
		A4. The City shall consider requiring green building standards, such as obtaining LEED or similar certification, as a requirement for new or substantial renovations to public buildings.	The City explored this but ultimately did not implement requirements for specific certifications. Additionally, the new 2019 California Energy Code that went into effect January 1, 2020 requires that all new residential homes have photovoltaic panels to completely offset any electrical load in the use of the home.
	PF-1.2 Promote coordination between land use planning and fire protection.	A1. Maintain an on-going fire and life safety inspection program for all commercial and industrial buildings.	On-going and maintained by the South San Joaquin County Fire Authority (SSJCFA).
	PF-2.1 Plan for on-going management and development of law enforcement activities.	A1. Annually update the capital improvement plan to indicate the specific use of fee revenues for facilities to accommodate growth.	The FY 2020-21 capital improvement plan was adopted by the City Council on June 16, 2020.
Public Facilities and Services	PF-2.3 Maintain and improve law enforcement services to keep	A1. Provide neighborhood security and crime prevention information and training to neighborhood groups and homeowners' associations.	Due to COVID-19 and the Governor's Order to Shelter in Place, City staff was not able to present any presentations for the year on the current trends in Code Enforcement and neighborhood preservation.
201,1003	up with Tracy's changing population.	A2. Establish Neighborhood Watch programs that promote mutual assistance and crime prevention techniques among residents.	City staff was unable to attend any neighborhood watch meetings and none were held in 2020 due to COVID-19 and the Governor's Order to Shelter in Place.
	L of minion.	A3. Monitor Tracy's crime rates and types of crime to determine the most appropriate methods to reduce crime in the city.	On-going.
		A4. Disseminate information on crime and crime prevention techniques to the community.	On-going.
	PF-4.2 Provide sufficient library	A1. Work cooperatively with San Joaquin County to continue to fund the City of Tracy Library.	On-going.
	service to meet the informational, cultural and educational needs of the City of Tracy.	A2. Study the feasibility of a Library Impact Fee.  A3. Identify locations for additional library branches in Tracy.	Not yet begun.  A Needs Assessment has identified a library/tech space as a desired program element within the Multi-Generational Recreation Center currently listed on the City's Capital Improvement Program project list. This project is in the planning phase and no site has been identified at this time.
		A1. Continue the bi-weekly, city-wide collection program to compost leaf and yard waste.  A2. Continue "grass-cycling" at City parks, public facilities and open spaces.	On-going by Tracy Delta Disposal. On-going.
	PF-5.1 Reduce volumes of solid waste generated in Tracy through	A3. Continue residential single-stream curbside recycling.	On-going by Tracy Delta Disposal.
	recycling and resource	A4. Continue the recycling program for electronics waste and tires.  A5. Develop and maintain a recycling and diversion plan.	On-going. On-going. The City has a plan for both residential and commercial recycling.
	conservation.	A6. Continue to develop new specialized recycling programs for residential, commercial, office, educational, and retail sectors.	On-going. The City continues to adjust its programs and requirements based on State mandates and customers' needs.
	DE 5.2 E	A1. Continue weekly curbside trash collection service.	On-going by Tracy Delta Disposal.
	PF-5.2 Ensure adequate solid waste collection and disposal	A2. Continue operation of the Tracy Material Recovery Facility and Transfer Station.	On-going.

General Plan Element	Objective	Action Item	2020 Status Notes
	masse conservon and anoposan	A3. Partner with San Joaquin County to ensure that there is adequate landfill space to meet projected growth.	On-going.
	supply can be provided within the City's service area, even during drought conditions, while		The Water Master Plan update was in process throughout 2020.  This is being updated in the draft Water Master Plan currently in progress. The Urban Water Management Plan update also began in 2020.
	protecting the natural environment.	A3. Implement an Aquifer Storage and Recovery Program to improve water quality for customers.	On-going.
	•	A1. Review the current water system maintenance program and coordinate planned water main replacements with the Urban Water Management Plan.	On-going as needed.
	infrastructure facilities to meet current and future populations.	A2. Update the existing System Control and Data Acquisition (SCADA) system to optimize operational efficiency and ensure coordination of existing and proposed water system facilities.	The SCADA update was completed in a prior reporting year, and optimizing operation efficiencies is an on-going effort.
Public Facilities and Services	PF-6.5 Use recycled water to	A1. Explore incentives for businesses and industries to use recycled water for irrigation.  A2. Develop a program to supply recycled water to all new parks and schools.  A3. Update the Water Master Plan to include a recycled water plan.	On-going discussions with new developments are occurring on a regular basis.  On-going. This is included in the Water Master Plan update.  The Water Master Plan update was in process throughout 2020.  Recycled water is currently contemplated for watering parks, streetscapes, and open
	and feasible	A4. Develop a plan to irrigate agricultural land with recycled water, both inside and outside of the City's service area, where feasible.	spaces. Other recycled water uses are also being contemplated in accordance with this policy in the Water Master Plan update.
	and dispose of wastewater in ways that are safe, sanitary, and	A1. Prepare a comprehensive update to the Wastewater Master Plan upon adoption of the General Plan and update on a regular basis. The Wastewater Master Plan shall identify the expected number of additional wastewater facilities, potential locations for those facilities and locations for the land application of treated effluent.	The Wastewater Master Plan update was in process in 2020 and a draft has been completed and is currently under staff and public review.
	1 1:	A1. Prepare a comprehensive update to the Storm Drainage Master Plan upon adoption of the General Plan.	Completed.
	flooding, account for future development, and address applicable environmental concerns.	A2. Update the Storm Drainage Master Plan on a periodic basis and at least every five years.	The Stormwater Master Plan update was in process in 2020 and a draft has been completed and is currently under staff and public review.
	drainage facilities for	A1. Revise the Tracy Municipal Code to limit the amount of impervious surfaces in private yards.	Completed prior to reporting year (Ordinance 1238).
		<ul><li>A1. Continue to participate in the National Flood Insurance Program.</li><li>A2. Continue to implement the City's existing Storm Drainage Master Plan which provides storm</li></ul>	On-going.
	SA-2.1 Minimize flood risks to development.	drainage conveyance capacity sufficient to contain 100-year flood flows in the rights-of-way of the major public streets and 10-year flood flows within the top of the street curbs.  A3. Continue to implement floodplain overlay zones provided by FEMA, control the types of structures and land uses permitted in areas deemed high risk and require these structures be built	On-going. On-going.
		in a manner that minimizes flood losses.  A4. Maintain historical data on flooding.	On-going.
	preparedness in the event of	A1. Update the General Plan within 24 months of the adoption of the Central Valley Flood Protection Plan (CVFPP) to appropriately reflect the CVFPP and to identify State and local flood management facilities and flood hazard zones.	On-going.
	SA-3.1 Evaluate the potential for		The South San Joaquin County Fire Authority (SSJCFA) references a map produced by San Joaquin County GIS.
	·	A1. Continue to implement processing procedures and local siting criteria in order to implement relevant and applicable provisions consistent with the hazardous materials and waste management plans for San Joaquin County.	On-going.
Safety	SA-4.1 Minimize exposure to harmful hazardous materials and waste by Tracy residents.	A2. Consult with San Joaquin County Office of Emergency Services to maintain an inventory of businesses or facilities involved in the transportation, use and storage of hazardous materials.	On-going through the SSJCFA Community Risk Reduction Division. This division is responsible for annual inspections of businesses to ensure that the use and storage of hazardous materials (HM) has not modified since its original approval. Fire personnel responding to emergencies will connect with the CUPA (SJCO) to ensure they have knowledge of the HM risk at each particular site as it may relate/interfere/create caution/require different approaches to their emergency response.
		A3. Hold at least one hazardous materials collection event per year.	The household hazardous wastes event was cancelled in 2020 due to COVID. The event is anticipated to be resumed on May 8, 2021.
		A4. Continue public education programs on the safe disposal of household hazardous waste at designated locations in San Joaquin County.	On-going. The City mails out brochures each year and publishes information on www.RecycleInsideTheTriangle.com with recycling information on various programs.  City staff also provides information at various events throughout the year.
	SA-5.1 Ensure that land uses within the vicinity of the Tracy Municipal Airport are compatible with airport restrictions and operations.	A1. Develop an emergency plan to respond to aviation incidents in the City.	In 2020, an emergency response plan for incidents on the airport was submitted to the State of California and was approved. For incidents off airport, there is a mandatory procedure in place set by the National Transportation Safety Board that must be followed.
		As part of the update, the City shall review County and State emergency response plans and procedures to ensure coordination with the City's plan.	The City, in cooperation with SSJCFA, entered into an agreement with a consultant to facilitate the development of an Emergency Operations Plan. The project will commence in January 2021 and is expected to be completed in late 2021. Once the Emergency Operations Plan is complete, staff will be trained to the plan and will conduct periodic drills and exercises to test the effectiveness of the plan. The City recently completed a Local Hazard Mitigation Plan as the first phase in updating our emergency preparedness efforts. Currently, Fire staff works with County resources on emergency preparedness and ensure that State and County emergency response plans are coordinated with our City efforts. Additionally, City staff is working with the SSJCFA to update the Emergency Evacuation Plans for all City facilities. This review will be completed in 2021 and will also include updated emergency procedures, documents, maps, and drills for all City facilities.

General Plan Element	Objective	Action Item	2020 Status Notes
Safety	SA-6.1 Prepare and update City emergency procedures in the event of natural or man-made disasters.	A2. Identify and regularly update emergency access routes.	The City of Tracy has identified major arterials to serve as evacuation routes to Interstate 580 in the event of flooding or dam failure. The following north/south arterials will serve as evacuation routes: MacArthur Drive, Tracy Boulevard, Corral Hollow Road, Lammers Road, and Chrisman Road. The following east/west arterials will serve as evacuation routes: 11th Street, Schulte Road and Linne Road.  In a non-flood emergency The City of Tracy has identified major arterials to Highways 5, 205 and 580. The following north/south arterials will serve as evacuation routes: MacArthur Drive, Tracy Boulevard, Corral Hollow Road, Lammers Road, and Chrisman Road. The following east/west arterials will serve as evacuation routes: 11th Street, Schulte Road and Linne Road.
		A3. Identify alternative water sources for firefighting purposes, as recommended by the City's Water Master Plan.	The City has a portfolio of water sources that it uses for its water system. These sources include groundwater, state water contract sources, water banking, and sources from neighboring water purveyors (e.g. SSJID). All of these potable water sources are supplied into the City's water network and hydrants receive water through that network.
		A4. Conduct periodic drills using emergency response systems to test the effectiveness of City procedures.	The City in cooperation with SSJCFA entered into an agreement with a consultant to facilitate the development of an Emergency Operations Plan. The project will commence in January 2021 and is expected to be completed in late 2021. Once the Emergency Operations Plan is complete, staff will be trained to the plan and will conduct periodic drills and exercises to test the effectiveness of the plan. The City recently completed a Local Hazard Mitigation Plan as the first phase in updating our emergency preparedness efforts. Currently, Fire staff works with County resources on emergency preparedness and ensure that State and County emergency response plans are coordinated with our City efforts. Additionally, City staff is working with the SSJCFA to update the Emergency Evacuation Plans for all City facilities. This review will be completed in 2021 and will also include updated emergency procedures, documents, maps, and drills for all City facilities.
		A5. Provide community awareness and education programs for citizens that describe procedures and evacuation routes to be followed in the event of a disaster.	The City will educate the community on where to find specific emergency information and directions in the event of a disaster. During a disaster, the City will use mass notification systems available within the County such as Everbridge/Nixle, and available social media mediums to communicate disaster specific information including evacuation routes for citizens to follow.
Noise	N-1.2 Control sources of excessive noise.	A1. Enforce Section 27007 of the California Motor Vehicle Code that prohibits amplified sound that can be heard 50 or more feet from a vehicle.	On-going.
		A2. Enforce Section 27150 of the California Motor Vehicle Code that addresses excessive exhaust noise.	On-going.
		A3. Develop noise abatement flight procedures for large aircraft accessing Tracy Municipal Airport.	Noise abatement will be completed in the second year of the Airport Master plan update.
Air Quality	AQ-1.2 Promote development that minimizes air pollutant and greenhouse gas emissions and their impact on sensitive receptors as a result of indirect and stationary sources.	A1. Review standards for the design and use of new drive through businesses with the aim of reducing adverse impacts on air quality.  A2. Research and include where feasible in the Roadway Master Plan update, requirements to use materials that minimize particulate emissions and that are appropriate to the scale and intensity of use.	Not yet begun.  Design details such as materials are not part of the Roadway Master Plan, but rather, are found in the City Standard Plans. The City has used rubberized asphalt in previous year projects, but no such project occurred in 2020.
		A3. Investigate the feasibility of new development fees to be used on coordination with local air pollution reduction efforts, such as clean air transit projects (e.g. ACE, Park & Ride, TRACER, BART and school buses).	The City does not collect impact fees specifically for local transit, but does collect the Regional Transportation Impact Fee which is sent to and managed by San Joaquin County. The City's development impact fee includes funding for Park and Ride. The master plans update is likely to expand on that funding.
		A4. Develop a green building standard for new development.  A5. The City shall evaluate the installation of light emitting diodes (LEDs) or similar technology	The City follows and enforces the California Green Building Code.  On-going.
	AQ-1.3 Provide a diverse and efficient transportation system that minimizes air pollutant and greenhouse gas emissions.	A1. Pursue funding sources for the planning and development of local and regional transit services.	The City is actively working with Valley Link to establish a regional rail line that will extend from Lathrop to the Dublin BART station (Phase 1) with a possible future extension to Stockton (Phase 2). In support of the Valley Link effort, the City Council directed staff to prepare a Downtown Transit Oriented Development Specific Plan in July 2020. The City was awarded the LEAP and SB2 Planning Grants in 2020 and is planning on using approxiamtely \$350,000 total from these grants toward this project.
		A2. Consider measures to increase the capacity of the existing road network prior to constructing additional capacity (e.g. additional lanes, etc.).	
	AQ-1.4 Support local and regional air quality improvement efforts.	A1. Notify local and regional jurisdictions of proposed projects that may affect regional air quality.	On-going. Every development application received is routed to SJCOG and APCD for review and comment. Their requirements are communicated to project applicants and implemented as conditions of approval.
		A2. Utilize the City's website, billboards, or newsletter to promote information regarding air quality, recycling, use of efficient energy devices and renewable energy.	The City regularly promotes information on the City's website and social media platforms. Events and programs are advertised in the printed press.
		A3. Develop a citywide sustainability strategy that would include a baseline inventory of greenhouse gas emissions from all sources within the City; greenhouse gas emissions reduction targets; and enforceable greenhouse gas emissions reduction measures.	Completed prior to the reporting year.

General Information				
Jurisdiction Name	Tracy			
Reporting Calendar Year	2020			
Contact Information				
First Name	Kimberly			
Last Name	Matlock			
Title	Associate Planner			
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Mailing Address				
Street Address	333 Civic Center Plaza			
City	Tracy			
Zipcode	95376			

**Optional:** Click here to import last year's data. This is best used when the workbook is new and empty. You will be prompted to pick an old workbook to import from. Project and program data will be copied exactly how it was entered in last year's form and must be updated.

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**Optional:** This runs a macro which checks to ensure all required fields are filled out. The macro will create two files saved in the same directory this APR file is saved in. One file will be a copy of the APR with highlighted cells which require information. The other file will be list of the problematic cells, along with a description of the nature of the error.

**Optional:** Save before running. This copies data on Table A2, and creates another workbook with the table split across 4 tabs, each of which can fit onto a single page for easier printing. Running this macro will remove the comments on the column headers, which contain the instructions. Do not save the APR file after running in order to preserve comments once it is reopened.

**Optional:** This macro identifies dates entered that occurred outside of the reporting year. RHNA credit is only given for building permits issued during the reporting year.

Link to the online system: <a href="https://apr.hcd.ca.gov/APR">https://apr.hcd.ca.gov/APR</a>

# **Submittal Instructions**

Please save your file as Jurisdictionname2019 (no spaces). Example: the city of San Luis Obispo would save their file as SanLuisObispo2019

- Housing Element Annual Progress Reports (APRs) forms and tables must be submitted to HCD and the Governor's Office of Planning and Research (OPR) on or before April 1 of each year for the prior calendar year; submit separate reports directly to both HCD and OPR pursuant to Government Code section 65400. There are two options for submitting APRs:
- 1. Online Annual Progress Reporting System (Preferred) Please see the link to the online system to the left. This enters your information directly into HCD's database limiting the risk of errors. If you would like to use the online system, email <a href="mailto:APR@hcd.ca.gov">APR@hcd.ca.gov</a> and HCD will send you the login information for your jurisdiction. Please note: Using the online system only provides the information to HCD. The APR must still be submitted to OPR. Their email address is opr.apr@opr.ca.gov.
- 2. **Email** If you prefer to submit via email, you can complete the excel Annual Progress Report forms and submit to HCD at <u>APR@hcd.ca.gov</u> and to OPR at <u>opr.apr@opr.ca.gov</u>. Please send the Excel workbook, not a scanned or PDF copy of the tables.

Tracy Reporting Year 2020 (Jan. 1 - Dec. 31)

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6808 VERBENA ST VILLAGE 3/PLAN 18-2389 SFD O

6798 VERBENA ST VILLAGE 3/PLAN 3F- 18-2390 SFD O

6778 VERBENA ST VILLAGE 3/PLAN 1C- 18-2392 SFD O

6758 VERBENA ST VILLAGE 3/PLAN 1E- 18-2394 SFD O

6768 VERBENA ST VILLAGE 3/PLAN 18-2393 SFD O

6748 VERBENA ST VILLAGE 3/PLAN 18-2395 SFD O

6849 CELADON LN VILLAGE 3/PLAN 2D- 18-2406 SFD O

2493 GREGSON VILLAGE 4/PLAN 18-2407 SFD O

2503 GREGSON VILLAGE 4/PLAN 18-2408 SFD O

2523 GREGSON VILLAGE 4/PLAN 18-2410 SFD O

2522 GREGSON VILLAGE 4/PLAN 18-2500 SFD O

6788 VERBENA ST VILLAGE 3/PLAN 18-2391 SFD

LOT 86 1A/2502SF

LOT 90 2A/3122SF W/CA

LOT 103 R/3122SF W/CA

AVE LOT 7 3A/2749SF

AVE LOT 8 2B/2563SF

AVE LOT 9 4A/2977SF

AVE LOT 25 3B/2749SF

AVE LOT 6

R/3266SF W/CA

4D/3505SF W/CA

4F/3505SF W/CA

1E/2257SF

2513 GREGSON VILLAGE 4/PLAN 18-2409

ANNUAL ELEMENT PROGRESS REPORT Note: "+" indicates an optional field **Housing Element Implementation** Cells in grey contain auto-calculation formulas (CCR Title 25 §6202) Table A2 Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units Housing without Financial Term of Affordability **Unit Types** Affordability by Household Incomes - Completed Entitlement Affordability by Household Incomes - Building Permits Affordability by Household Incomes - Certificates of Occupancy Assistance or Deed Demolished/Destroyed Units Project Identifier Streamlining or Deed Restriction and/or Deed Restrictions 5 12 19 For units affordable without # of Units Was Project
APPROVED using
GC 65913.4(b)? financial assistance or deed Local Jurisdiction Tracking ID\*

Unit Category (SFA,SFD,2 to 4,5+,ADU,MH)

R=Renter O=Owner

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(if affordable in perpetuity

Number of
Demolished/Dest issued How many of the # of Units issued Entitlements

| Wery Low-Income Deed Restricted | Ped Re Occupancy or other restrictions, explain how the Certificates of units were enter 1000)<sup>+</sup>

royed Units

Comparison of the perpetuity of the p locality determined the units forms of readiness for Each Development Type Occupancy or other forms of Income? (see instructions) (see instructions) were affordable (see instructions) Summary Row: Start Data Entry Below Tracy Hills Phase 1B 0007 11/10/2020 434 TSM19-0003, D20-0005 9/1/2020 Larkspur Estates 10/28/2020 Clover Estates Ν Tracy Hills Phase 1A, 0023 132 10/20/2020 Tracy Hills KT Project 11/10/2020 214 6138 GRANVILLE Tracy Hills Phase 1A, D20-0011 N N Ν BROOKVIEW PLAN 16-3360 2/18/2020 Ν 1 ELEV. A LOT 21 BROOKVIEW PLAN 2/18/2020 Ν 2 ELEV. B LOT 22 4347 MATTHEW BROOKVIEW PLAN 16-3362 2/18/2020 Ν 1 ELEV. B LOT 23 4304 LENNOX LN BROOKVIEW PLAN Ν 2 ELEV. B LOT 55 4303 LENNOX LN BROOKVIEW PLAN 16-3397 SFD O 4313 LENNOX LN BROOKVIEW PLAN 16-3398 SFD O Ν 2 ELEV. B LOT 59 4333 LENNOX LN BROOKVIEW PLAN 16-3400 2/24/2020 N 3961 COMSTOCK LEGACY 17-0833 SFD O 5/11/2020 PLAN2C/3128SQFT/ 3968 SANTA FE LN LEGEND 17-0859 SFD O 4/28/2020 N LOT 46 PLAN5A/3395SQFT 3600 W GRANT GATEWAY 17-2994 5+ R 210 3/6/2020 LINE RD APARTMENTS PHASE II MASTER NEW 3176 SF SFD 18-0800 SFD O PEBBLEBROOKE | W/GARAGE & REAR | PATIO - COSE 2510 SQ FT NEW 18-1677 SFD O 1 6/18/2020 PEBBLEBROOKE SFD 12/10/2020 N 2871 2551 SQ FT NEW 18-1682 SFD O 8/27/2020 PEBBLEBROOKE SFD 576 VENTANA NEW 2411 SQ FT 18-2120 SFD O 1/10/2020 N 2367 OSTERA ST VILLAGE 1/PLAN 18-2167 SFD O 12/23/2020 N 2357 OSTERA ST VILLAGE 1/PLAN 18-2168 SFD O 12/23/2020 N 1A/2173SF 7000 PROVINCIAL VILLAGE 1/PLAN 18-2198 SFD O 1/13/2020 N ST LOT 35 3F/2421SF 7010 PROVINCIAL VILLAGE 1/PLAN 18-2199 1/28/2020 N 7009 PROVINCIAL VILLAGE 1/PLAN 18-2211 SFD O 1/28/2020 N ST LOT 48 4E/2654SF 6999 PROVINCIAL VILLAGE 1/PLAN 18-2212 SFD O 1/21/2020 N ST LOT 49 1A/2173SF 6989 PROVINCIAL VILLAGE 1/PLAN 18-2213 SFD O 2/12/2020 N 2360 IVERSTONE VILLAGE 1/PLAN 18-2239 SFD O 8/17/2020 N 2370 IVERSTONE VILLAGE 1/PLAN 18-2240 SFD O 9/3/2020 N ST LOT 65 4D/2278SF 2361 IVERSTONE VILLAGE 1/PLAN 18-2243 SFD O 8/4/2020 N ST LOT 68 4B/2654SF 2371 IVERSTONE VILLAGE 1/PLAN 18-2244 SFD O 8/7/2020 N ST LOT 69 1F/2173SF | 2381 | IVERSTONE | VILLAGE 1/PLAN | 18-2245 | SFD | O 8/19/2020 N ST LOT 70 3B/2421SF 7058 PALMER ST VILLAGE 1/PLAN 18-2253 SFD 11/19/2020 N 12/29/2020 N 7028 PALMER ST VILLAGE 1/PLAN 18-2256 SFD O 12/30/2020 Ν 7057 PALMER ST VILLAGE 1/PLAN 18-2284 SFD O 11/25/2020 N 1C/2173SF 11/12/2020 N 7077 PALMER ST VILLAGE 1/PLAN 18-2286 SFD O N 6860 CELADON LN VILLAGE 3/PLAN 4B- 18-2357 SFD O 1/2/2020 N 6870 CELADON LN VILLAGE 3/PLAN 18-2358 SFD O LOT 55 2A/3122SF W/CA 6880 CELADON LN VILLAGE 3/PLAN 18-2359 SFD O 2/19/2020 LOT 56 3F/3266SF W/CA 6877 VERBENA ST VILLAGE 3/PLAN 18-2360 2/6/2020 4D/3505SF W/CA 6857 VERBENA ST VILLAGE 3/PLAN 1C- 18-2361 SFD O 2/6/2020 Ν R/2502SF 6837 VERBENA ST VILLAGE 3/PLAN 18-2362 SFD O 2/27/2020 N N 4A/3505SF 6827 VERBENA ST VILLAGE 3/PLAN 3E- 18-2363 SFD O 3/2/2020 N 6817 VERBENA ST VILLAGE 3/PLAN 18-2364 SFD O 7/29/2020 2B/3122SF W/CA 6807 VERBENA ST VILLAGE 3/PLAN 4C- 18-2365 SFD O 8/3/2020 LOT 62 R/3505SF W/CA 6797 VERBENA ST VILLAGE 3/PLAN 18-2366 SFD O 8/13/2020 Ν 1B/2502SF 6787 VERBENA ST VILLAGE 3/PLAN 3D- 18-2367 SFD O 8/20/2020 R/3266SF W/CA 6777 VERBENA ST VILLAGE 3/PLAN 18-2368 SFD O 1 8/21/2020 LOT 65 2A/3122SF W/CA 6767 VERBENA ST VILLAGE 3/PLAN 4E- 18-2369 SFD O 12/15/2020 R/3505SF W/CA 6757 VERBENA ST VILLAGE 3/PLAN 18-2370 SFD O 12/22/2020 3B/3266SF W/CA 6747 VERBENA ST VILLAGE 3/PLAN 1E- 18-2371 SFD O 12/30/2020

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11/24/2020

12/2/2020

12/8/2020

3/11/2020

2/28/2020

2/28/2020

3/2/2020

2/25/2020

1/2/2020

Project Identifie	fier	Unit Types	Affordability by Household Incomes - Completed Entitle	ement		Affordability by Household Incomes - Building Permits			Affordability by Household Incomes - Certificates of Occupancy		Streamlining Infill	Housing with Financial A and/or Deed Restrict	Accietance or Dood	Units Notes
1		2 3	4		5 6	7	8	9	10 11	12	13 14 15	16	17 18 19 20	21
Prior APN <sup>+</sup> Current APN Street Address	Project Name <sup>+</sup> Local Jurisdiction Tracking ID <sup>+</sup>	Unit Category (SFA,SFD,2 to 4,5+,ADU,MH)  R=Renter O=Owner	Very Low- Income Deed Restricted	Above Moderate- ted Income	Entitlement <u>Date Approved</u> # of Units issued Entitlements	Very Low- Income Deed Restricted Restricted Low- Income Non Deed Restricted R	Above Moderate- ed Income Building Permits <u>Date Issued</u>	# of Units Issued Building Permits	Very Low-Income Deed Restricted R	r other liness liness liness lines occupancy o	How many of the units were Extremely Low Income?*  Was Project APPROVED using GC 65913.4(b)? (SB 35 Streamlining) Y/N	Assistance Programs Deed for Each Development (see instructions)	Restriction Type Instructions)  Restrictions, explain how the locality determined the units were affordable (see instructions)  Restriction Type Instructions (see instructions)  Term of Affordability or Deed Restriction (years) (if affordable in perpetuity enter 1000) <sup>+</sup> Number of Demolished/Dest royed Units <sup>+</sup>	Demolished/De stroyed Units Owner or Renter <sup>+</sup>
n/a AVE LOT 26	VILLAGE 4/PLAN 18-2501 1C/2257SF VILLAGE 4/PLAN 18-2502 4D/2977SF	SFD O			0			(	1 2/25/2020 1 2/25/2020		1 N N N 1			
n/a 7104 SACRAMENTO DR LOT 60	VILLAGE 4/PLAN 18-2529 R 3D/2749SF	SFD O			0			(	1 5/5/2020		1 N N			
SACRAMENTO DR LOT 61	VILLAGE 4/PLAN 18-2530 R 1B/2257SF VILLAGE 4/PLAN 18-2531	SFD 0			0			(	1 4/27/2020		1 N N			
SACRAMENTO DR LOT 62 n/a 7074	R 2A/2563SF VILLAGE 4/PLAN 4B- 18-2532	SFD O			0			(	1 3/27/2020 1 3/27/2020		1 N N			
n/a SACRAMENTO DR LOT 63  n/a 7054 SACRAMENTO DR	VILLAGE 4/PLAN 18-2533	SFD O			0			(	1 3/25/2020	0	1 N N			
n/a 7053 SACRAMENTO DR		SFD O			0			(	1 3/25/2020	0	1 N N			
n/a 7063 SACRAMENTO DR LOT 102	VILLAGE 4/PLAN 18-2572 R 1D/2257SF	SFD O			0			(	1 3/25/2020	0	1 N N			
SACRAMENTO DRIVE LOT 104	4C/2977SF	SFD O			0			C	1 4/1/2020		1 N N			
25354002 ST LOT 116 25354002 2410 IVERSTONE ST LOT 117	R/2278SF  VILLAGE 1/PLAN 18-2584 4D/2654SF				0			(	1 10/26/2020		1 N N 1 N N			
24829052 2851 PEBBLEBROOKE CT	2894 SQFT NEW 18-3015 SFD				0			(	1 4/23/2020		1 N Y			
BLOSSOM LANE	PLAN 4A, 2348SQFT	SFD O			0			C	) 1 6/9/2020 1 3/23/2020		1 N Y			
n/a 829 CHERRY	PLAN 6C, 2685SQFT  BROOKVIEW WEST 18-3133	SFD O			0			(	1 3/23/2020		1 N Y			
n/a 819 CHERRY	PLAN 3B, 2202SQFT  BROOKVIEW WEST PLAN 5C, 2476SQFT  18-3134	SFD O			0			(	1 3/17/2020	0	1 N Y			
	BROOKVIEW WEST 18-3185 PLAN 6B, 2685SQFT	SFD O			0			(	1 6/12/2020	0	1 N Y			
n/a 3940 CREPE MYRTLE LANE	BROOKVIEW WEST 18-3186 PLAN 5C, 2476SQFT	SFD O			0			(	1 2/27/2020	0	1 N Y			
	BROOKVIEW WEST PLAN 3B, 2202SQFT	SFD O			0			C	1 3/16/2020		1 N Y			
	BROOKVIEW WEST 18-3188 PLAN 6A, 2685SQFT  BROOKVIEW WEST 18-3189	SFD O			0			C	1 4/27/2020 1 9/8/2020		1 N Y			
	BROOKVIEW WEST PLAN 3C, 2202SQFT  BROOKVIEW WEST PLAN 6A, 2685SQFT  18-3189 18-3190				0			(	1 9/8/2020		1 N Y			
		SFD O			0			(	9/15/2020	0	1 N Y			
	BROOKVIEW WEST 18-3192 PLAN 3A, 2202SQFT	SFD O			0			(	9/14/2020	0	1 N Y			
n/a 4080 CREPE MYRTLE LANE	BROOKVIEW WEST 18-3193 PLAN 6C, 2685SQFT	SFD O			0			(	1 9/21/2020	0	1 N Y			
	PLAN 6B, 2685SQFT				0			(	1 8/17/2020		1 N Y			
	PLAN 5C, 2476SQFT	SFD O			0			C	) 1 8/17/2020 1 8/20/2020		1 N Y			
	BROOKVIEW WEST PLAN 4B, 2348SQFT  BROOKVIEW WEST PLAN 6A, 2685SQFT  18-3196 18-3197				0			(	1 8/20/2020		1 N Y			
n/a 721 CREPE		SFD O			0			(	1 8/31/2020	0	1 N Y			
n/a 701 CREPE		SFD O			0			(	1 8/31/2020	0	1 N Y			
BLOSSOM LANE	BROOKVIEW WEST 18-3200 PLAN 4C, 2348SQFT	SFD O			0			(	) 1 3/11/2020	0	1 N Y			
BLOSSOM LANE	PLAN 5A, 2476SQFT	SFD O			0			C	1 2/11/2020		1 N Y			
n/a 850 CHERRY	BROOKVIEW WEST	SFD O			0			(	1 3/16/2020 1 1 4/2/2020		1 N Y			
BLOSSOM LANE	PLAN 5C, 2476SQFT  D 983 SQ FT ADU 18-3540				0		3/31/2020	C			1 N Y		Made assumption based on other	
AV					0			1			0 N Y		units of similar size that were verified by HCD's affordability calculator to fall into the Moderate income category.	
	1140SQFT 19-0331 ACCESSORY DWELLING	ADU O						(	7/30/2020	0	1 N Y		Made assumption based on other units of similar size that were verified by HCD's affordability calculator to fall into the Moderate	
LOT 4	3383 NEW SFD 19-0397				0		1 9/30/2020	1			0 N Y		income category.	
21428047 2941 BALBOA DR	3383 NEW SFD 19-0398  CONVERT GARAGE 19-0475 TO IN-LAW UNIT				0			(	) 1 9/29/2020 1 3/25/2020		1 N Y		Made assumption based on other units of similar size that were	Assumptions were made on tenure due to lack of
	W/KITCHEN. RELOCATE WH & FURN				0			(			1 N Y		verified by HCD's affordability calculator to fall into the Moderate income category.	response from permit applicant.
DR LOT 53 25355068 6246 CAMEO WY LOT 62	3E/3919SF VILLAGE 8/PLAN 19-0528 4D/4100SF/964 SF	SFD O			0			(	1 2/28/2020 1 1/28/2020		1 N N			
n/a 6256 CAMEO WAY	NEXT GEN & CA ROOM  Y VILLAGE 8/PLAN 19-0529	SFD O			0			(	1 2/14/2020	0	1 N N			
25355071 6266 CAMEO WY	1E/2914SF WITH CA ROOM	SFD O			0			(	1 2/14/2020		1 N N			
LOT 65	VILLAGE 8/PLAN 19-0531 2A/3773SF W/CA ROOM	SFD O			0			C	1 1/30/2020		1 N N			
LOT 66	VILLAGE 8/PLAN 19-0532 4E/4100SF/964 SF NEXT GEN & CA ROOM				0			C	1 1/17/2020		1 N N			
AVE LOT 67	VILLAGE 8/PLAN 19-0533 4D/4100SF/964 SF NEXT GEN & CA ROOM	SFD O						C	1 1/30/2020	0	1 N N			
23305313 1924 BESSIE AV	CONVERSION OF 19-0554 SHOP TO 3-BED IN- LAW ADU	ADU O			0		8/12/2020	1			0 N Y		Made assumption based on other units of similar size that were verified by HCD's affordability	
24231055 1235 PICKFORD	CONVERT DEN TO 19-0772 BEDROOM &	ADU R			0				9/18/2020	0			calculator to fall into the Moderate income category.  Made assumption based on other	
	GARAGE CONVERSION TO ADU				0			(			1 N Y		units of similar size that were verified by HCD's affordability calculator to fall into the Moderate income category.	
	5XC/ LOT 6	SFD O			0			(	1 4/17/2020 1 4/16/2020		1 N Y			
24246071 2462 COLOMA LN	3677SQFT/PLAN 4D/ LOT 7 I PRIMROSE I 19-1174				0			(	1 4/16/2020		1 N Y			
	3235SQFT/PLAN 3XC/ LOT 71	SFD O			0			(	) 1 6/16/2020		1 N Y 1 N N			
25356002 2648 SANBELLE WY LOT 106	VILLAGE 4/PLAN 19-1264 2D/2563SF				0			(	1 6/16/2020 1 1 4/13/2020		1 N N			
25355061 3064 PROSPECT	2D/3773SF W- CA ROOM VILLAGE 8/PLAN 1E- 19-1399	SFD O			0			(	1 4/13/2020		1 N N			
DR LOT 55	R/2914SF W- CA ROOM				0			(			1 N N			

	Project Identifier		Unit Types	Affordability by House	nold Incomes - Completed Enti	titlement		Affordability	by Household Incomes - Building Permits					Afforda	ability by Household Incomes - Certificates of Occupancy		Streamlin	ng Infill	Housing with Financial Assistance and/or Deed Restrictions	Assistance or Deed	rm of Affordability Dem	olished/Destroyed Units	Notes
	1		2 3				5 6		7		8 9		Very Low-		10 11 Certificates of	# of Unit	13 14  How many of the Was Proje	15	16 17	For units affordable without financial assistance or deed	erm of Affordability or	Demolished/De	21
Prior APN <sup>+</sup> Current APN	Street Address Project Name <sup>+</sup>	Local Jurisdiction Tracking ID <sup>+</sup>	(SFA,SFD,2 to 4,5+,ADU,MH) R=Renter O=Owner	Income Deed Income Non Restricted Deed Restricted Restricted Restricted	Deed Income Deed Income Noterate icted Restricted Deed Restri		# of Units issued Entitlements	Very Low-   Very Low-   Low-     Income Deed   Income Non   Deed Restricted   Rest	ncome   Low-Income   Moderate-   Moderate-   Moderate-   Income Deed   Income No   Income	on Moderate- cted Income		Income Dee Restricted	Income Non Deed Restricted	Deed Restricted	Non Deed   Income Deed   Income Non   Deed Restricted   Restricted   Restricted   Deed Restricted   Income Non   Date Issued   Date Issued   Deed Restricted   Deed Restrict	Certificate Occupanc other form readines	f units were Extremely Low Income? <sup>+</sup> (SB 35 Stream)	b)? Infill Units? Y/N <sup>+</sup>	for Each Development (see instructions)  Assistance Programs   Deed Restriction   Type   (see instructions)	restrictions, explain how the locality determined the units were affordable (see instructions)	ed Restriction (years) affordable in perpetuity enter 1000)*  Number of Demolished/D royed Units	Demolished or Destroyed Units Owner or Renter*	Notes⁺
25355062 25355063	3074 PROSPECT VILLAGE 8/PLAN 3C/3919SF W-CA ROOM  3084 PROSPECT VILLAGE 8/PLAN 1D/2914SF W- CA		SFD O									0			1 4/23/2020 1 4/24/2020		1 N	N					
25355064	ROOM  3075 PROSPECT VILLAGE 8/PLAN 4 DR LOT 58 R/4100SF/964 SF NEXT GEN & CA	B- 19-1410	SFD O									0			1 3/27/2020		1 N	N					
	3065 PROSPECT VILLAGE 8/PLAN DR LOT 59 2C/3773SF W- CA ROOM/LOFT & RETREAT		SFD O					0				0			1 3/27/2020		1 N	N					
	3055 PROSPECT VILLAGE 8/PLAN 4E/4100SF/964 / S NEXT GEN & CA ROOM  3045 PROSPECT VILLAGE 8/PLAN DR LOT 61 1C/2914SF W- CA		SFD O					0				0			1 3/13/2020 1 3/13/2020		1 N	N					
25342033	ROOM  2666 LYNRIDGE TRACY HILLS  AVE LOT 33 VILLAGE 5  1B/2683SQ' W/CA	19-1594	SFD O					0				0			1 2/4/2020		1 N	N N					
25342042	ROOM  6865 PASEO ST TRACY HILLS  VILLAGE 5 PEARL  3A/3533SQ' W/CA  ROOM		SFD O					0				0			1 2/4/2020		1 N	N					
25342043 25342044	6855 PASEO ST TRACY HILLS LOT 43 VILLAGE 5 4C/3599SQFT 6845 PASEO ST TRACY HILLS LOT 44 VILLAGE 5 PEARL	19-1597 19-1598	SFD O					0				0			1 2/12/2020 1 2/12/2020		1 N	N N					
25346001	2B/3372SQFT 6835 PASEO ST TRACY HILLS LOT 45 VILLAGE 5 PEARL3E/3533SQ	19-1599 FT	SFD O					0				0			1 2/12/2020		1 N	N					
25346002 25346025	6825 PASEO ST TRACY HILLS LOT 46 VILLAGE 5 PEARI 1C/2683SQFT  2667 LYNRIDGE TRACY HILLS AVE LOT 25 VILLAGE 5 PEARL	19-1600	SFD O					0				0			1 2/19/2020 1 2/19/2020		1 N	N					
23860039	2655 HENLEY HARVEST SFD PARKWAY BLDG# BLDG TYPE A-S 1598SQ'	19-1699	SFD R					0				0			1 10/8/2020		1 N	Y					
23860039 23860039		19-1702	SFD R					0				0			1 9/14/2020 1 10/8/2020		1 N	Y					
23860039	2655 HENLEY HARVEST SFD PARKWAY BLDG# BLDG TYPE A-SE 1598SQ' HARVEST SFD BLDG TYPE A-SE 1598SQ' HARVEST SFD	19-1703	SFD R					0				0			1 10/22/2020 1 9/14/2020		1 N	Y					
23860039	PARKWAY BLDG# BLDG TYPE A-SE 1598SQ'  2655 HENLEY HARVEST SFD HARVEST SFD BLDG TYPE A-SE 1598SQ'  PARKWAY BLDG# BLDG TYPE A-SE 1598SQ'	19-1705						0				0			1 10/22/2020		1 N N	Y					
23860039 23860039	2655 HENLEY HARVEST DUPLE PARKWAY BLDG# BLDG TYPE B-I 21 3002SQ'  2655 HENLEY HARVEST DUPLE		2 to 4 R					0				0			2 10/8/2020 2 10/8/2020		2 N	Y					
23860039	PARKWAY BLDG# BLDG TYPE B-I 23 3002SQ' 2655 HENLEY HARVEST DUPLE PARKWAY BLDG# BLDG TYPE B-I 29 3002SQ'							0				0			2 10/8/2020		2 N	Y					
23860039 23860039	2655 HENLEY PARKWAY BLDG# BLDG TYPE B-I 35 3002SQ'  2655 HENLEY PARKWAY BLDG# BLDG TYPE B-I							0				0			2 10/8/2020 2 10/8/2020		2 N	Y					
	41 3002SQ' 2655 HENLEY HARVEST DUPLE PARKWAY BLDG# BLDG TYPE B-I 53 3002SQ' 2655 HENLEY HARVEST DUPLE							0				0			2 9/14/2020 2 9/14/2020		2 N	Y					
23860039	PARKWAY BLDG# BLDG TYPE B-I 60 3002SQ'  2655 HENLEY HARVEST DUPLE PARKWAY BLDG# BLDG TYPE B-I 62 3002SQ'	C 19-1714	2 to 4 R					0				0			2 9/14/2020		2 N N	Y					
23860039 23860039	2655 HENLEY PARKWAY BLDG# BLDG TYPE B-I 3002SQ'  2655 HENLEY PARKWAY BLDG# BLDG TYPE B-I R	< 19-1716						0				0			2 10/22/2020 2 10/22/2020		2 N	Y					
23860039	84 3002SQ'  2655 HENLEY HARVEST DUPLE PARKWAY BLDG# BLDG TYPE B-IE 43 2408SQ'  2655 HENLEY HARVEST DUPLE		2 to 4 R					0				0			2 10/8/2020 2 9/14/2020		2 N	Y					
23860039	PARKWAY BLDG# BLDG TYPE B-IE 2408SQ'  2655 HENLEY HARVEST DUPLE PARKWAY BLDG# BLDG TYPE B-IE 2408SQ'	19-1719										0			2 9/14/2020		2 N N	Y					
23860039 23860039	2655 HENLEY PARKWAY BLDG# 58 2408SQ' 2655 HENLEY PARKWAY BLDG# BLDG TYPE B-IE BLDG TYPE B-IE	( 19-1721						0				0			2 9/14/2020 2 10/8/2020		2 N	Y					
23860039 23860039	25 2408SQ'  2655 HENLEY HARVEST DUPLE PARKWAY BLDG# BLDG TYPE B-S 24 3002SQ'  2655 HENLEY HARVEST DUPLE	( 19-1723	2 to 4 R					0				0			2 10/8/2020		2 N	Y					
	PARKWAY BLDG# BLDG TYPE B-S 3002SQ'	( 19-1725						0				0			2 10/8/2020 2 10/8/2020		2 N N	Y					
23860039	2655 HENLEY PARKWAY BLDG# 34  2655 HENLEY BLDG TYPE B-S 34  3002SQ'  HARVEST DUPLE BARKWAY BLDG# BLDG TYPE B-S											0			2 10/8/2020 2 10/8/2020		2 N	Y					
	PARKWAY BLDG# BLDG TYPE B-S 3002SQ'  2655 HENLEY HARVEST DUPLE PARKWAY BLDG# BLDG TYPE B-S 40 3002SQ'							0				0			2 10/8/2020		2 N	Y					
	2655 HENLEY PARKWAY BLDG# BLDG TYPE B-S 3002SQ'  2655 HENLEY PARKWAY BLDG# BLDG TYPE B-S BLDG TYPE B-S 3002SQ'							0				0			2 10/8/2020 2 9/14/2020		2 N	Y					
23860039 23860039	45 3002SQ'  2655 HENLEY HARVEST DUPLE PARKWAY BLDG# BLDG TYPE B-S 46 3002SQ'  2655 HENLEY HARVEST DUPLE							0				0			2 9/14/2020 2 9/14/2020		2 N	Y					
23860039	PARKWAY BLDG# BLDG TYPE B-S 47 3002SQ'  2655 HENLEY HARVEST DUPLE PARKWAY BLDG# BLDG TYPE B-S 52 3002SQ'	( 19-1733	2 to 4 R					0				0			2 9/14/2020		2 N N	Y					
23860039 23860039	2655 HENLEY PARKWAY BLDG# 54  2655 HENLEY PARKWAY BLDG# BLDG TYPE B-S BLDG TYPE B-S BLDG TYPE B-S		2 to 4 R					0				0			2 9/14/2020 2 9/14/2020		2 N	Y					
23860039	57 3002SQ' 2655 HENLEY HARVEST DUPLE PARKWAY BLDG# BLDG TYPE B-S 61 3002SQ' 2655 HENLEY HARVEST DUPLE							0				0			2 9/14/2020 2 10/22/2020		2 N	Y					
23860039	PARKWAY BLDG# BLDG TYPE B-S 82 3002SQ' 2655 HENLEY HARVEST DUPLE PARKWAY BLDG# BLDG TYPE B-SE 22 3008SQ'	X 19-1740	2 to 4 R					0				0			2 10/8/2020		2 N	Y					
23860039 23860039	2655 HENLEY PARKWAY BLDG# BLDG TYPE B-SE 3008SQ'  2655 HENLEY PARKWAY BLDG# BLDG TYPE B-SE	( 19-1742	2 to 4 R					0				0			2 10/14/2020 2 9/14/2020		2 N	Y					
23860039	56 3008SQ'  2655 HENLEY HARVEST DUPLE PARKWAY BLDG# BLDG TYPE B-SE 63 3008SQ'  2655 HENLEY HARVEST DUPLE	( 19-1743						0				0			2 9/14/2020 2 9/14/2020		2 N	Y					
	2655 HENLEY HARVEST DUPLE PARKWAY BLDG# BLDG TYPE B-SE 3008SQ'  2655 HENLEY HARVEST DUPLE PARKWAY BLDG# BLDG TYPE B-SE 28 ALT 3053SQ'											0			2 9/14/2020 2 10/8/2020		2 N N	Y					
23860039	28 ALT 3053SQ' 2655 HENLEY HARVEST DUPLE PARKWAY BLDG# BLDG TYPE B-SE 32 ALT 3053SQ'	( 19-1746	2 to 4 R									0			2 10/14/2020		2 N	Y					

	Project Identifier		Unit Types			Affordabilit	y by Household Inc	ncomes - Complete	ted Entitlem	ent				Affordability by H	Household Income	es - Building Permits	s					Affordability by H	lousehold Inco	omes - Certificates	s of Occupar	псу			Streamlining	Infill	Housing with Finance	cial Assistance	Assistance of De	ancial Term of Affordabilited or Deed Restriction		yed Units	Notes
	1		2 3		1		4				5	6			7			8	9			10				11	12	13	14	15	16	17	Restrictions 18	19	20		21
Prior APN <sup>+</sup> Current APN	Street Address Project Name <sup>†</sup>		4,5+,ADU,MH) R=Renter O=Owner	Very Low- Income Deed Restricted	Very Low- Income No Deed Restric	r- Low-Inco on Deed cted Restrict	ome Low-Income Non Deed red Restricted	Moderate- I Income Deed In Restricted Dee	Moderate- Income Non eed Restricted	Above Moderate- Income	Entitlement Date Approved	# of Units issued Entitlements	Very Low- Very I Income Deed Income Restricted Deed Re		ome Low-Income Non Deed ed Restricted	Moderate- Income Deed Income Restricted Deed Re	erate- Abov ne Non Moder estricted Incor	rate- Building Per	mits # of Units Issu <u>d</u> Building Perm	Very Lov Income Do Restricto	w- eed ed Deed ed Restricted Res	- Income Low- Incon Deed Non Deed stricted Restricted	ne Moderate- I Income Deed d Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income	Certificates of Occupancy or other forms of readiness (see instructions) <u>Date Issued</u>	# of Units issued Certificates of Occupancy or other forms of readiness	How many of the units were Extremely Low Income? <sup>+</sup>	Was Project <u>APPROVED</u> using GC 65913.4(b)? (SB 35 Streamlining Y/N	Infill Units? Y/N <sup>+</sup>	Assistance Programs for Each Development (see instructions)	Deed Restriction Type (see instructions)	For units affordable wi financial assistance or restrictions, explain ho locality determined the were affordable (see instructions	w the units  Term of Affordability of Deed Restriction (years)	s) Number of Demolished	Demolished/De or stroyed Units its <sup>+</sup> Owner or Renter <sup>+</sup>	Notes <sup>+</sup>
23860039	2655 HENLEY HARVEST DUPLEX PARKWAY BLDG# BLDG TYPE B-SE 44 ALT 3053SQ' 2655 HENLEY HARVEST DUPLEX PARKWAY BLDG# BLDG TYPE B-SE		2 to 4 R									0								0					2	9/14/2020	2		N	Y							
23860039	51 ALT 3053SQ'  2655 HENLEY HARVEST APTS PARKWAY BLDG# BLDG TYPE C-I 4770SQ'	19-1749	5+ R									0								0					6	11/19/2020	6		N	Y							
23860039	2655 HENLEY HARVEST APTS PARKWAY BLDG# 37 4770SQ' 2655 HENLEY HARVEST APTS	19-1752 19-1753	5+ R 5+ R									0								0					6	11/18/2020 8/10/2020	6		N	Y							
23860039	PARKWAY BLDG# BLDG TYPE C-I R 4770SQ' 2655 HENLEY HARVEST APTS PARKWAY BLDG# BLDG TYPE C-S 38 4712SQ'		5+ R									0								0					6	11/18/2020	6		N N	Y							
	2655 HENLEY HARVEST APTS PARKWAY BLDG# BLDG TYPE C-S 4712SQ' 2655 HENLEY HARVEST APTS		5+ R									0								0					6	8/10/2020 12/23/2020	6		N	Y							
23860039	PARKWAY BLDG# BLDG TYPE C-S R 10 4712SQ' 2655 HENLEY HARVEST APTS PARKWAY BLDG# BLDG TYPE C-S R	19-1758	5+ R									0								0					6	11/18/2020	6		N N	Y							
23860039	49 4712SQ' 2655 HENLEY HARVEST APTS PARKWAY BLDG# BLDG TYPE C-S R 4712SQ'	19-1759	5+ R									0								0					6	10/22/2020	6		N	Y							
23860039	2655 HENLEY PARKWAY BLDG# BLDG TYPE D-I 5403SQ' 2655 HENLEY PARKWAY BLDG# BLDG TYPE D-I		5+ R 5+ R									0								0					6	12/21/2020	6		N	Y							
23860039	18 5403SQ' 2655 HENLEY HARVEST APTS PARKWAY BLDG# BLDG TYPE D-I 27 5403SQ'	19-1762	5+ R									0								0					6	11/18/2020	6		N N	Y							
23860039	PARKWAY BLDG# BLDG TYPE D-I R 5403SQ' 2655 HENLEY HARVEST APTS		5+ R									0								0					6	12/23/2020 8/10/2020	6		N	Y							
23860039	PARKWAY BLDG# BLDG TYPE E-I 70 7247SQ'  2655 HENLEY HARVEST APTS PARKWAY BLDG# BLDG TYPE E-I		5+ R									0								0					6	6/18/2020	6		N N	Y							
	73 7247SQ' 2655 HENLEY HARVEST APTS PARKWAY BLDG# BLDG TYPE E-I 7247SQ' 2655 HENLEY HARVEST APTS		5+ R									0								0					6	12/23/2020 8/10/2020	6		N	Y							
23860039	PARKWAY BLDG# BLDG TYPE E-I R 7247SQ' 2655 HENLEY HARVEST APTS PARKWAY BLDG# BLDG TYPE E-S		5+ R									0								0					6	8/10/2020	6		N N	Y							
23860039	68 7247SQ' 2655 HENLEY HARVEST APTS PARKWAY BLDG# BLDG TYPE E-S 78 7247SQ'		5+ R									0								0					6	10/29/2020	6		N	Y							
23860039	2655 HENLEY PARKWAY BLDG# BLDG TYPE E-S R 7247SQ' 2655 HENLEY HARVEST APTS		5+ R 5+ R									0								0					6	12/23/2020 11/18/2020	6		N	Y							
23860039	PARKWAY BLDG# BLDG TYPE D-S 26 5420SQ' 2655 HENLEY HARVEST APTS PARKWAY BLDG# BLDG TYPE D-S R 19 5420SQ'	19-1782	5+ R									0								0					6	12/23/2020	6		N N	Y							
	4323 LENNOX LN BROOKVIEW PLAN 1 ELEV. B LOT 60 6815 PASEO ST TRACY HILLS LOT 47 VILLAGE 5	19-1935 19-2034	SFD O									0								0					1	2/26/2020 8/26/2020	1		N	Y							
25346004	4B/3599SQFT W/CA ROOM 6805 PASEO ST TRACY HILLS LOT 48 VILLAGE 5 3C-	19-2035	SFD O									0								0					1	8/26/2020	1		N	N							
25346005	R/3533SQFT W/CA ROOM 6795 PASEO ST TRACY HILLS LOT 49 VILLAGE 5 2A/3372SOFT	19-2036	SFD O									0								0					1	9/4/2020	1		N N	N							
25346023	27 (007 20 %)	19-2050	SFD O									0								0					1	9/14/2020	1		N	N							
25346024	2648 CATSPAW TRACY HILLS CT LOT 68 VILLAGE 5 1D/2683SQFT W/CA	19-2051 A	SFD O									0								0					1	9/14/2020	1		N	N							
	6254 CAROUSEL VILLAGE 8/PLAN 3E AVE LOT 69 R/3919SF W/CA ROOM 6264 CAROUSEL VILLAGE 8/PLAN 1A AVE LOT 70 R/2914SF W/CA		SFD O									0								0					1	7/7/2020	1		N	N							
	ROOM 6274 CAROUSEL VILLAGE 8/PLAN AVE LOT 71 3C/3919SF W/CA		SFD O									0								0					1	7/15/2020	1		N N	N N							
25355056	ROOM 6263 CAROUSEL VILLAGE 8/PLAN AVE LOT 52 4C/3136SF & 964 SI NEXT GEN & CA ROOM	19-2142 F	SFD O									0								0					1	7/22/2020	1		N	N							
25355056	6263 CAROUSEL VILLAGE 8/PLAN AVE LOT 52 4C/3136SF & 964 SI NEXT GEN & CA ROOM	19-2142 F	ADU O									0								0				1		7/22/2020	1		N	N			Made assumption based of units of similar size that verified by HCD's afford calculator to fall into the M	were ability			
	6273 CAROUSEL VILLAGE 8/PLAN AVE LOT 51 2A/3773SF W/CA ROOM		SFD O									0								0					1	7/29/2020	1		N	N			income category.				
n/a	6312 ZINK HOUSE VILLAGE 8/PLAN DR LOT 77 2B/3773SF W/CA ROOM 6322 ZINK HOUSE VILLAGE 8/PLAN DR LOT 78 4C/3136SF & 964 SI	19-2282	SFD O									0					1	8/7/2020		1							0		N	N							
	6322 ZINK HOUSE VILLAGE 8/PLAN DR LOT 78 45/3136SF & 964 SI		ADU O									0				1	1	8/7/2020		1							0		N	N			Made assumption based o				
	NEXT GEN & CA ROOM  6311 ZINK HOUSE VILLAGE 8/PLAN 3E DR LOT 80 R/3919SF W/CA		SFD O									0					1	8/7/2020		1							0		N	N			verified by HCD's afford calculator to fall into the Mincome category.	ability oderate			
	DR LOT 80 R/3919SF W/CA ROOM  6321 ZINK HOUSE VILLAGE 8/PLAN 10 R/2914SF W/CA ROOM		SFD O									0					1	8/7/2020		1							0		N N	N							
	ROOM  3088 WILKINS LN LOT 15 COM  6341 ZINK HOUSE VILLAGE 8/PLAN VILLAGE 8/PLAN		SFD O									0					1	8/7/2020		1							0		N	N							
	DR LOT 45 VILLAGE 8/PLAN 2C/3773SF W/CA ROOM 2244 BLAKE ELISSAGARAY/PLA 2AXL/2662 SQ/LOT											0					1	6///2020		0					1	6/11/2020	0		N N	N Y							
	2224 BLAKE ELISSAGARAY/PLA 1CWR/2405 SQ/LO	Т	SFD O									0								0					1	6/4/2020	1		N	Y							
	2204 BLAKE ELISSAGARAY/PLA 1BWR/2405 SQ/LOT10  2144 BLAKE DR ELISSAGARAY/PLA	N 19-2716	SFD O									0								0					1	6/11/2020	1		N	Y							
25247012	3CXR/3524 SQ/LOT 11 2134 BLAKE ELISSAGARAY/PLA 4DXR/3531 SQ/LOT 12	N 19-2717	SFD O									0								0					1	6/10/2020	1		N N	Y							
	2124 BLAKE ELISSAGARAY/PLA 1AXR/2405 SQ/LOT 13 1203 DAVID ELISSAGARAY/PLA		SFD O									0								0					1	6/10/2020	1		N	Y							
	1203 DAVID ELISSAGARAY/PLA SENFT 2CXR/2662 SQ/LOT 14 2950 REYVA VANTAGE/PLAN DHILLON LN LOT 4C/2648SQ FT		SFD O									0								0					1	12/29/2020	1		N N	Y							
25353028	124 2951 REYVA VANTAGE/PLAN DHILLON LN LOT 4B/2648SQ FT 118	19-2787										0								0					1	12/7/2020	1		N	N							
	2961 REYVA VANTAGE/PLAN DHILLON LN LOT 119 2971 REYVA FDN ONLY - VANTAGE/PLAN	19-2788 19-2789	SFD O									0								0					1	12/3/2020	1		N	N							
n/a	120       4A/2648SQ FT         4618 MARGARET       ZEPHYR/PLAN         ADELE LANE LOT       1D/2002 SQ FT         222		SFD O									0								0					1	7/6/2020	1		N N	N N							
n/a n/a	2839 GOLD RUN ZEPHYR/PLAN STREET LOT 161 3D/2510 SQ FT 2849 GOLD RUN ZEPHYR/PLAN STREET LOT 160 1C/2002 SQ FT	19-2946 19-2947	SFD O									0								0					1	8/25/2020 8/25/2020	1		N N	N N							

	Project Iden	ntifier		Unit Types	Affordability by H	Household Income	nes - Completed Entitlement	_		Affordability by Household Incomes - Building Permits			Affordability by Household Incomes - Certifica	cates of Occupa	ncy		Streamlining	Infill	Housing with Financial Assistance and/or Deed Restrictions  Housing without Financial Assistance or Deed Restrictions	Term of Anorgability	ed/Destroyed Units	Notes
Prior APN <sup>+</sup> Current APN	Street Addres	ss Project Name <sup>+</sup>	Local Jurisdiction Tracking ID <sup>+</sup>	Unit Category (SFA,SFD,2 to 4,5+,ADU,MH)  R=Renter O=Owner	Very Low- Income Deed Restricted  Very Low- Income Non Deed Restricted Restricted	Low-Income Non Deed Restricted Re	Moderate- come Deed Income Non Restricted Deed Restricted Income	Entitlement Date Approved	# of Units issued Entitlements	Very Low- ncome Deed Restricted  Very Low- Income Non Deed Restricted  Restricted  Non Deed Restricted  Restricted  Restricted  Restricted  Non Deed Restricted  Restricted  Restricted  Non Deed Restricted  Restricted	- Above Moderate- Income Building Permits Date Issued	# of Units Issued Building Permits	Very Low-Income Deed Restricted Restricted Low-Income Restricted R	Above Moderate- d Income	Certificates of Occupancy or other forms of readiness (see instructions)  Date Issued	# of Units issued Certificates of Occupancy or other forms of readiness	How many of the units were Extremely Low Income?   Was Project  APPROVED using GC 65913.4(b)? (SB 35 Streamlining) Y/N	V/NI'	Assistance Programs or Each Development (see instructions)  Deed Restriction Type (see instructions)  Type (see instructions)  Type (see instructions)  Type (see instructions)	Term of Affordability or Deed Restriction (years) (if affordable in perpetuity enter 1000) <sup>+</sup> Number of Demolished/Dest royed Units <sup>+</sup>	Demolished/Demolished/Demolished or stroyed Units* Owner or Renter*	e Notes <sup>+</sup>
n/a	STREET LOT 15	N ZEPHYR/PLAN	19-2948 19-2949	SFD O					0					1 1	8/25/2020 7/16/2020	1	N N	N N				
n/a	2879 GOLD RU STREET LOT 15	58 3C/2510 SQ FT  N ZEPHYR/PLAN  57 2A/2197 SQ FT  NDE ZEPHYR/PLAN	19-2950 19-2952	SFD O					0					1 1	7/16/2020 5/26/2020	1	N N	N				
	DRIVE LOT 220 2860 RIO GRAN	1A/2002 SQ FT  NDE ZEPHYR/PLAN	19-2953	SFD O					0					1	6/1/2020	1	N	N				
n/a	4609 MARGARE	2D/2197 SQ FT  ET ZEPHYR/PLAN  OT 4B/2594 SQ FT	19-2954	SFD O					0					1	5/11/2020	1	N N	N N				
	153	ET ZEPHYR/PLAN OT 2C/2197 SQ FT	19-2956	SFD O					0					1	5/26/2020	1	N	N				
n/a	4639 MARGARE ADELE LANE LO 156	ET ZEPHYR/PLAN OT 4D/2594 SQ FT							0					1	4/27/2020	1	N	N				
	ADELE LANE LO	ET ZEPHYR/PLAN OT 3B/2510 SQ FT		SFD O					0					1	5/7/2020	1	N	N				
ln/a	154 2730 ELLIS TOV	ET ZEPHYR/PLAN OT 2A/2197 SQ FT WN STANFORD/PLAN	19-2993	SFD O					0					1	5/1/2020 8/18/2020	1	N	N				
	DRIVE LOT 20	2C/2727 SQ FT W/ OPT OUTDOOR LIVING							0							1	N	N				
n/a	DRIVE LOT 20	WN STANFORD/PLAN 2C/2727 SQ FT W/ OPT OUTDOOR LIVING	19-2993	ADU O											8/18/2020	1	N	N	Made assumption based on other units of similar size that were verified by HCD's affordability calculator to fall into the Moderate			
n/a	2739 CORDELIA LANE LOT 31	A STANFORD/PLAN 2B/2727 SQ FT W/ OPT OUTDOOR	19-2994	SFD O					0					1	6/17/2020	1	N	N	income category.			
n/a	2740 ELLIS TOV DRIVE LOT 21	LIVING WN STANFORD/PLAN 1A/2377 SQ FT/OPT	19-2995	SFD O					0					1	8/18/2020	1	N	N				
		OUTDOOR LIVING WN STANFORD/PLAN 3B/2945 W/ 3 CAR GARAGE		SFD O					0					1	8/18/2020	1	N N	N				
n/a n/a	LANE LOT 30	A STANFORD/PLAN		SFD O					0					1 1	6/17/2020 5/14/2020	1	N	N				
		OPT OUTDOOR LIVING		SFD O					0					1	5/14/2020	1	N	N				
		A STANFORD/PLAN 3A/2945 SQ FT W/3 CAR GARAGE WN STANFORD/PLAN		SFD O					0					1	4/30/2020	1	N	N				
		WN STANFORD/PLAN 3C/2945 SQ FT W/ 467 CARRIAGE UN		ADU O					0						4/30/2020	1	N	N	Made accumulian based on other			
IIVa	DRIVE LOT 24	WN STANFORD/PLAN 3C/2945 SQ FT W/ 467 CARRIAGE UN	19-3001	ADO											4/30/2020	1	N	N	Made assumption based on other units of similar size that were verified by HCD's affordability calculator to fall into the Moderate			
n/a	2760 ELLIS TOV DRIVE LOT 23	WN STANFORD/PLAN 2A/2727 SQ FT W/ OPT OUTDOOR	19-3003	SFD O					0					1	5/14/2020	1	N	N	income category.			
n/a	2760 ELLIS TOV	LIVING WN STANFORD/PLAN 2A/2727 SQ FT W/		ADU O					0						5/14/2020				Made assumption based on other units of similar size that were			
n/o	2770 COPDELI	OPT OUTDOOR LIVING  A STANFORD/PLAN	10.2004	SFD O					0					1	4/27/2020	1	N	N	verified by HCD's affordability calculator to fall into the Moderate income category.			
n/a	LANE LOT 27 2779 CORDELIA	2C/2727 SQ FT W/ 3 CAR GARAGE A STANFORD/PLAN		ADU O					0					'	4/27/2020	1	N	N	Made assumption based on other			
	LANE LOT 27	2C/2727 SQ FT W/ 3 CAR GARAGE							0							1	N	N	units of similar size that were verified by HCD's affordability calculator to fall into the Moderate income category.			
	DRIVE LOT 22	1B/2377 SQ FT/OPT OUTDOOR LIVING		SFD O					0						5/14/2020	1	N	N	micerne category.			
		A STANFORD/PLAN 3B/2945 W/ 3 CAR GARAGE		SFD O					0					1	4/28/2020 4/27/2020	1	N	N				
24069051	2261 AUGUSTA	WN STANFORD/PLAN 1A/2377 SQ FT/OPT OUTDOOR LIVING A BERKSHIRE/PLAN		SFD O					0					1	11/10/2020	1	N N	N N				
n/a	2768 CORDELIA LANE LOT 134	4D/3613 SQ FT  A BERKSHIRE/PLAN 3A/3129 SQ FT  A BERKSHIRE/PLAN		SFD O					0					1	9/1/2020 8/18/2020	1	N N	N				
n/a	4538 MARGARE	A BERKSHIRE/PLAN 1B/2865 SQ FT ET BERKSHIRE/PLAN OT 4A/3613 SQ FT	19-3030	SFD O					0					1	8/18/2020	1	N N	N N				
n/a	4548 MARGARE ADELE LANE 13	ET BERKSHIRE/PLAN 31 3B/3129 SQ FT ET BERKSHIRE/PLAN OT 2C/2979 SQ FT	19-3031 19-3032	SFD O					0					1 1	6/11/2020	1	N	N				
	130	OT 2C/2979 SQ FT  ET BERKSHIRE/PLAN OT 4D/3613 SQ FT		SFD O					0						6/10/2020	1	N	N				
n/a	129 4549 MARGARE			SFD O					0					1	4/17/2020	1	N N	N N				
n/a	147 4539 MARGARE	ET BERKSHIRE/PLAN OT 4B/3613 SQ FT	19-3035	SFD O					0					1	5/5/2020	1	N	N				
	145	ET BERKSHIRE/PLAN OT 3D/3129 SQ FT		SFD O					0					1	5/7/2020	1	N	N				
n/a	144	ET BERKSHIRE/PLAN OT 1C/2865 SQ FT  ET BERKSHIRE/PLAN		SFD O					0					1	5/7/2020	1	N	N				
	ADELE LANE LO	ET BERKSHIRE/PLAN OT 2A/2979 SQ FT  ET BERKSHIRE/PLAN OT 2A/2979 SQ FT		SFD O					0					1	6/4/2020	1	N	N				
n/a	128 4579 MARGARE			SFD O					0					1	4/17/2020	1	N N	N N				
n/a	150 4569 MARGARE		19-3041	SFD O					0					1	4/17/2020	1	N N	N N				
n/a	4559 MARGARE ADELE LANE LO 148	ET BERKSHIRE/PLAN OT 1A/2865 SQ FT	19-3042	SFD O					0					1	4/16/2020	1	N	N				
25246022	1636 PANORAN CT	MA 621 SQ FT ACCESSORY DWELLING UNIT	19-3081	ADU O					U		3/25/2020					0	N	Y	Made assumption based on other units of similar size that were verified by HCD's affordability			Assumptions were made on tenure due to lack of response from permit
n/a	STREET LOT 10	06 1A/2865 SQ FT	19-3662	SFD O					0		1 6/15/2020					0	N N	N	calculator to fall into the Moderate income category.			applicant.
n/a	6362 ZINK HOU DR LOT 16	JSE VILLAGE 8/PLAN 4/A R/3136SF & 964 SF NEXT GEN & CA ROOM	19-3919	SFD O					O O		1 10/21/2020					0	N	N				
n/a	6362 ZINK HOU DR LOT 16	IROOM  JSE VILLAGE 8/PLAN 4A  R/3136SF & 964 SF  NEXT GEN & CA	19-3919	ADU O					0		10/21/2020					0	N N	N	Made assumption based on other units of similar size that were verified by HCD's affordability			
n/a	6372 ZINK HOU	ROOM  JSE VILLAGE 8/PLAN 2E R/3773SF W/CA ROOM	19-3920	SFD O					0		1 10/21/2020							NI NI	calculator to fall into the Moderate income category.			
n/a	6382 ZINK HOU DR LOT 18	R/3773SF W/CA ROOM JSE VILLAGE 8/PLAN 4D/3136SF & 964 SI NEXT GEN & CA	19-3921	SFD O					0		1 10/21/2020					0	N N	IN N				
		NEXT GEN & CA ROOM JSE VILLAGE 8/PLAN 4D/3136SF & 964 SI	19-3921	ADU O					0	1	10/21/2020					0	N N	N	Made assumption based on other units of similar size that were			
		NEXT GEN & CA ROOM							0							0	N	N	units of similar size that were verified by HCD's affordability calculator to fall into the Moderate income category.			
		VILLAGE 8/PLAN 10 R/2914SF W/CA ROOM		SFD O					0		1 11/5/2020					0	N	N				
		JSE VILLAGE 8/PLAN 1E R/2914SF W/CA ROOM JSE VILLAGE 8/PLAN		SFD O					0		1 10/21/2020 1 10/21/2020					0	N	N				
		JSE VILLAGE 8/PLAN 2A/3773SF W/CA ROOM JSE VILLAGE 8/PLAN 3C/3919SF W/CA		SFD O					0		1 11/5/2020					0	N N	N .				
	UK LOT 42	3C/3919SF W/CA ROOM							0							0	N	N				

Project Identifier	Unit Types		Af	ffordability by Household Incomes - Com	npleted Entitlement			Affordability by Household Incomes - Building	g Permits			Affordability by Household Inc	comes - Certificate	es of Occupancy		Streamlining Inf	Housing with Financial Asand/or Deed Restriction		Lerm of Affordability	Demolished/Destroyed Uni	s Notes
	2	3 anure		4		5	6	7		8	9	Very Low-		Certificates o	# of Units	How many of the Was Project	5 16	For units affordable without financial assistance or deed	Town of Affordability or	20 Dem	21
Prior APN <sup>+</sup> Current APN Street Address Project Name <sup>+</sup> Local Jurisdic Tracking ID	tion (SFA,SFD,2 to 4,5+,ADU,MH)	Renter Dwner Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low- Income Deed Non Deed Income Deed Restricted Restricted Restricted	Moderate- Income Non Deed Restricted Income	Entitlement <u>Date Approved</u>	# of Units issued Entitlements	Very Low-   Income Deed   Income Non   Deed   Restricted   Deed Restricted   Rest	Moderate- Above Income Non Moderate- Income Income	Building Permits <u>Date Issued</u>	# of Units Issued Building Permits	Non Deed Restricted	- Moderate- ed Income Non d Deed Restricted	Above Occupancy or of Moderate-Income (see instruction Date Issued	certificates of Occupancy of Other forms of readiness	units were Extremely Low Income?†    SB 35 Streamlining   Y/N   SF   ST   ST   ST   ST   ST   ST   ST	Inits?   Assistance Programs   Deed R   for Each Development   (see instructions)   (see instructions)	Restriction restrictions, explain how the locality determined the units were affordable (see instructions)	Deed Restriction (years) (if affordable in perpetuity enter 1000)*  Numb Demolish royed I	ed/Dest Demolished or Stro	yed Units vner or enter <sup>+</sup>
n/a 6381 ZINK HOUSE VILLAGE 8/PLAN 19-3927 DR LOT 41 1D/2914SF W/CA ROOM		0					0		1	11/5/2020	1					0 N N	ı				
n/a 6391 ZINK HOUSE VILLAGE 8/PLAN 2E- DR LOT 40 R/3773SF W/CA ROOM 19-3929		0					0		1	11/5/2020	1					0 N N	1				
DR LOT 84 R/3773SF W/CA ROOM  n/a 6281 ZINK HOUSE VILLAGE 8/PLAN 19-3930 DR LOT 83 1D/2914SF W/CA	SFD	0					0		1	11/5/2020	1					0 N N	1				
n/a 6291 ZINK HOUSE VILLAGE 8/PLAN 3C- DR LOT 82 R/3919SF W/CA ROOM							0		1	11/5/2020	1					0 N N	1				
n/a 6301 ZINK HOUSE VILLAGE 8/PLAN 19-3932 DR LOT 81 2D/3773SF W/CA ROOM n/a 6272 ZINK HOUSE VILLAGE 8/PLAN 19-3933							0		1	11/5/2020	1					0 N N	ı				
DR LOT 73 1E/2914SF W/CA ROOM  n/a 6282 ZINK HOUSE VILLAGE 8/PLAN 2D- 19-3934 DR LOT 74 R/3773SF W/CA							0			11/5/2020	1					0 N N					
n/a 6292 ZINK HOUSE VILLAGE 8/PLAN 19-3935 DR LOT 75 1C/2914SF W/CA ROOM	SFD	0					0		1	11/5/2020	1					0 N N	·				
n/a 6302 ZINK HOUSE VILLAGE 8/PLAN 3A- 19-3936 DR LOT 76 R/3919SF W/CA ROOM							0		1	11/5/2020	1			7/00/0000		0 N N	ı				
n/a 1677 BUTTERCUP SUNGOLD/PLAN 19-3961 LN LOT 62 4C/2888SQ' W/CA ROOM 19-3962 LN LOT 63 SUNGOLD/PLAN 19-3962							0				0			1 7/23/2020 1 7/27/2020		1 N	,				
n/a 1657 BUTTERCUP SUNGOLD/PLAN 19-3963 LN LOT 64 1A/2190SQ' W/CA		0					0				0			1 7/22/2020		1 N N	,				
n/a 1648 BUTTERCUP SUNGOLD/PLAN 19-3968 LN LOT 102 2D/2342SQ' W/CA ROOM	SFD						0				0			1 8/3/2020		1 N Y	,				
n/a 1658 BUTTERCUP SUNGOLD/PLAN 19-3969 LN LOT 103 3C/2643SQ' W/CA ROOM	SFD SFD						0				0			1 7/29/2020 1 7/22/2020		1 N	,				
n/a		0					0				0			1 7/30/2020		1 N N	,				
n/a 2446 MITS WY LOT SUNGOLD/PLAN 19-3973 2A/2342SQ' W/CA ROOM	SFD	0					0				0			1 8/20/2020		1 N N	,				
n/a 2466 MITS WY LOT SUNGOLD/PLAN 19-3974 107 4B/2888SQ' W/CA ROOM							0			1011575	0			1 8/20/2020		1 N	,				
CIRCLE LOT 1 1782SQFT PLAN 1 ELEV H 24066037 2521 SWEETBAY SOUTHGATE LOT A 19-3979							0			10/19/2020	1					0 N Y	,				
CIRCLE LOT 2 2078SQFT PLAN 3 ELEV D  24066037 2517 SWEETBAY SOUTHGATE LOT A 19-3980 CIRCLE LOT 3 1943SQFT PLAN 2	SFD	0					0		1	10/19/2020	1					0 N Y	,				
24066037	SFD	0					0		1	10/19/2020	1					0 N	,				
24066037 2509 SWEETBAY SOUTHGATE LOT A 19-3983 CIRCLE LOT 5 1782SQFT PLAN 1 ELEV H 24066037 2505 SWEETBAY SOUTHGATE LOT A 19-3984							0		1	10/19/2020	1					0 N	,				
CIRCLE LOT 6 2144 SQFT PLAN 4 ELEV H  24066037 2501 SWEETBAY SOUTHGATE LOT A 19-3985 CIRCLE LOT 7 2078SQFT PLAN 3							0			11/2/2020	1					0 N	,				
n/a 2803 BREWER BERKSHIRE/PLAN 19-3991 STREET LOT 126 1D/2865 SQ FT							0		1	6/15/2020	1					0 N	ı				
n/a 2762 BREWER BERKSHIRE/PLAN 19-3997 STREET LOT 107 2B/2979 SQ FT n/a 2718 CORDELIA BERKSHIRE/PLAN 19-4001 LANE LOT 139 3B/3129 SQ FT	SFD	0					0		1	6/15/2020 5/6/2020	1			1 10/26/2020		0 N N	1				
n/a         2728 CORDELIA LANE LOT 138         BERKSHIRE/PLAN 1C/2865 SQ FT         19-4003           n/a         2738 CORDELIA LANE LOT 137         BERKSHIRE/PLAN 3D/3129 SQ FT         19-4006           n/a         2748 CORDELIA 2748 CORDELIA 3D/3129 SQ FT         19-4008	SFD SFD	0					0			5/6/2020 5/6/2020	1			1 10/7/2020		0 N N	1				
n/a         2748 CORDELIA LANE LOT 136         BERKSHIRE/PLAN 2A/2979 SQ FT         19-4008           n/a         2758 CORDELIA LANE LOT 135         BERKSHIRE/PLAN 4B/3613 SQ FT         19-4009           n/a         2813 BREWER         BERKSHIRE/PLAN BERKSHIRE/PLAN         19-4011	SFD	0					0			5/6/2020 5/6/2020	1			1 10/2/2020 1 10/2/2020		1 N N	1				
STREET LOT 127   3C/3129 SQ FT	SFD						0		1	5/6/2020 6/15/2020	1			1     10/30/2020       1     12/17/2020		1 N N	1				
n/a 2649 CORDELIA STANFORD/PLAN 19-4017 LANE LOT 40 2B/2727 SQ FT n/a 2659 CORDELIA STANFORD/PLAN 19-4018 LANE LOT 39 3A/2945	SFD	0					0		1	6/15/2020 5/6/2020	1			1 12/16/2020 1 10/22/2020		1 N N	1				
n/a 2670 ELLIS TOWN STANFORD/PLAN 19-4019 DRIVE LOT 14 2A/3194 SQ FT  n/a 2670 ELLIS TOWN STANFORD/PLAN 19-4019 DRIVE LOT 14 2A/3194 SQ FT	SFD ADU	0					0		1	5/6/2020 5/6/2020	1		1	1 10/28/2020 10/28/2020		1 N N	ı	Made assumption based on other			
n/a 2660 ELLIS TOWN STANFORD/PLAN 19-4020	CED						0			F/0/2020	1			40/07/2020		1 N	ı	verified by HCD's affordability calculator to fall into the Moderatincome category.			
n/a	SFD SFD	0					0		1	5/6/2020 6/15/2020	1			1 10/27/2020 1 12/15/2020		1 N N	1				
DRIVE LOT 11   3B/2945 SQ FT   19-4026   1 ANE LOT 38   1C/2377 SQ FT	SFD	0					0		1	6/15/2020 5/6/2020	1			1 12/16/2020 1 10/20/2020		1 N N	1				
n/a 2679 CORDELIA STANFORD/PLAN 19-4027 LANE LOT 37 3B/2945 SQ FT  n/a 2690 ELLIS TOWN STANFORD/PLAN 19-4028 DRIVE LOT 16 3C/2945 SQ FT	SFD	0					0		1	5/6/2020 5/6/2020	1			1 10/7/2020 1 12/14/2020		1 N N					
n/a 2680 ELLIS TOWN STANFORD/PLAN 19-4029 DRIVE LOT 15 1A/2377 SQ FT  n/a 2689 CORDELIA STANFORD/PLAN 19-4030 LANE LOT 36 2A/2727 SQ FT	SFD	0					0			5/6/2020 5/6/2020	1			1 10/20/2020 1 10/7/2020		1 N N	1				
LANE LOT 36 2A/2727 SQ FT  n/a 2699 CORDELIA STANFORD/PLAN 19-4031 LANE LOT 35 1B/2377 SQ FT  n/a 2709 CORDELIA STANFORD/PLAN 19-4032 LANE LOT 34 2C/2727 SQ FT	SFD	0					0		1	5/6/2020 5/6/2020	1			1 10/6/2020 1 10/6/2020		1 N N					
n/a 2700 ELLIS TOWN STANFORD/PLAN 19-4033 DRIVE LOT 17 2B/2727 SQ FT  n/a 2710 ELLIS TOWN STANFORD/PLAN 19-4034 DRIVE LOT 18 1C/2377 SQ FT	SFD	0					0		1	5/6/2020 2/19/2020	1			1 12/14/2020 1 8/24/2020		1 N N	1				
n/a 2850 RIO GRANDE ZEPHYR/PLAN 19-4035 DRIVE LOT 218 3B/2510 SQ FT	SFD						0		1	5/6/2020 5/6/2020	1			1 11/3/2020 1 11/3/2020		1 N N					
DRIVE LOT 217   2D/2197 SQ FT	SFD						0			5/6/2020	1			1 11/3/2020		1 N N					
n/a 2750 RIO GRANDE ZEPHYR/PLAN 19-4038 DRIVE LOT 214 1C/2002 SQ FT							0		1	5/6/2020	1			1 11/10/2020		1 N N	1				
DRIVE LOT 213 4C/2594 SQ FT							0		1	5/6/2020	1			1 11/12/2020		1 N N					
DRIVE LOT 212 3A/2510 SQ FT  n/a 2720 RIO GRANDE ZEPHYR/PLAN 19-4041	SFD SFD						0			6/15/2020	1					0 N N	1				
DRIVE LOT 211 4B/2594 SQ FT  n/a 2699 ZEPHYR/PLAN 19-4042 NORTHINGTON 3B/2510 SQ FT							0		1	6/15/2020	1					0 N N					
n/a 2709 ZEPHYR/PLAN 19-4047 NORTHINGTON 1A/2002 SQ FT DRIVE LOT 169	SFD	0					0		1	6/15/2020	1					0 N	1				
n/a 2719 ZEPHYR/PLAN 19-4048 NORTHINGTON 2D/2197 SQ FT DRIVE LOT 168	SFD						0		1	5/6/2020	1			1 10/13/2020		1 N N					
n/a 2789 GOLD RUN ZEPHYR/PLAN 19-4049 STREET LOT 166 1D/2002 SQ FT  n/a 2799 GOLD RUN ZEPHYR/PLAN 19-4050 STREET LOT 165 2B/2197 SQ FT	SFD	0					0			5/6/2020 5/6/2020	1			1 10/13/2020		0 N N	1				
n/a 2809 GOLD RUN ZEPHYR/PLAN 19-4051 STREET LOT 164 4A/2594 SQ FT n/a 2819 GOLD RUN ZEPHYR/PLAN 19-4052 STREET LOT 163 1C/2002 SQ FT	SFD	0					0		1	5/6/2020	1			1 10/8/2020		0 N N	1				
n/a 2829 GOLD RUN ZEPHYR/PLAN 19-4053 STREET LOT 162 4D/2594 SQ FT n/a 2830 RIO GRANDE ZEPHYR/PLAN 19-4054 DRIVE LOT 216 2B/2197 SQ FT							0		1 1	2/19/2020 5/6/2020	1			1 8/25/2020 1 11/3/2020		1 N N	1				
							0														

	Project Identifier			Unit Types	Affordab	ility by Household	l Incomes - Com	npleted Entitlement			Affordabi	lity by Household I	comes - Building Permits				Affordability by	Household Incomes - Certific	ates of Occupancy			Streamlining	Infill Housing with and/or D	Financial Assistance	Housing without Financial Assistance or Deed Restriction  Restrictions  Term of Affordability or Deed Restriction  Demolished/Destroyed Units  Notes
	1			2 3		4			5	6		7		8 9			10		11	12 # of Ur	13	14	15 16	17	18 19 20 21  For units affordable without
Prior APN <sup>+</sup> Current APN	Street Address	Project Name <sup>+</sup>	ocal Jurisdiction  Tracking ID <sup>+</sup>	Tenure SFA,SFD,2 to ,5+,ADU,MH) R=Renter O=Owner	Very Low- Income Deed Restricted  Very Low- Income Non Deed Restricted Restricted	ncome Low-Income Non Deed Restricted	me Moderate- Income Deed d Restricted	Moderate- Income Non Deed Restricted  Moderate- Income	Entitlement <u>Date Approved</u>	# of Units issued Entitlements  Very Low-Income Deed Restricted	Very Low- L Income Non Deed Restricted	ow- Income Low- Income Non De Restricted Restric	me Moderate- Income Deed Income Non Moderate- ded Restricted Deed Restricted Income	Building Permits # of Units Iss <u>Date Issued</u> Building Per	Very Low- Income Deed Restricted Restr	Low- e Non eed ricted	v- Income Deed Non Dee estricted Restricte	ne Moderate- Income Deed Income Non Restricted Deed Restricted	Above Occupancy of Moderate-Income (see instructions)    Date lss	or other cadiness uctions) issue	How many of the units were Extremely Low Income?	Was Project APPROVED using GC 65913.4(b)? (SB 35 Streamlining) Y/N	Infill Units? Y/N <sup>+</sup> Assistance Prog for Each Develop (see instructio	ment Type	financial assistance or deed restrictions, explain how the locality determined the units were affordable (see instructions)  Term of Affordability or Deed Restriction (years) (if affordable in perpetuity enter 1000) <sup>+</sup> Number of Demolished or Demolished or Destroyed Units royed Units royed Units royed Units of Demolished or Destroyed Units of Demolished or Renter of Demolished or Destroyed Units of Demolished or Demolished or Destroyed Units of Demolished or Dem
C	E	OUTHGATE LOT A 943SQFT PLAN 2 LEV. D	19-4061	SFD O						0			1	11/13/2020	1						0	N	Y		
24066037 1	STREET LOT 167         30           125 ALBA WAY         SO           LOT 11         20	EPHYR/PLAN C/2510 SQ FT OUTHGATE LOT A 144 SQFT PLAN 4	19-4062 19-4066	SFD O						0			1	5/6/2020	1				1 10/13/20	2020	0	N N	N Y		
L	124 ALBA WAY SC LOT 12 2 <sup>2</sup>	OUTHGATE LOT A 144 SQFT PLAN 4 LEV I OUTHGATE LOT A	19-4067 19-4068	SFD O						0			1	6/2/2020	1				1 11/24/20 1 12/9/20		1	N	Υ		
24066037 2	CIRCLE LOT 13 17	782SQFT PLAN 1 LEV H OUTHGATE LOT A		SFD O						0			1	6/2/2020	1				1 11/25/20	2000	1	N N	Y		
24066037 2 C	2408 SWEETBAY SOURCLE LOT 29 19 EI	LEV I OUTHGATE LOT A 943SQFT PLAN 2 LEV. D		SFD O						0			1	9/24/2020	1						0	N	Y		
24066037 2	CIRCLE LOT 30 17	LEV H OUTHGATE LOT A		SFD O						0			1	9/24/2020	1						0	N	Y		
24066037 2 C	2504 SWEETBAY SCIRCLE LOT 32 17	LEV I OUTHGATE LOT A 782SQFT PLAN 1 LEV H		SFD O						0			1	11/2/2020	1						0	N	Y		
24066037 2	CIRCLE LOT 33 19 EI 2496 SWEETBAY Se	LEV. D OUTHGATE LOT A		SFD O						0			1	11/2/2020 11/2/2020	1						0	N	Υ		
24066037 2	2492 SWEETBAY SO	LEV H OUTHGATE LOT A	19-4076	SFD O						0			1	11/2/2020	1						0	N N	Y		
24066037 2	2488 SWEETBAY SO IT CIRCLE LOT 36 EI 2484 SWEETBAY SO IT CIRCLE LOT SWEETBAY SWEETBAY SO IT CIRCLE LOT SWEETBAY S	OUTHGATE LOT A 782SQFT PLAN 1 LEV H OUTHGATE LOT A		SFD O						0			1	11/2/2020	1						0	N	Υ		
24066037 2	CIRCLE LOT 37 19 El 2480 SWEETBAY SO CIRCLE LOT 38 17	943SQFT PLAN 2 LEV. D OUTHGATE LOT A		SFD O						0				11/2/2020	1						0	N N	Y		
	2476 SWEETBAY SO CIRCLE LOT 39 19			SFD O						0			1	11/2/2020 8/5/2020	1						0	N	Y		
24066037 2	CIRCLE LOT 40 17 EI 2468 SWEETBAY SCIRCLE LOT 41 19	782SQFT PLAN 1 LEV H OUTHGATE LOT A 943SQFT PLAN 2		SFD O						0				8/21/2020	1						0	N N	Y		
	2464 SWEETBAY SCIRCLE LOT 42 20	LEV. D OUTHGATE LOT A 078SQFT PLAN 3 LEV D								0			1	8/5/2020	1						0	N	Υ		
A	AV SI 501 W HINTZ AV N FC	867 SQ FT NEW FD EW TWO STORY OUR UNIT PARTMENT BLDG		SFD O						0			4	5/19/2020	4						0	N N	Y		
24066037 2	2461 SWEETBAY SCIRCLE LOT 15 EI 2449 SWEETBAY SC	OUTHGATE LOT A 086SQFT PLAN 3 LEV D OUTHGATE LOT A		SFD O						0			1	9/1/2020	1						0	N	Y		
24066037 2	2416 SWEETBAY SO	LEV D OUTHGATE LOT A	19-4168	SFD O						0			1	9/24/2020	1						0	N N	Y		
C	2424 SWEETBAY SO CIRCLE LOT 25 19	OUTHGATE LOT A 943SQFT PLAN 2 LEV. D		SFD O						0			1	8/18/2020 8/18/2020	1						0	N	Y		
24066037 2	2440 SWEETBAY SOURCLE LOT 21 19	943SQFT PLAN 2 LEV. D OUTHGATE LOT A 943SQFT PLAN 2		SFD O						0			1	8/18/2020	1						0	N N	Y		
	2453 SWEETBAY SO CIRCLE LOT 17 19	LEV. D OUTHGATE LOT A 943SQFT PLAN 2 LEV. D OUTHGATE LOT A		SFD O						0			1	9/1/2020	1						0	N	Y		
24066037 2	CIRCLE LOT 20 19	943SQFT PLAN 2 LEV. D OUTHGATE LOT A		SFD O						0			1	9/1/2020	1						0	N N	Y		
24066037 2 C	2420 SWEETBAY SOURCLE LOT 26 EI	LEV H OUTHGATE LOT A 782SQFT PLAN 1 LEV H		SFD O						0			1	8/18/2020	1						0	N	Y		
24066037 2	CIRCLE LOT 24 17	LEV H OUTHGATE LOT A		SFD O						0			1	8/18/2020 8/18/2020	1						0	N	Y		
24066037 2 C	2457 SWEETBAY SOURCLE LOT 16 17	LEV H OUTHGATE LOT A 782SQFT PLAN 1 LEV H		SFD O						0			1	9/1/2020	1						0	N	Y		
C	CIRCLE LOT 19 17 EI 1221 DOMINIQUE EI	LEV H LISSAGARAY/PLAN		SFD O						0			1	9/1/2020	1				1 2/26/20	020	0	N	Y		
25247037	1201 DOMINIQUE EI	DXL/2662 SQ/LOT 36 LISSAGARAY/PLAN DCXR/2662 Q/LOT 037	RES19-0019	SFD O						0					0				1 3/2/202	020	1	N N	Y		
	1191 DOMINIQUE EI 4E 38	LISSAGARAY/PLAN BXL/3531 SQ/LOT 8		SFD O						0					0				1 3/5/202 1 3/5/202		1	N	Υ		
	30 35 1171 DOMINIQUE EI	CXR/3524 SQ/LOT 9 LISSAGARAY/PLAN BWL/2405 SQ/LOT		SFD O						0					0 0				1 3/16/20		1	N N	Y		
	4	U LISSAGARAY/PLAN AXR/3524 SQ/LOT 1 UNGOLD/PLAN		SFD O						0			1	6/24/2020	0				1 3/16/20 1 11/24/20		1	N	Y		
	108 3I R 2496 MITS WY LOT SI 109 1/	D/2643SQ' W/CA OOM UNGOLD/PLAN A/2190SQ' W/CA		SFD O						0			1	6/24/2020	1				1 12/22/20		1	N N	Y		
24210008	1650 SMOKEY LN 56	OOM 63SQFT ADU & DDING 126SQFT AUNDRY ROOM	RES20-0301	ADU O						0			1	12/15/2020	1						0	N	Υ		Made assumption based on other units of similar size that were verified by HCD's affordability calculator to fall into the Moderate
24869002 4	S	EW 3,370SFQT INGLE FAMILY WELLING	RES20-0329	SFD O						0			1	11/9/2020	1						0	N	Y		income category.  Assumption was made about tenure due to lack of response from permit
23344040	310 E TWENTIETH 59 ST 1/		RES20-0339	ADU O						0			1	11/10/2020	1						0	N	Y		Made assumption based on other units of similar size that were verified by HCD's affordability calculator to fall into the Moderate income category.
24249007 1	1607 BUTTERCUP SI	DN ONLY - ANTAGE/PLAN 5B- /1729 SQ FT UNGOLD/PLAN C/2190SQ'	RES20-0399 RES20-0418	SFD O						0			1	11/13/2020	1						0	N N	N Y		
24249008 1 L	1597 BUTTERCUP SI LN LOT 69 4E	UNGOLD/PLAN B/2888SQ' W/CA		SFD O						0			1	11/12/2020	1						0	N	Y		
24249010 2 L	2448 SUNFLOWER SI LN LOT 71 2I R	OOM UNGOLD/PLAN D/2342SQ' W/CA OOM	RES20-0421	SFD O						0			1	11/12/2020	1						0	N N	Y Y		
24249012 2	2488 SUNFLOWER S	UNGOLD/PLAN C/2190SQ' W/CA OOM UNGOLD/PLAN B/2888SQ' W/CA		SFD O						0			1	11/12/2020	1						0	N	Y		
24249013 2 L	2498 SUNFLOWER SI LN LOT 74 1/	OOM UNGOLD/PLAN A/2190SQ' W/CA OOM		SFD O						0			1	11/12/2020	1						0	N	Y		
24249015 2	2528 SUNFLOWER SI LN LOT 75 30 R 2538 SUNFLOWER SI	UNGOLD/PLAN C/2643SQ' W/CA OOM UNGOLD/PLAN		SFD O						0			1	11/12/2020	1						0	N	Y		
	LN LOT 76 41	D/2888SQ' W/CA		SFD O						0				11/12/2020	1						0	N	Y		

ı	Project Identifie	er		Unit Types		Affordability by H	Household Inc	comes - Comp	oleted Entitlen	ment			Affor	rdability by Ho	usehold Incomes	Building P	Permits					Affordabil	lity by Househ	hold Incomes - Certificate	es of Occupancy			s	reamlining	Infill	ousing with Financi	ial Assistance	Housing without Fir Assistance or De	eed   Terrii Or	Affordability	Demolished/Destroyed	d Units Note
	1			2 3			4				5	6			7			8	9				10		· ·	11	12	13	14	15	and/or Deed Res	17	Restrictions 18	or Deed	d Restriction	20	21
Prior APN <sup>+</sup> Current APN	Street Address	Project Name <sup>+</sup>	Local Jurisdiction Tracking ID <sup>+</sup>	Unit Category (SFA,SFD,2 to 4,5+,ADU,MH)  R=Renter O=Owner	Very Low- Income Deed Restricted  Very Low- Income Non Deed Restricted	Low- Income n Deed ed Restricted	Low- Income Non Deed Restricted		Moderate- Income Non Deed Restricted		Entitlement <u>Date Approved</u>	# of Units issued Entitlements  Very Low Income De	- Very Low- ed Income Nor d Deed Restricte	Low- Income n Deed ed Restricted	Low- Income M Non Deed Inc Restricted R	oderate- ome Deed estricted D	Moderate- Income Non Deed Restricted Income	Building Permits <u>Date Issued</u>	# of Units Issued Building Permits	Very Low- Income Deed Restricted Re	ry Low- me Non Deed stricted	ow- Income Lo Deed N Restricted R	ow- Income Non Deed Inco Restricted Re	Moderate- come Deed Income Non destricted Deed Restricted	Above Occupan Moderate- Income (see ins	is is necessary in the contractions is contractions is contractions.	Units sued icates of pancy or forms of diness	s were G	Was Project PROVED using C 65913.4(b)? S5 Streamlining) Y/N	Infill Units?  Y/N <sup>+</sup> (se	sistance Programs	Deed Restriction Type see instructions)	For units affordable w financial assistance o restrictions, explain he locality determined the were affordable (see instructions	or deed ow the e units (if afforda	Affordability or striction (years) able in perpetuity roy	mber of lished/Dest ed Units <sup>†</sup> Destroyed Units <sup>†</sup>	Demolished/De stroyed Units Owner or Renter <sup>+</sup>
24249018 2	2598 SUNFLOWER	4C/2888SQ' W/CA ROOM	RES20-0430 RES20-0431	SFD O								0					1	10/8/2020		1							0		N N	Y							
8		3B/2643SQ' W/CA ROOM	RES20-0432	SFD O								0					1	10/8/2020		1							0		N	Y							
8	84	SUNGOLD/PLAN 3C/2643SQ' W/CA ROOM SUNGOLD/PLAN	RES20-0433 RES20-0434	SFD O								0					1	10/8/2020		1							0		N N	Y							
		ROOM		SFD O								0					1	10/8/2020		1							0		N	Y							
8	83 1632 IVY LN LOT	SUNGOLD/PLAN 4B/2888SQ' W/CA ROOM SUNGOLD/PLAN 4A/2888SQ' W/CA		SFD O								0					1	10/8/2020		1							0		N	Y							
8	1642 IVY LN LOT 86	ROOM SUNGOLD/PLAN 1E/2190SQ' W/CA ROOM		SFD O								0					1	9/1/2020		1							0		N	Y							
8	1662 IVY LN LOT	2A/2342SQ' W/CA ROOM SUNGOLD/PLAN		SFD O								0					1	9/1/2020		1							0		N	Y							
24249028 1 8	1672 IVY LN LOT 89	3D/2643SQ' W/CA ROOM SUNGOLD/PLAN 4B/2888SQ' W/CA ROOM	RES20-0442	SFD O								0					1	9/1/2020		1							0		N	Y							
9	90 1661 IVY LN LOT	SUNGOLD/PLAN 3A/2643SQ' W/CA ROOM SUNGOLD/PLAN		SFD O								0					1	9/1/2020		1							0		N	Y							
9	91 1651 IVY LN LOT 92	4C/2888SQ' W/CA ROOM SUNGOLD/PLAN 1B/2190SQ' W/CA ROOM										0					1	9/1/2020		1							0		N	Y							
24249033 1	1641 IVY LN LOT 93 1640 FLORA WY	SUNGOLD/PLAN 2C/2342SQ' W/CA ROOM SUNGOLD/PLAN		SFD O								0					1	9/1/2020		1							0		N	Y							
L	LOT 94 1650 FLORA WY LOT 95	2A/2342SQ' W/CA ROOM SUNGOLD/PLAN 3B/2643SQ' W/CA		SFD O								0				+	1	7/27/2020		1							0		N	Y							
L	1660 FLORA WY LOT 96	4A/2888SQ' W/CA ROOM		SFD O								0					1	7/27/2020		1					1 12/1	16/2020	0		N	Y							
24249036 1	LOT 99 1670 FLORA WY LOT 97	4D/2888SQ' W/CA ROOM SUNGOLD/PLAN 1C/2190SQ' W/CA		SFD O								0					1	7/27/2020		1					. 12/1	. 5,2020	0		N N	Y							
24249037 1 L	1679 FLORA WY LOT 98	ROOM SUNGOLD/PLAN 3A/2643SQ' W/CA ROOM										0					1	7/27/2020		1					1 12/1	11/2020	1		N	Y							
24249040 1	LOT 100 1649 FLORA WY	1E/2190SQ' W/CA ROOM		SFD O								0					1	7/27/2020		1					1 12/1	17/2020	0		N N	Y							
24249049 2 1	2526 MITS WY LOT 110	ROOM SUNGOLD/PLAN 2B/2342SQ' W/CA ROOM		SFD O								0					1	9/1/2020		1							0		N	Y							
1	111 2546 MITS WY LOT	3D/2643SQ' W/CA ROOM SUNGOLD/PLAN		SFD O								0					1	9/1/2020		1							0		N	Y							
1	2566 MITS WY LOT 113	1B/2190SQ' W/CA ROOM		SFD O								0					1	9/1/2020		1							0		N	Y							
		ROOM		SFD O								0					1	9/1/2020		1							0		N	Y							
24249055 2 L	2567 SUNFLOWER LN LOT 116	ROOM SUNGOLD/PLAN 2C/2342SQ' W/CA ROOM	RES20-0462	SFD O								0					1	10/8/2020		1							0		N	Y							
24249057 2	2537 SUNFLOWER	SUNGOLD/PLAN 3A/2643SQ' W/CA ROOM SUNGOLD/PLAN		SFD O								0					1	10/8/2020		1							0		N	Y							
	2527 SUNFLOWER LN LOT 119	1E/2190SQ' W/CA ROOM SUNGOLD/PLAN 4D/2888SQ' W/CA ROOM		SFD O								0					1	10/8/2020		1							0		N	Y							
		SUNGOLD/PLAN 2C/2342SQ' W/CA ROOM SUNGOLD/PLAN		SFD O								0					1	11/12/2020		1							0		N	Y							
24249061 2	2467 SUNFLOWER LN LOT 122	ROOM		SFD O								0					1	11/12/2020		1							0		N	Y							
		SUNGOLD/PLAN 2B/2342SQ' W/CA ROOM REPLACE EXISTING		SFD O								0					1	9/11/2020		1							0		N	Y							
		UNIT WITH 800 SQ FT MODULAR UNIT BROOKVIEW WEST PLAN 5A, 2476SQFT-										0					1	6/4/2020		1					1 10/5	5/2020	0		N	Y						1 Destroyed	R
	4285 BONSAI AV	2016 CBC BROOKVIEW WEST PLAN 3A, 2202SQFT-		SFD O								0					1	6/4/2020		1					1 9/28	8/2020	1		N	Y							
24032060 1	1318 HAMLET	SPLIT (E) RESIDENCE INTO 651 SQ FT ADU	RES20-0686	ADU O								0					1	10/8/2020		1							0		N	Y			Made assumption based units of similar size that verified by HCD's afford calculator to fall into the M	t were dability			
l Is	SENFT LANE 1183 DAVID	2/2662SQ ELISSAGARAY/PLAN		SFD O								0					1 1	8/26/2020 8/26/2020		1							0		N	Y			income category.				
n/a 2	SENFT LANE	4D/3531 SQ/LOT 16 ZEPHYR/PLAN		SFD O								0					1	9/3/2020		1							0		N	Y N							
n/a 2 D	2700 RIO GRANDE DRIVE LOT 209	3C/2510 SQ FT		SFD O								0					1	9/3/2020		1							0		N	N							
n/a 2	2630 ELLIS TOWN	2D/2197 SQ FT STANFORD/PLAN 2C/2727 SQ FT	RES20-0988	SFD O								0					1	8/26/2020		1							0		N N	N N							
n/a 2	2629 CORDELIA LANE 2619 CORDELIA I ANE	STANFORD/PLAN 2C/2727 SQ FT STANFORD/PLAN 3B/2945 SQ FT	RES20-0990	SFD O								0					1	8/26/2020		1							0		N N	N N							
1	17	ELISSAGARAY/PLAN 4B/3528 SQ/LOT 17 ELISSAGARAY/PLAN 2C/2654 SQ/LOT 18		SFD O								0					1	10/9/2020		1							0		N	Y							
n/a 1 S	18 1153 DAVID SENFT LANE LOT 19	ELISSAGARAY/PLAN 1A/2405 SQ/LOT 19		SFD O								0					1	10/9/2020		1							0		N	Y							
2	20	ELISSAGARAY/PLAN 2A/2662 SQ/LOT 20 ELISSAGARAY/PLAN 4D/3530 SQ/LOT 21		SFD O								0					1	10/9/2020		1							0		N	Y							
2	21			SFD O								0					1	10/9/2020		1							0		N N	Y							
1	1113 DAVID	ELISSAGARAY/PLAN	RES20-1184	SFD O								0					1	10/9/2020		1							0		N	Y							

	Project	t Identifier		Ur	it Types			Affordab	oility by Hou	sehold Ind	icomes - Coi	ompleted Enti	titlement						Affordability b	by Househo	nold Income	es - Building Permits						Afforda	ability by Ho	ousehold Income	es - Certificate	tes of Occupa	incy			Strea	amlining	Infill		inancial Assistanced Restrictions	Assistant	hout Financial ce or Deed ictions	Term of Affordab or Deed Restrict	oility tion Demo	olished/Destroye	ed Units	Notes
		1		2	3					4					5	6					7			8	9		Marrian		10				11 Certificates of	# of Units	13 s		14	15	16	17	financial assi	ordable without	19		20	Demolished	21
Prior APN <sup>+</sup> Current APN	Street A	Address Project Name <sup>†</sup>	Local Jurisdict Tracking ID	Unit Categ (SFA,SFD,2 4,5+,ADU,N	Tenu 2 to 1H) R=Ren O=Owi	ter ner Very Lo Income I Restric	ow- Ve Deed Inco cted Deed	ery Low- come Non Do d Restricted Rest	Income Lov leed N tricted R	w- Income Ion Deed estricted	Moderate- Income Deed Restricted	Moderate Income N Deed Restr	nte- Abo Non Moder rricted Inco	ve En rate- <u>Date</u> me	ititlement <u>e Approved</u>	# of Units issu Entitlements	ed Income Restri	Low- Very ne Deed Incom tricted Deed R	ry Low- In me Non Dea Restricted Restri	ncome Lov eed No ricted Re	ow- Income Non Deed Restricted	Moderate- Income Deed Income Non Restricted Deed Restricted	Above Moderate- Income	Building Permits <u>Date Issued</u>	# of Units Issued Building Permits	Very Low Income De Restricte	ed d Income Non Deed Restricted	Low- Income Deed Restricted	Low- Income Non Deed Restricted	e Moderate- Income Deed Ir Restricted Dee	Moderate- Income Non ed Restricted	Above Moderate- Income	Occupancy or othe forms of readiness (see instructions) <u>Date Issued</u>	Certificates Occupancy other forms readiness	units we Extremely I	<sub>2</sub> +  (SB 35 S	OVED using 5913.4(b)? Streamlining) Y/N	Infill Units? Y/N <sup>+</sup>	Assistance Program for Each Developme (see instructions	ent Type	on restrictions, e locality determins) were a		Term of Affordability Deed Restriction (ye (if affordable in perper	Number of Demolished/De royed Units	Demolished or Destroyed Units	r stroyed Un s <sup>+</sup> Owner or Renter <sup>+</sup>	
n/a	1102 DAV SENFT LA 25 1112 DAV	ANE LOT 2A/2662 SQ/LOT 2	N RES20-1187		0												0						1	10/9/2020		1									0		N	Y									
n/a	26 1122 DAV		N RES20-1188	SFD	0												0						1	10/9/2020		1									0		N	Y									
n/a n/a	28	ANE LOT 1B/2405 SQ/LOT 2			0												0						1	10/9/2020		1									0		N	Y									
	29	VID ELISSAGARAY/PL/ ANE LOT 1C/2405 SQ/LOT 2  VID ELISSAGARAY/PL/ ANE LOT 3A/3524 SQ/LOT 3			0												0						1	10/9/2020		1									0		N N	Y Y									
n/a	30 1162 DAV SENFT LA 31	VID ELISSAGARAY/PL/ ANE LOT 4C/3531 SQ/LOT 3	N RES20-1192	SFD	0												0						1	10/9/2020		1									0		N	Y									
	32	VID ELISSAGARAY/PL/ ANE LOT 1B/2405 SQ/LOT 3  MINIQUE ELISSAGARAY/PL/ OT 42 4D/3530 SQ/LOT 4			0												0						1	10/9/2020		1									0		N	Y									
n/a	1141 DOM	OT 42       4D/3530 SQ/LOT 4         MINIQUE       ELISSAGARAY/PL/         OT 43       1C/2405 SQ/LOT 4	N RES20-1195		0												0						1	10/9/2020		1									0		N N	Y									
	DRIVE LO	MINIQUE ELISSAGARAY/PL/ OT 44 1A/2405 SQ/LOT 4															0							10/9/2020		1									0		N	Y									
n/a	NORTHIN DRIVE LO 2680 RIO	GRANDE ZEPHYR/PLAN			0												0						1	9/23/2020		1									0		N	N									
		OT 207 4D/2594 SQ FT O GRANDE ZEPHYR/PLAN OT 208 1A/2002 SQ FT	RES20-1220	SFD	0												0						1	9/23/2020		1									0		N	N N									
n/a	2620 FLLI	LIS TOWN STANFORD/PLAN 2B/3194 SQ FT LIS TOWN STANFORD/PLAN 3A/3412 SQ FT	RFS20-1222	SED	0												0							9/23/2020		1									0		N N	N N									
n/a n/a	2609 COR LANE LOT 2798 TOS DRIVE LO	OT 9 3A/3412 SQ FT  RDELIA STANFORD/PLAN 1A/2377 SQ FT  STALINDA FDN ONLY - VANTAGE/PLAN 1C/2155SQ FT	RES20-1223	SFD SFD	0												0						1	9/23/2020		1									0		N N	N N									
n/a	2748 TOS	STALINDA FDN ONLY -	RES20-1238	SFD	0												0						1	11/13/2020		1									0		N	N									
n/a n/a	2728 TOS DRIVE LO 2718 TOS	R/1729 SQ FT  STALINDA FDN ONLY -  VANTAGE/PLAN 5/ R/1729 SQ FT  STALINDA FDN ONLY -  VANTAGE/PLAN 1/  VANTAGE/PLAN 1/2155SQ FT	RES20-1240	SFD SFD	0												0						1	11/13/2020		1									0		N	N									
n/a	2708 TOS DRIVE LO	OT 9 VANTAGE/PLAN 1A/2155SQ FT STALINDA FDN ONLY - OT 10 VANTAGE/PLAN 4 R/2648SQ FT	RES20-1242	SFD	0												0						1	11/13/2020		1									0		N N	N N									
n/a	2688 TOS	STALINDA FDN ONLY-	RFS20-1244	SED	0												0						1	11/13/2020		1									0		N	N									
n/a n/a	6716 KILN LOT 13	VANTAGE/PLAN 4A/2648SQ FT  N PLACE FDN ONLY - VANTAGE/PLAN 4B/2648SQ FT  ARCROSS FDN ONLY - VANTAGE/PLAN 2A/2340SQ FT	RES20-1245	SFD	0												0						1	11/13/2020		1									0		N	N									
,																	0						1	11/13/2020		1									0		N N	N N									
n/a n/a	6654 KITT LANE LOT	TINGER FDN ONLY - VANTAGE/PLAN 2A/2340SQ FT	RES20-1249	SFD	0												0						1	11/13/2020		1									0		N	N									
n/a	DRIVE LO  2819 TOS DRIVE LO	STALINDA FDN ONLY - VANTAGE/PLAN 5B/1729 SQ FT  STALINDA FDN ONLY - VANTAGE/PLAN VANTAGE/PLAN	RES20-1251	SFD	0												0							11/13/2020		1									0		N N	N N									
n/a	2829 TOS DRIVE LO	2C/2340SQ FT  STALINDA FDN ONLY -  VANTAGE/PLAN 1  R/2155SQ FT	RES20-1252	SFD	0												0						1	11/13/2020		1									0		N	N									
n/a n/a	2839 TOS DRIVE LO 2859 TOS	STALINDA FDN ONLY - VANTAGE/PLAN 2C/2340SQ FT STALINDA FDN ONLY -	RES20-1253 RES20-1255		0		4										0						1	11/13/2020		1									0		N	N									
n/a	2869 TOS DRIVE LO	STALINDA OT 142	RES20-1256	SFD	0												0						1	11/13/2020		1									0		N N	N N									
n/a	2879 TOS DRIVE LO	STALINDA FDN ONLY - OT 144 VANTAGE/PLAN 4A/2648SO FT	RES20-1257	SFD	0												0						1	11/13/2020		1									0		N	N									
n/a	2899 TOS	STALINDA FDN ONLY - VANTAGE/PLAN 3 R/2565SQ FT STALINDA FDN ONLY - VANTAGE/PLAN	RES20-1259	SFD													0						1	11/13/2020		1									0		N	N N									
n/a	2929 TOS DRIVE LO	4C/2648SQ FT  STALINDA FDN ONLY -  VANTAGE/PLAN 1/  R/2155SQ FT	-														0						1	11/13/2020		1									0		N	N									
n/a n/a	2939 TOS DRIVE LO 2949 TOS	OT 148 VANTAGE/PLAN 2B/2340SQ FT	RES20-1304		0												0						1	11/13/2020		1									0		N	N									
n/a	2959 TOS DRIVE LO	STALINDA FDN ONLY - VANTAGE/PLAN 3 R/2565SQ FT  STALINDA FDN ONLY - VANTAGE/PLAN	RES20-1306	SFD	0												0						1	11/13/2020		1									0		N N	N N									
n/a	2979 TOS DRIVE LO	4A/2648SQ FT  STALINDA FDN ONLY -  VANTAGE/PLAN 1  R/2155SQ FT	RES20-1307	SFD	0												0						1	11/13/2020		1									0		N	N									
	2000 700	STALINDA FDN ONLY - VANTAGE/PLAN 2C/2340SQ FT  STALINDA FDN ONLY - VANTAGE/PLAN 5	BE000 4000	055													0						1	11/13/2020		1									0		N N	N									
n/a n/a	2988 TOS DRIVE LO	R/1729 SQ FT  STALINDA FDN ONLY -  VANTAGE/FLAN 5  R/1729 SQ FT  VANTAGE/PLAN 2A/2340SQ FT	RES20-1327	SFD	0												0						1	11/13/2020		1									0		N	N									
n/a	DRIVE LO	OT 166 VANTAGE/PLAN 3 R/2565SQ FT	- RES20-1328	SFD	0												0						1	11/13/2020		1									0		N	N									
n/a	2958 TOS	5C/1729 SQ FT STALINDA FDN ONLY -	RES20-1330	SFD	0												0						1	11/13/2020		1									0		N N	N N									
n/a	2948 TOS DRIVE LO	OT 168 VANTAGE/PLAN 4 R/2648SQ FT STALINDA FDN ONLY - OT 169 VANTAGE/PLAN 5A/1729 SQ FT	RES20-1331	SFD	0												0						1	11/13/2020		1									0		N	N									
n/a n/a	2938 TOS DRIVE LO 2928 TOS	STALINDA FDN ONLY - VANTAGE/PLAN 5A/1729 SQ FT  STALINDA FDN ONLY - VANTAGE/PLAN 2: R/2340SQ FT  STALINDA FDN ONLY - VANTAGE/PLAN 2: VANTAGE/PLAN 2: VANTAGE/PLAN	RES20-1332	SFD SFD	0												0						1	11/13/2020		1									0		N	N									
	DRIVE LO	3A/2565SQ FT  STALINDA FDN ONLY -  OT 172 VANTAGE/PLAN 5															0							11/13/2020		1									0		N N	N N									
		OT 173   VANTAGE/PLAN 1C/2155SQ FT	RES20-1336		0												0						1	11/13/2020		1									0		N	N									
n/a n/a	2888 TOS	STALINDA FDN ONLY - VANTAGE/PLAN 5. R/1729 SQ FT STALINDA FDN ONLY - VANTAGE/PLAN	RES20-1338 RES20-1340		0												0						1	11/13/2020		1									0		N	N									
	2878 TOS DRIVE LO	3C/2565SQ FT  STALINDA FDN ONLY -  VANTAGE/PLAN 5  R/1729 SQ FT	RES20-1341														0						1	11/13/2020		1									0		N	N									
n/a In/a	2868 TOS DRIVE LO	STALINDA FDN ONLY - OT 177 VANTAGE/PLAN 2A/2340SQ FT	RES20-1342		0												0						1	11/13/2020		1									0		N	N									
		OT 178 VANTAGE/PLAN 3 R/2565SQ FT STALINDA FDN ONLY - OT 179 VANTAGE/PLAN	RES20-1343		0												0							11/13/2020		1									0		N N	N N									
		5C/1729 SQ FT  STALINDA FDN ONLY -  VANTAGE/PLAN 1.  R/2155SQ FT	RES20-1346	SFD	0												0						1	11/13/2020		1									0		N	N									

Project Identifi	fier		Unit	Types		Affordability by Hous	sehold Incomes - Co	ompleted Entitl	lement			ļ	Affordability by Ho	ousehold Incomes - B	Building Permi	its				Affordability	by Household	d Incomes - Certific	cates of Occupar	ncy			Streamlining	Infill	Housing with Financial Assistar and/or Deed Restrictions	/1001010	vithout Financial ance or Deed strictions	Term of Affordability or Deed Restriction	Demolished/D	Destroyed Units	Notes
1			2	3			4			5	6			7			8	9			10			11	12	13	14	15	16 17	For units a	18 affordable without	19		20	21
Prior APN <sup>+</sup> Current APN Street Address	Project Name	Local Jurisdiction Tracking ID⁺	Unit Categor (SFA,SFD,2 to 4,5+,ADU,MH	Tenure Very Low- Income Dee Restricted	Very Low led Income N ed Deed Restric	Non Deed Not ricted Restricted Restricted	v- Income Moderate- on Deed Income Dee estricted Restricted	Moderate- ed Income Nor ed Deed Restrict	- Above n Moderate- eted Income	Entitlement Date Approved #	of Units issued Entitlements	Very Low- Income Deed Restricted Deed Res	ow- Low-Income Non Deed stricted Restricted	e Low-Income Mod Non Deed Incom Restricted Rest	derate- me Deed Inco stricted Deed R	oderate- ome Non Restricted Income	Building Pern <u>Date Issued</u>	nits # of Units Issued Building Permits		ow- Non d cted  Low- Income Deed Non Income Non Income	Income Moder Deed Income tricted Restric	rate- Deed Income Non cted Deed Restricte	Above Moderate- ed Income	Certificates of Occupancy or other forms of readiness (see instructions) <u>Date Issued</u>	# of Units issued Certificates of Occupancy or other forms of readiness	How many of the units were Extremely Low Income?	Was Project PPROVED using GC 65913.4(b)? 3 35 Streamlining) Y/N	Infill Units? Y/N <sup>+</sup>	Assistance Programs for Each Development (see instructions)  Deed Restrict Type (see instructions)	financial as ction restrictions locality det ions) were	esistance or dood	Term of Affordability or Deed Restriction (years) (if affordable in perpetuity enter 1000) <sup>+</sup>	Number of Demolished/Dest royed Units <sup>+</sup>	Demolished or yed Units <sup>†</sup> Owner Rente	
n/a 2828 TOSTALINDA DRIVE LOT 181 n/a 2818 TOSTALINDA	2B/2340SQ FT	RES20-1347 RES20-1348	SFD	0							0					1	11/13/2020		1						0		N	N							
DRIVE LOT 182	VANTAGE/PLAN R/2155SQ FT	A-		0							0					1	11/13/2020		1						0		N	N N							
n/a 2742 BREWER STREET LOT 109  n/a 2732 BREWER STREET LOT 110	3D/3129 SQ FT  BERKSHIRE/PLAI 2A/2979 SQ FT  BERKSHIRE/PLAI	RES20-1379  RES20-1380  RES20-1381	SFD SFD	0							0					1	10/19/2020		1						0		N	N							
n/a 2722 BREWER STREET LOT 111	BERKSHIRE/PLA 4A/3613 SQ FT	N RES20-1382		0 0							0					1	10/28/2020		1						C	)	N	N N							
n/a 2723 BREWER STREET LOT 118  n/a 2733 BREWER STREET LOT 119	2C/2979 SQ FT  BERKSHIRE/PLAI  1D/2865 SQ FT	N RES20-1384	SFD	0							0					1	10/19/2020		1						0		N N	N N							
n/a 2743 BREWER STREET LOT 120  n/a 2520 ELLIS TOWN DRIVE LOT 1	3A/3129 SQ FT  STANFORD/PLAN 1B/2377 SQ FT	RES20-1385 RES20-1386	SFD	0							0					1	10/28/2020		1						C	)	N N	N N							
n/a 2530 ELLIS TOWN DRIVE LOT 2  n/a 2540 ELLIS TOWN DRIVE LOT 3	N STANFORD/PLAN 3A/3412 SQ FT N STANFORD/PLAN 2A/2727 SQ FT	RES20-1387 RES20-1388	SFD	0							0					1	10/28/2020		1						C		N N	N N							
n/a 2550 ELLIS TOWN DRIVE LOT 4  n/a 2560 ELLIS TOWN DRIVE LOT 5	N STANFORD/PLAN 3B/2945 SQ FT N STANFORD/PLAN 1C/2377 SQ FT	RES20-1389 RES20-1390	SFD SFD	0							0					1	10/28/2020 10/19/2020		1						C		N N	N N							
n/a 2570 ELLIS TOWN DRIVE LOT 6  n/a 2600 ELLIS TOWN DRIVE LOT 7	STANFORD/PLAN 2B/3194 SQ FT N STANFORD/PLAN 3A/2945 SO FT	RES20-1391 RES20-1392	SFD SFD	0							0					1	10/19/2020		1						0		N N	N N							
n/a 2599 CORDELIA LANE LOT 45 n/a 2579 CORDELIA	STANFORD/PLAN 3C/3412 SQ FT STANFORD/PLAN	RES20-1393 RES20-1394	SFD SFD	0							0					1	10/8/2020		1						C		N N	N N							
n/a 2569 CORDELIA LANE LOT 47 n/a 2559 CORDELIA	STANFORD/PLAN 3B/2945 SQ FT STANFORD/PLAN	RES20-1395 RES20-1396	SFD SFD	0							0					1	10/19/2020		1						0		N	N							
n/a 2549 CORDELIA LANE LOT 49 n/a 2539 CORDELIA	STANFORD/PLAN 3A/2945 SQ FT STANFORD/PLAN	RES20-1397 RES20-1398	SFD SFD	0							0					1 1	10/28/2020		1						0		N	N N							
n/a   2723 BREWER   STREET LOT 118     n/a   2733 BREWER   STREET LOT 119     n/a   2743 BREWER   STREET LOT 120     n/a   2520 ELLIS TOWN   DRIVE LOT 1     n/a   2530 ELLIS TOWN   DRIVE LOT 2     n/a   2540 ELLIS TOWN   DRIVE LOT 3     n/a   2550 ELLIS TOWN   DRIVE LOT 4     n/a   2560 ELLIS TOWN   DRIVE LOT 5     n/a   2570 ELLIS TOWN   DRIVE LOT 5     n/a   2570 ELLIS TOWN   DRIVE LOT 6     n/a   2600 ELLIS TOWN   DRIVE LOT 7     n/a   2599 CORDELIA   LANE LOT 45     n/a   2579 CORDELIA   LANE LOT 46     n/a   2569 CORDELIA   LANE LOT 47     n/a   2559 CORDELIA   LANE LOT 48     n/a   2549 CORDELIA   LANE LOT 49     n/a   2539 CORDELIA   LANE LOT 49     n/a   2529 CORDELIA   LANE LOT 50     n/a   2529 CORDELIA   LANE LOT 51     n/a   2659   NORTHINGTON   LOT 173     n/a   2659   NOR	2C/3194 SQ FT STANFORD/PLAN 2B/2727 SQ FT ZEPHYR/PLAN	RES20-1399 RES20-1400	SFD	0							0					1	10/28/2020		1						0	)	N	N N							
NORTHINGTON		RES20-1401	SFD	0							0					1	10/19/2020		1						0		N N	N N							
n/a 2649 NORTHINGTON DRIVE LOT 175	ZEPHYR/PLAN 4B/2594 SQ FT			0							0					1	10/19/2020		1						0	,	N	N							
n/a 2660 RIO GRANDE DRIVE LOT 205											0					1	10/19/2020		1						C		N	N							
25303713 n/a	VILLAGE 7C LOT	RES20-1404 6- RES20-1685									0					1	10/12/2020		1						C		N	N							
25303713 n/a	PLAN 2R- PARTIA	7- RES20-1692	SFD	0							0					1	11/13/2020		1						0	)	N	N N							
25303713 n/a	PLAN 1R- PARTIA PLUMBING FEE										0					1	11/13/2020		1						0	)	N	N							
	PLAN 3- PARTIAL PLUMBING FEE	8- RES20-1694 10- RES20-1695									0					1	11/13/2020 11/13/2020		1						C		N	N							
	PLAN 2- PARTIAL PLUMBING FEE	11- RES20-1696									0						11/13/2020		1						C		N	N							
	PLAN 3- PARTIAL PLUMBING FEE	12- RES20-1697									0						11/13/2020		1						O	)	N	N							
	PLAN 2R- PARTIA PLUMBING FEE	13- RES20-1698		0							0					,	11/13/2020		1						C		N	N							
	PLAN 1R- PARTIA PLUMBING FEE	L									0					1	11/13/2020		1						C		N	N							
	PLAN 2- PARTIAL PLUMBING FEE	17- RES20-1700									0					'	11/13/2020		1						C		N	N							
	PLAN 2R- PARTIA PLUMBING FEE	L		0							0								1						C		N	N							
	PLUMBING FEE	18- RES20-1701									0					1	11/13/2020		1						O	)	N	N							
	PLAN 1R- PARTIA PLUMBING FEE										0					1	11/13/2020		1						C		N	N							
	PLAN 2- PARTIAL PLUMBING FEE	20- RES20-1703									0						11/13/2020		1						C	)	N	N							
25303713 n/a	VILLAGE 7C LOT PLAN 1R- PARTIA PLUMBING FEE	21- RES20-1704 L	SFD	0							0					1	11/13/2020		1						0		N	N							
	PLAN 3- PARTIAL PLUMBING FEE	22- RES20-1705		0							0					1	11/13/2020		1						C		N	N							
25303713 n/a	VILLAGE 7C LOT PLAN 2R- PARTIA PLUMBING FEE	23- RES20-1706 L	SFD	0							0					1	11/13/2020		1						O		N	N							
	VILLAGE 7C LOT PLAN 3- PARTIAL PLUMBING FEE	24- RES20-1707	SFD	0							Ü					1	11/13/2020		1						0		N	N							
25303713 n/a	VILLAGE 7C LOT PLAN 1R- PARTIA PLUMBING FEE	25- RES20-1708 L	SFD	0							0					1	11/13/2020		1						C		N	N							
25303713 n/a	VILLAGE 7C LOT PLAN 2- PARTIAL PLUMBING FEE	26- RES20-1709	SFD	0							0					1	11/13/2020		1						C		N	N							
25303713 n/a	VILLAGE 7C LOT PLAN 1R- PARTIA PLUMBING FEE	27- RES20-1710 L	SFD	0							0					1	11/13/2020		1						0		N	N							
25303713 n/a	VILLAGE 7C LOT PLAN 3- PARTIAL PLUMBING FEE	28- RES20-1711	SFD	0							0					1	11/13/2020		1						C		N	N							
25303713 n/a	VILLAGE 7C LOT PLAN 3- PARTIAL PLUMBING FEE	29- RES20-1712	SFD	0							0					1	11/13/2020		1						0		N	N							
		30- RES20-1713 L	SFD	0							0					1	11/13/2020		1						0		N	N							
25303713 n/a		31- RES20-1714	SFD	0							0					1	11/13/2020		1						C		N	N							
		32- RES20-1715 L	SFD	0							0					1	11/13/2020		1						0		N	N							
25303713 n/a		33- RES20-1716	SFD	0							0					1	11/13/2020		1						0		N	N							
25303713 n/a	VILLAGE 7C LOT PLAN 1R- PARTIA	34- RES20-1717		0							0					1	11/13/2020		1								N	N							
25303713 n/a	PLAN 3- PARTIAL	35- RES20-1718	SFD	0							0					1	11/13/2020		1								N	N							
25303713 n/a	PLUMBING FEE VILLAGE 7C LOT PLAN 2R- PARTIA	36- RES20-1719 L	SFD	0							0					1	11/13/2020		1								NI NI	NI NI							
	PLUMBING FEE										0														C		N	N							

Project Ide	dentifier		Unit Ty	rpes		Affordability	by Household Incom	nes - Completed	d Entitlement			Afforda	lability by House	ehold Incomes - Buildin	ng Permits					Afforda	bility by Househ	old Incomes - C	ertificates of Occ	cupancy			Strea	mlining	Infill Housing v	ith Financial Assis	Assistance or Deed		Demolis	shed/Destroyed Units	Notes
PN <sup>+</sup> Current APN Street Add	dress Project Name <sup>+</sup>	Local Jurisdiction Tracking ID <sup>+</sup>	Unit Category (SFA,SFD,2 to 4,5+,ADU,MH)	Tenure R=Renter O=Owner	Very Low- Income Deed Restricted Deed Rest	ow- Low-Incon Non Deed tricted Restricted	He Low-Income Mon Deed Inc. Restricted R	Moderate- come Deed Inco Restricted Deed R	oderate- ome Non Restricted Income	Entitlement Date Approved	of Units issued Entitlements  Very Low Income Do Restricts	ow- Deed Income Non cted Deed Restricted	Low-Income L Deed d Restricted	Low- Income Non Deed Restricted Restricted	Moderate- A Income Non Mod Deed Restricted In	oove erate- come  Building Pe	rmits # of Ui ed Buildi	its Issued In In	Very Low- Income Deed Restricted Restric	N- Non Low-Income Deed Restricted	Low-Income Non Deed Restricted Re	oderate- ome Deed Incom stricted Deed Re	rate- Above e Non Moderate- stricted Income	Certifi Occupan forms of	# of U issu Certifications) ssued # of U issu Certification occupation other for readir	nits ed ates of ncy or rms of less	were ely Low (SB 35 S	Project VED using 913.4(b)? treamlining)	fill Units?  Y/N <sup>+</sup> Assistance I for Each Dev (see instru	rograms Deed Res	For units affordable wither financial assistance or descriptions, explain how locality determined the unit of the	ed Torm of Affordability or	Number of Demolished/Dest royed Units <sup>†</sup>	Demolished or Destroyed Units Owner or Renter <sup>+</sup>	21 Notes <sup>+</sup>
25303713 n/a 25303713 n/a	VILLAGE 7C LOT 37 PLAN 3- PARTIAL PLUMBING FEE  VILLAGE 7C LOT 38 PLAN 1R- PARTIAL PLUMBING FEE	7- RES20-1720 B- RES20-1721		0							0					1 11/13/20 1 11/13/20		1								0		N N	N N						
25303713 n/a 25303713 n/a	PLAN 2- PARTIAL PLUMBING FEE VILLAGE 7C LOT 40 PLAN 1R- PARTIAL PLUMBING FEE	P- RES20-1722 P- RES20-1723	SFD SFD	0							0					1 11/13/20 1 11/13/20		1								0		N N	N N						
25303713 n/a 25303713 n/a	PLAN 3- PARTIAL PLUMBING FEE										0					1 11/13/20 1 11/13/20		1								0		N N	N N						
25303713 n/a 25303713 n/a 25303713 n/a	PLAN 3- PARTIAL PLUMBING FEE  VILLAGE 7C LOT44- PLAN 1R- PARTIAL PLUMBING FEE  VILLAGE 7C LOT 45	- RES20-1727 5- RES20-1728	SFD								0					1     11/13/20       1     11/13/20       1     11/13/20	20	1								0		N N	N N						
25303713 n/a 25303713 n/a	PLAN 1R- PARTIAL PLUMBING FEE VILLAGE 7C LOT 47	6- RES20-1729									0					1 11/13/20 1 11/13/20		1								0		N N	N N						
25303713 n/a 25303713 n/a	PLAN 1R- PARTIAL PLUMBING FEE VILLAGE 7C LOT 49	9- RES20-1732		O							0					1 11/13/20 1 11/13/20		1								0		N N	N N						
25303713 n/a 25303713 n/a	PLUMBING FEE  VILLAGE 7C LOT 51  PLAN 2- PARTIAL	D- RES20-1733	SFD SFD	0							0					1 11/13/20 1 11/13/20		1								0		N N	N N						
25310023 n/a 25310023 n/a	128 PLAN 1- PARTIAL PLUMBING FEE	RES20-1742		0							0					1 11/13/20 1 11/13/20		1								0		N N	N N						
25310023 n/a 25310023 n/a	FEE  KT PROJECT LOT  127 PLAN 3R-  PARTIAL PLUMBING  FEE	RES20-1743  G  RES20-1745									0					1 11/13/20 1 11/13/20		1								0		N N	N N						
25310023 n/a 25310023 n/a	129 PLAN 1- PARTIAL PLUMBING FEE	RES20-1747									0					1 11/13/20		1								0		N N	N N						
25310023 n/a 25310023 n/a	PARTIAL PLUMBING FEE  KT PROJECT LOT 132 PLAN 2- PARTIAL PLUMBING FEE	RES20-1749	SFD	O							0					1 11/13/20 1 11/13/20		1								0		N N	N N						
25310023 n/a 25310023 n/a	133 PLAN 2R- PARTIAL PLUMBING FEE  KT PROJECT LOT 134 PLAN 3R- PARTIAL PLUMBING FEE	RES20-1751	SFD	0							0					1 11/13/20 1 11/13/20	20	1								0		N	N N						
25310023 n/a 25310015 n/a	135 PLAN 1- PARTIAL PLUMBING FEE  KT PROJECT LOT 137 PLAN 2R- PARTIAL PLUMBING FEE	RES20-1753	SFD	0							0					1 11/13/20 1 11/13/20	20	1								0		N	N N						
25310015 n/a 25310015 n/a 25310015 n/a	138 PLAN 4- PARTIAL PLUMBING FEE  KT PROJECT LOT 139 PLAN 4R- PARTIAL PLUMBING FEE	RES20-1755	SFD	0							0					1     11/13/20       1     11/13/20       1     11/13/20	20	1								0		N N	N N						
25310015 n/a 25310015 n/a	141 PLAN 4- PARTIAL PLUMBING FEE  KT PROJECT LOT	RES20-1757  G  RES20-1758	SFD	0							0					1 11/13/20	20	1								0		N	N N						
25310015 n/a 25310015 n/a	142 PLAN 2R- PARTIAL PLUMBING FEE  KT PROJECT LOT 143 PLAN 4- PARTIAL PLUMBING FEE  KT PROJECT LOT	RES20-1759  RES20-1760	SFD								0					1 11/13/20 1 11/13/20	20	1								0		N N	N N						
25310015 n/a 25310015 n/a	145 PLAN 4- PARTIAL PLUMBING FEE  KT PROJECT LOT	RES20-1761 G RES20-1763									0					1 11/13/20 1 11/13/20		1								0		N N	N N						
25310015 n/a 25310015 n/a	147 PLAN 3R- PARTIAL PLUMBING FEE  KT PROJECT LOT 148 PLAN 1-	RES20-1764  G  RES20-1765									0					1 11/13/20 1 11/13/20		1								0		N N	N N						
25310015 n/a 25310015 n/a	PARTIAL PLUMBING FEE  KT PROJECT LOT 149 PLAN 1- PARTIAL PLUMBING FEE			O							0					1 11/13/20		1								0		N N	N N						
25310015 n/a 25310015 n/a	FEE  KT PROJECT LOT  151 PLAN 1-  PARTIAL PLUMBING  FEE	RES20-1768  G  RES20-1769	SFD								0					1 11/13/20 1 11/13/20		1								0		N N	N N						
25310015 n/a 25310015 n/a	PARTIAL PLUMBING FEE  KT PROJECT LOT 153 PLAN 2R- PARTIAL PLUMBING FEE  KT PROJECT LOT 154 PLAN 3R- PARTIAL PLUMBING	RES20-1770		0							0					1 11/13/20 1 11/13/20		1								0		N	N						

Project Identific	er		Unit Types	Af	Affordability by F	Household Incomes - (	Completed Entitl	ement			Affordability by	Household Incomes - Buildi	ng Permits					Affordability	y by Household Ir	ncomes - Certific	cates of Occup	ancy		Stre	eamlining Inf	fill Housing with Financial and/or Deed Restri	Assistance Assis	without Financial T	Term of Affordability or Deed Restriction	Demolished/Destroye	ed Units	Notes
1			2 3			4			5	6		7			8	9			10			11	12	13	14 18	16	17	Restrictions 18	19	20		21
Prior APN <sup>+</sup> Current APN Street Address	Project Name <sup>+</sup>	Local Jurisdiction Tracking ID <sup>+</sup>	Unit Category (SFA,SFD,2 to 4,5+,ADU,MH)  R=Renter O=Owner	Very Low- Income Deed Restricted  Very Low- Income Non Deed Restricted	Low- Income Deed d Restricted	Low- Income Non Deed Restricted Restric	te- Moderate- eed Income Nor ed Deed Restrict	Above n Moderate- ted Income	Entitlement <u>Date Approved</u>	# of Units issued Entitlements  Very L Income Restrict	Low- Very Low- Low- Inco Deed Income Non Deed icted Deed Restricted Restricte	me Low-Income Moderate- Non Deed Income Dee ed Restricted Restricted	- Moderate- ed Income Non d Deed Restrict	Above Moderate- ted Income	Building Permit <u>Date Issued</u>	s # of Units Issued Building Permits	Very Low- Income Deed Restricted Restricted	v- Ion Deed No Restricted Res	- Income Moderate n Deed Income De stricted Restricte	e- Moderate- eed Income Non ed Deed Restricted	Above Moderate- d Income	Certificates of Occupancy or other forms of readiness (see instructions) <u>Date Issued</u>	# of Units issued Certificates of Occupancy or other forms of readiness	units were  Extremely Low	os Project  OVED using 5913.4(b)? Streamlining)  Y/N	Units?  Assistance Programs for Each Development (see instructions)  (see	financial ed Restriction restriction Type locality definitions)	s affordable without I assistance or deed ons, explain how the determined the units ere affordable e instructions)	Term of Affordability or Deed Restriction (years) (if affordable in perpetuity enter 1000) <sup>+</sup>	Number of Demolished/Dest royed Units <sup>+</sup> Destroyed Units	Demolished/De stroyed Units Owner or Renter <sup>+</sup>	Notes⁺
	KT PROJECT LOT 155 PLAN 1- PARTIAL PLUMBING FFF	RES20-1772	SFD O							0				1	11/13/2020		1						0		N N	N						
	KT PROJECT LOT 156 PLAN 4- PARTIAL PLUMBING	RES20-1773	SFD O							0				1	11/13/2020		1						0		N N	N						
	KT PROJECT LOT 157 PLAN 2R- PARTIAL PLUMBING	RES20-1774	SFD O							0				1	11/13/2020		1						0		N N	N						
	KT PROJECT LOT 158 PLAN 4- PARTIAL PLUMBING		SFD O							0				1	11/13/2020		1						0		N N	N						
	KT PROJECT LOT 159 PLAN 4R- PARTIAL PLUMBING		SFD O							0				1	11/13/2020		1						0		N N	N						
	KT PROJECT LOT 160 PLAN 2R- PARTIAL PLUMBING	RES20-1777	SFD O							0				1	11/13/2020		1						0		N N	N						
25310015 n/a	KT PROJECT LOT 161 PLAN 4R- PARTIAL PLUMBING	RES20-1778	SFD O							0				1	11/13/2020		1						0		N N	N						
	KT PROJECT LOT 162 PLAN 2R- PARTIAL PLUMBING	RES20-1779	SFD O							0				1	11/13/2020		1						0		N N	N						
	KT PROJECT LOT 163 PLAN 4- PARTIAL PLUMBING	RES20-1780	SFD O							0				1	11/13/2020		1						0		N N	N						
	KT PROJECT LOT 164 PLAN 2R- PARTIAL PLUMBING FEE	RES20-1781	SFD O							0				1	11/13/2020		1						0		N N	N						
	165 PLAN 4- PARTIAL PLUMBING FEE		SFD O							0				1	11/13/2020		1						0		N N	N						
	184 PLAN 2- PARTIAL PLUMBING FEE		SFD O							0				1	11/13/2020		1						0		N N	N						
	KT PROJECT LOT 185 PLAN 1- PARTIAL PLUMBING FEE									0				1	11/13/2020		1						0		N N	N						
	PARTIAL PLUMBING FEE		SFD O							0				1	11/13/2020		1						0		N N	N						
	189 PLAN 4R- PARTIAL PLUMBING FEE		SFD O							0				1	11/13/2020		1						0		N N	N						
n/a 6406 CALLAWAY DRIVE	27 PLAN 3C MODEL ELAN LOT 28 PLAN 2B	RES20-1788	SFD O							0				1	11/12/2020		1 1						0		N N	N N						
I IDRIVE	29 PI AN 1A		SFD O							0				1	11/12/2020		1						0		N N	N N						
n/a 6198 GRANVILLE STREET	ELAN LOT 7 PLAN 2B- PARTIAL	RES20-1794	SFD O							0				1	11/12/2020		1						0		N N	N						
n/a 6218 GRANVILLE	ELAN LOT 9 PLAN		SFD O							0				1	11/12/2020		1						0		N N	N .						
n/a 6228 GRANVILLE STREET	1B-R- PARTIAL PLUMBING FEE  ELAN LOT 10 PLAN 2A- PARTIAL PLUMBING FEE	RES20-1797	SFD O							0				1	11/12/2020		1						0		N N	N N						
n/a 6238 GRANVILLE STREET	ELAN LOT 11 PLAN 1C- PARTIAL PLUMBING FEE		SFD O							0				1	11/12/2020		1						0		N N	N						
n/a 6258 GRANVILLE STREET	PLUMBING FEE		SFD O							0				1	11/12/2020		1						0		N N	N N						
DRIVE	ELAN LOT 43 PLAN 1A- PARTIAL PLUMBING FEE ELAN LOT 44 PLAN		SFD O							0				1	11/12/2020		1						0		N N	N						
n/a 6305 CALLAWAY DRIVE	3A- PARTIAL PLUMBING FEE ELAN LOT 45 PLAN 2C-R- PARTIAL PLUMBING FEE	RES20-1809	SFD O							0				1	11/12/2020		1						0		N N	N N						
DRIVE	1B-R PARTIAL PLUMBING FEE		SFD O							0				1	11/12/2020		1						0		N N	N						
n/a 2787 TEAGARDEN PLACE	1C PARTIAL PLUMBING FEE ELAN LOT 62 PLAN 3A- PARTIAL		SFD O							0				1	11/12/2020		1						0		N N	N						
n/a 2797 SASSER PLACE	PLUMBING FEE	RES20-1817	SFD O							0				1	11/12/2020		1						0		N N	N						
n/a 6375 CALLAWAY DRIVE		RES20-1818	SFD O							0				1	11/12/2020		1						0		N N	N						
n/a 6365 CALLAWAY DRIVE	PLUMBING FEE		SFD O							0				1	11/12/2020		1						0		N N	N						
n/a 6355 CALLAWAY DRIVE										0				1	11/12/2020		1						0		N N	N						
n/a 6335 CALLAWAY	PLUMBING FEE ELAN LOT42 PLANB		SFD O							0				1	11/12/2020		1						0		N N	N						
n/a 2796 TEAGARDEN PLACE	2R PARTIAL PLUMBING FEE  ELAN LOT 64 PLAN 1C-R- PARTIAL PLUMBING FEE	RES20-1823	SFD O							0				1	11/12/2020		1						0		N N	N						
n/a 2786 TEAGARDEN PLACE		RES20-1824	SFD O							0				1	11/12/2020		1						0		N N	N						
n/a 2776 TEAGARDEN PLACE	ELAN LOT 66 PLAN 3B-R- PARTIAL PLUMBING FEE	RES20-1825	SFD O							0				1	11/12/2020		1						0		N N	N						
n/a 2765 DUNSMUIR PLACE	ELAN LOT 67 PLAN 1B- PARTIAL PLUMBING FEE		SFD O							0				1	11/12/2020		1						0		N N	N						
n/a 2775 DUNSMUIR PLACE	ELAN LOT 68 PLAN 2C- PARTIAL PLUMBING FEE		SFD O							0				1	11/12/2020		1						0		N N	N						
n/a 2795 DUNSMUIR PLACE	PLUMBING FEE ELAN LOT 70 PLAN 3A-R- PARTIAL		SFD O							0				1	11/12/2020		1						0		N N	N						
n/a 6268 GRANVILLE STREET n/a 6278 GRANVILLE	PLUMBING FEE  ELAN LOT 14 PLAN 1B- PARTIAL PLUMBING FEE  ELAN LOT 15 PLAN		SFD O							0				1	11/12/2020		1						0		N N	N						
n/a 6288 GRANVILLE STREET	2A-R PARTIAL PLUMBING FEE  ELAN LOT 16 PLAN 3C- PARTIAL	RES20-1832	SFD O							0				1	11/12/2020		1						0		N N	N   N						
n/a 6298 GRANVILLE STREET	PLUMBING FEE ELAN LOT 17 PLAN 2B-R- PARTIAL PLUMBING FEE	RES20-1833	SFD O							0				1	11/12/2020		1						0		N N	N						
COURT	1C-R- PARTIAL PLUMBING FEE	1004	5							0					, 12/2020		1						0		N N	N						

	Project Identifier		Unit T	/pes		Affor	ordability by Household Incomes - 0	Completed Entitlement				Affordability by H	ousehold Incomes -	- Building	g Permits					Affordability by F	Household Incomes - C	Certificates of Oc	ccupancy			Streamlining	Infill	Housing with Financial Ass	Assistance	ce or Deed	erm of Affordability r Deed Restriction	Demolished/Destroye	d Units Note	tes
	1		2	3			4		5	6			7			8	9			10			11	12	13	14	15	16	Restr	ictions	19	20	21	1
	Street Address Proj	Tracking		Tenure V R=Renter O=Owner	ery Low- ome Deed Incor estricted Deed F	ry Low- Lome Non Restricted I	Low-Income Low-Income Modera Deed Non Deed Income D Restricted Restricted Restrict	te- Moderate- Abo leed Income Non Mode leed Deed Restricted Inco	ove Entitlemer erate- <u>Date Approv</u> ome	nt <u>ved</u> # of Units issued Entitlements	Very Low- Income Deed Restricted	Very Low- Low- Incom Income Non Deed Deed Restricted Restricted	ne Low-Income M Non Deed Inc I Restricted Ro	Moderate- come Deed Restricted	Moderate- Abov I Income Non Modera Deed Restricted Incom	ove rate- ome Building Pe <u>Date Issu</u>	ermits # of Units Issued ued Building Permits	Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	v- Income Low- Incom Deed Non Deed stricted Restricted	ne Moderate- Mode d Income Deed Incom d Restricted Deed Re	derate- Abov me Non Modera Restricted Incom	Certificates of Occupancy or other ate- forms of readiness (see instructions)  Date Issued	# of Units issued Certificates of Occupancy or other forms of readiness	How many of the units were Extremely Low Income?	Was Project  APPROVED using GC 65913.4(b)? BB 35 Streamlining) Y/N	II Units?	Assistance Programs for Each Development (see instructions) (see ins	financial assi estriction restrictions, e ype locality deterr tructions) were at	explain how the Dinined the units	erm of Affordability or eed Restriction (years) f affordable in perpetuity enter 1000) <sup>†</sup>	Number of emolished or pestroyed Units to pestroyed Units	Demolished/De stroyed Units Owner or Renter <sup>+</sup>	⊋s <sup>+</sup>
n/a n/a	COURT 3A-R- P	NG FEE OT 20 PLAN RES20-18 ARTIAL		0						0					1	11/12/20		1						0		N N	N							
n/a	2582 CALLAWAY ELAN L COURT 1A-R- P PLUMB	OT 21 PLAN RES20-1	837 SFD	0						0					1	11/12/20:	020	1						0		N	N							
	2622 CALLAWAY ELAN L COURT 1B-R- F	NG FEE OT 23 PLAN RES20-18 ARTIAL		0						0					1	11/12/20		1						0		N	N							
	6386 CALLAWAY ELAN L DRIVE 3B-R- P PLUMB	OT 30 PLAN RES20-1: ARTIAL		0						0					1	11/12/20	020	1						0		N	N							
n/a	2794 DUNSMUIR ELAN L PLACE 3C- PAI PLUMB  2784 DUNSMUIR ELAN L COURT 1B-R- F	RTIAL ING FEE OT 32 PLAN RES20-18 ARTIAL		0						0					1	11/12/20		1						0		N	N							
n/a	6257 GRANVILLE ELAN L STREET 1A- PAF PLUMB 6267 GRANVILLE ELAN L	OT 33 PLAN RES20-18 RTIAL ING FEE		0						0					1	11/12/20		1						0		N	N							
n/a	STREET 3B-R- F PLUMB  6277 GRANVILLE ELAN L STREET 2C-R PA	ARTIAL ING FEE OT 35 PLAN RES20-18 ARTIAL		0						0					1	11/12/20.		1						0		N N	N N							
n/a	6425 CALLAWAY ELAN L DRIVE 3B-R- F PLUMB	OT 24 PLAN RES20-1: ARTIAL	846 SFD	0						0					1	11/12/20	020	1						0		N	N							
n/a n/a	6415 CALLAWAY ELAN L DRIVE 2B-R - F PLUMB  6405 CALLAWAY ELAN L DRIVE 1B- PAF	PARTIAL ING FEE		0						0					1	11/12/20		1						0		N	N							
n/a	6395 CALLAWAY ELAN L DRIVE 1C-R- F PLUMB	ING FEE OT 36 PLAN RES20-18 PARTIAL ING FEE	849 SFD	0						0					1	11/12/20		1						0		N N	N N							
n/a n/a	6385 CALLAWAY ELAN L DRIVE 2A - PA PLUMB 2639 ZEPHYI NORTHINGTON 3D/2510 DRIVE LOT 176	ING FEE R/PLAN RES20-1	850 SFD 861 SFD	0						0					1	11/12/20		1						0		N N	N N							
	2629 ZEPHYI NORTHINGTON 2A/2197 DRIVE LOT 177  2630 RIO GRANDE ZEPHYI DRIVE LOT 202 3D/2510			0						0					1	11/13/20		1						0		N N	N N							
n/a	2640 RIO GRANDE ZEPHYI DRIVE LOT 203 2B/2197 2650 RIO GRANDE ZEPHYI DRIVE LOT 204 1C/2002	R/PLAN RES20-18	864 SFD	0						0	)				1	11/13/20		1						0		N	N							
										0 0					1	11/13/20	020	1 1						0		N N	N N							
n/a n/a n/a	2280 ELLIS TOWN STANFO DRIVE LOT 19 3C/2945 2299 JESSICA STANFO 2B/3194 2289 JESSICA STANFO 3A/2945 2702 BREWER BERKS STREET LOT 112 1D/2865 2692 BREWER BERKS	DRD/PLAN RES20-16 6 SQ FT HIRE/PLAN RES20-16 6 SQ FT HIRE/PLAN RES20-16	868 SFD 869 SFD 870 SFD	0 0						0					1 1	11/13/20: 11/13/20: 11/13/20:	)20	1 1 1						0 0		N N	N N N							
n/a	STREET LOT 113 2C/2979 2683 BREWER BERKS STREET LOT 115 1A/2869 2693 BREWER BERKS STREET LOT 116 4D/3613 2703 BREWER BERKS STREET LOT 117 3B/3129	SQ FT HIRE/PLAN RES20-1	872 SFD	0						0					1 1	11/13/20: 11/13/20: 11/13/20:	020	1						0		N N	N N							
n/a n/a	2708 CORDELIA BERKS LANE LOT 140 2D/3613 2698 CORDELIA BERKS LANE LOT 141 1A/2865	HIRE/PLAN RES20-18 B SQ FT  HIRE/PLAN RES20-18 B SQ FT	874 SFD 875 SFD	0						0 0	)				1 1	11/13/20: 11/13/20: 11/13/20:	020	1						0		N N	N N							
2531002 2531002	PLAN 1 PLUMB 023 n/a KT PRO	- PARTIAL ING FEE JECT LOT 5 RES20-2								0					1	12/29/20	020	1						0		N N	N N							
2531002 2531002	PLUMB 023 n/a KT PRC PLAN 1 PLUMB	PARTIAL ING FEE JECT LOT 9 RES20-2 PARTIAL ING FEE JECT LOT RES20-2		0						0					1	12/29/20		1						0		N N	N N							
2531002	120 PL/ PARTIA FEE 023 n/a KT PRO 124 PL/	L PLUMBING  JECT LOT RES20-2 AN 1-		0						0					1	12/29/20:		1						0		N N	N N							
2531002	FEE 023 n/a KT PRC 191 PLA PARTIA FEE	L PLUMBING		0						0					1			1						0		N	N							
2531002	PARTIA FEE	JECT LOT RES20-2 AN 1- L PLUMBING  JECT LOT RES20-2 AN 1-		0						0					1	12/29/20		1						0		N	N							
2531002	PARTIA FEE 023 n/a KT PRC 208 PL/	L PLUMBING  JECT LOT RES20-2	148 SFD	0						0					1	12/29/20	020	1						0		N N	N N							
2531002 2531002	FEE 023 n/a KT PRO 209 PLA PARTIA FEE	JECT LOT RES20-2 AN 2R- L PLUMBING JECT LOT RES20-2								0					1	12/29/20:		1						0		N	N							
2531002	209 PL/ PARTIA FEE	DECT LOT RES20-2 AN 2- L PLUMBING DECT LOT RES20-2 AN 2R- L PLUMBING		0						0					1	12/29/20:		1						0		N N	N							
2531002	FEE 023 n/a KT PRC 203 PL/ PARTIA FEE	JECT LOT RES20-2 NN 2- L PLUMBING	152 SFD							0					1	12/29/20:	020	1						0		N	N							
2531002 2531002	201 PL/PARTIA	L PLUMBING  JECT LOT RES20-2		0						0					1	12/29/20		1						0		N	N							
2531002	199 PL/PARTIA PARTIA FEE 023 n/a KT PRO 197PLA	N 2R- L PLUMBING DJECT LOT RES20-2		0						0					1	12/29/20		1						0		N N	N N							
2531002	FEE 023 n/a KT PRO 195 PLA PARTIA FEE	JECT LOT RES20-2 NN 2R- L PLUMBING								0					1	12/29/20		1						0		N	N							
2531002 2531002	193 PL/ PARTIA FEE 023 n/a KT PRO	JECT LOT RES20-2								0					1	12/29/20:		1						0		N	N							
2531002	PEE 023 n/a KT PRC PLAN 2	N 2R- L PLUMBING JECT LOT 6 RES20-2 R- PARTIAL ING FEE	159 SFD	0						0					1	12/29/20	020	1						0		N N	N N							
2531002	D23 n/a KT PRO PLAN 2 PLUMB	JECT LOT 2 RES20-2 R- PARTIAL ING FEE	160 SFD	0						0					1	12/29/20	020	1						0		N	N							

Project Identific	er Unit Ty	pes	Affordability by Household Incomes - Completed Entitle	ement			Affordability by Household Incomes - Building Permits		Affordability by Household Incomes - Certificates of Occupancy			Streamlin	ing Infill	Housing with Financial Assis and/or Deed Restriction		Accietance or Dood		Demolished/Destroyed Units	Notes
1	2	3	4		5 6		7 8	3 9	10	11	12 13	14	15	16	17	18	19	20	21
Prior APN <sup>+</sup> Current APN Street Address	Project Name <sup>+</sup> Local Jurisdiction Tracking ID <sup>+</sup> Unit Category (SFA,SFD,2 to 4,5+,ADU,MH)	Tenure R=Renter O=Owner	Very Low- Income Deed Income Non Deed Restricted Restri	Above Moderate- ed Income	Entitlement <u>Date Approved</u> # of Units Entitlen	s issued Inc ments	Very Low- come Deed Restricted  Very Low- Income Non Deed Restricted  Restricted  Restricted  Non Deed Restricted   g Permits # of Units Iss ssued Building Perr	Very Low-Income Deed Restricted Restricted Very Low-Income Non Deed Restricted Restricte	Above Occupancy or other forms of readiness (see instructions)  Date Issued	# of Units issued Certificates of Occupancy or other forms of readiness  How many of the units were Extremely Low Income?*	Was Proje APPROVED L GC 65913.4 (SB 35 Stream Y/N	ct ising b)? ining) Infill Units? Y/N <sup>+</sup>	Assistance Program for Each Developmei (see instructions)	s Deed Restriction It Type (see instructions)	For units affordable without financial assistance or deed restrictions, explain how the locality determined the units were affordable (see instructions)	Deed Restriction (years) (if affordable in perpetuity	Number of permolished or permolished/Dest proyed Units to permolished or pestroyed Units to pestroyed Units Units to pestroyed Units	Notes <sup>+</sup>	
	KT PROJECT LOT 4 RES20-2162 SFD PLAN 3R- PARTIAL PLUMBING FEE	0				0	1 12/29/	/2020	1		0	N	N						
25310023 n/a	KT PROJECT LOT 8 RES20-2163 SFD PLAN 3R- PARTIAL PLUMBING FEE	0				0	1 12/29/	/2020	1		0	N	N						
	KT PROJECT LOT RES20-2164 SFD 10 PLAN 3R- PARTIAL PLUMBING FEE	0				0	1 12/29/	/2020	1		0	N	N						
	KT PROJECT LOT RES20-2165 SFD 123 PLAN 3R- PARTIAL PLUMBING	0				0	1 12/29/	/2020	1		0	N	N						
	KT PROJECT LOT RES20-2166 SFD 190PLAN 3R- PARTIAL PLUMBING FFF	0				0	1 12/20/	/2020	1		0	N	N						
25310023 n/a	KT PROJECT LOT 3 RES20-2167 SFD PLAN 4- PARTIAL PLUMBING FEE  KT PROJECT LOT 7 RES20-2168 SFD					0	1 12/29/		1		0	N	N						
	KT PROJECT LOT 7 RES20-2168 SFD PLAN 4- PARTIAL PLUMBING FEE  KT PROJECT LOT RES20-2169 SFD					0	1 12/29/ 1 1 12/29/		1		0	N	N						
	122 PLAN 4- PARTIAL PLUMBING FEE					0					0	N	N						
	KT PROJECT LOT RES20-2170 SFD 125 PLAN 4- PARTIAL PLUMBING FEE					0	1 12/29/	/2020			0	N	N						
	KT PROJECT LOT RES20-2171 SFD 192 PLAN 4R- PARTIAL PLUMBING FEE	0				0	1 12/29/	/2020	1		0	N	N						
	KT PROJECT LOT RES20-2172 SFD 194 PLAN 4- PARTIAL PLUMBING FEE	0				0	1 12/29/	/2020	1		0	N	N						
25310023 n/a	KT PROJECT LOT RES20-2173 SFD 198 PLAN 4R- PARTIAL PLUMBING FFF	0				0	1 12/29/	/2020	1		0	N	N						
	KT PROJECT LOT RES20-2174 SFD 200 PLAN 4-PARTIAL PLUMBING FEE	0				0	1 12/22/	/2020	1		0	N	N						
25310023 n/a	KT PROJECT LOT RES20-2175 SFD 204 PLAN 4R- PARTIAL PLUMBING FFF	0				0	1 12/29/	/2020	1		0	N	N						
	KT PROJECT LOT RES20-2176 SFD 206 PLAN 4-PARTIAL PLUMBING	0				U	1 12/29/	/2020	1		0	N	N						

Jurisdiction	Tracy	
Reporting Year	2020	(Jan. 1 - Dec. 31)

## **ANNUAL ELEMENT PROGRESS REPORT** Housing Element Implementation (CCR Title 25 §6202)

This table is auto-populated once you enter your jurisdiction name and current year data. Past year information comes from previous APRs.

Please contact HCD if your data is different than the material supplied here

						Table E							
						using Needs A							
					Permitted	l Units Issued	by Affordab	ility					
		1					2					3	4
Inco	ome Level	RHNA Allocation by Income Level	2015	2016	2017	2018	2019	2020	2021	2022	2023	Total Units to Date (all years)	Total Remaining RHNA by Income Level
	Deed Restricted	- 980											980
Very Low	Non-Deed Restricted	900											900
	Deed Restricted	705											705
_ow	Non-Deed Restricted	705											705
	Deed Restricted	828										62	766
Moderate	Non-Deed Restricted	020		2	3	7	40	10				02	700
Above Moderate		2463		1003	301	1146	748	460				3658	
Total RHNA		4976											•
Total Units				1005	304	1153	788	470				3720	2451

Note: units serving extremely low-income households are included in the very low-income permitted units totals

Cells in grey contain auto-calculation formulas

Jurisdiction	Tracy	
Reporting Year	2020	(Jan. 1 - Dec. 31)

# ANNUAL ELEMENT PROGRESS REPORT Housing Element Implementation (CCR Title 25 §6202)

Note: "+" indicates an optional field Cells in grey contain auto-calculation formulas

						Cit	toe Identified or I		le C	tfall Housing N	lood						
Sites Identified or Rezoned to Accordance  Project Identifier Date of Rezone RHNA Shortfall by Household Income Category				Type of Shortfall	tiali Housing r	veeu		S	tes Description								
	1			2			3		4	5	6	7		8	9	10	11
APN	Street Address	Project Name <sup>⁺</sup>	Local Jurisdiction Tracking ID <sup>†</sup>	Date of Rezone	Very Low-Income	Low-Income	Moderate-Income	Above Moderate- Income	Type of Shortfall	Parcel Size (Acres)	General Plan Designation	Zoning	Minimum Density Allowed	Maximum Density Allowed	Realistic Capacity	Vacant/Nonvacant	Description of Existing Uses
Summary Row: Start	Data Entry Below																
		_				_											

# ANNUAL ELEMENT PROGRESS REPORT Housing Element Implementation

(CCR Title 25 §6202)

Jurisdiction	Tracy	
Reporting Year	2020	(Jan. 1 - Dec. 31)

#### Table D

#### Program Implementation Status pursuant to GC Section 65583

#### **Housing Programs Progress Report**

1	2	3	4
Housing Rehabilitation	- Annually consult the HCD and HUD websites to identify and pursue potential funding opportunities that may be available and appropriate to reinstate a housing rehabilitation program.  - Refer property owners in need of rehabilitation assistance to the San Joaquin County Neighborhood Preservation Division who administers the County's HUD Grant  - Assist 20 lower- and moderate-income households with the rehabilitation of their homes during the planning period.	12/31/2023	On-going. The County's HUD Grant provide housing rehabilitation assistance through the Home Improvement Partnership Grant Program (HOME).  In FY 19, the County did not complete any housing rehabilitations, however rehabilitation of the McHenry House - Family Homeless Shelter and Emerson House (transitional housing facility for men) were made through the CDBG program.  In 2020, the City allocated \$165,455 in Home Investment Partnership Program funds to the San Joaquin County Housing Authority to support the demolition and reconstruction of a 60-unit low-income apartment project.
Code Enforcement	- Continue to investigate possible code violations Continue to disseminate information on available housing rehabilitation assistance to address code violations and other housing issues.	12/31/2023	On-going.
Graffiti Removal Program	Continue to operate the Graffiti Hot Line.	117/31/2023	Graffiti complaints and concerns can be reported by phoning the Code Enforcement Division at (209) 831-6410.

## Program Implementation Status pursuant to GC Section 65583

		_	
1	2	3	4
Name of Program	Objective	Timeframe in H.E	Status of Program Implementation
Down Payment Assistance (DAP) Loan Program	- Continue to provide down payment assistance to qualified lower income households (up to 80 percent AMI) Disseminate information to prospective first-time homebuyers on the DAP Loan Program Assist three households (an estimated one very low income and two low income households) annually.	12/31/2023	This program is still available, but due to high home prices in Tracy, qualifying for a home purchase and meeting low-income requirements is challenging . As a result, the City has not processed a Downpayment Assistant Loan since 2011.
Homebuyer and Financial Literacy Training	- Continue to require a Certificate of Completion from a HUD-approved homebuyer class in order to participate in the City's DAP Loan Program Partner with qualified local non-profit agencies to offer homebuyer education classes and publicize the availability of these classes to residents.	12/31/2023	This program is overseen by the San Joaquin County Neighborhood Preservation Division, Visionary Home Builders, Neighbor Works, and NID-HCA (Housing Counsel Agency), and is dependent on funding from HUD.
Affordable Housing Development	<ul> <li>Continue to prioritize the allocation of RGAs to affordable housing projects (particularly for those projects that set aside units for extremely low income households and persons with special needs, including those with developmental disabilities, and farmworkers).</li> <li>Proactively encourage and facilitate, on an ongoing basis, the development of affordable housing by non-profit organizations for lower income households, particularly those with special needs including large households, seniors, extremely low-income (ELI) households, and households with persons who have disabilities or developmental disabilities, and farmworkers.</li> <li>Continue to provide density bonuses and other incentives on an ongoing basis to developers who provide affordable units, such as technical assistance related to City policies and regulations, and pre-application consultation with staff.</li> </ul>	12/31/2023	The Growth Management Ordinance establishes exceptions to annual residential permit limits for affordable housing projects, and the Density Bonus Ordinance establishes the incentives for affordable housing projects.  On February 4, 2020, the City Council identified a 16-point action plan to address affordable/workforce housing, one of which would allow more RGAs to be allocated to affordable housing projets but requires a change to Measure A with voter approval to implement: Provide additional market-rate Residential Growth Allocations (RGAs) for projects that include a specified percentage of affordable units. Other action items are related to increased density allowances, the exploration of lower fees and various financial assistance efforts, create a housing staff position, and other direct developer support efforts for affordable housing projects. The City secured grant funding in 2020 to begin work on these efforts.

## Program Implementation Status pursuant to GC Section 65583

1	2	3	4
Name of Program	Objective	Timeframe in H.E	Status of Program Implementation
Housing Choice Voucher Program	<ul> <li>- Disseminate information to the public regarding the HCV program and promote participation by rental property owners.</li> <li>- Annually contact the HACSJ to obtain information on the status of the HCV program and other available resources.</li> <li>- Continue to support HACSJ's petition for increased funding from HUD.</li> <li>- Continue to work with HACSJ to provide HCVs to Tracy residents.</li> <li>- Continue to work with the HACSJ to assist households through the Family Self-Sufficiency Program.</li> </ul>	12/31/2023	This program is overseen by the Housing Authority of the County of San Joaquin and is funded by HUD. Information on these programs is available on hacsj.org.
Sustainability Program	Continue to implement the Sustainability Action Plan.	12/31/2023	This document is frequently used in development project review and CEQA review.
Affordable Housing Monitoring	Monitor status of affordable units annually by maintaining contact with property owners and HUD Multi-Family Housing division.     Solicit interest and participation of nonprofit housing developers to acquire and preserve housing to be maintained as affordable units.		On-going. City staff is currently in discussions with Habitat for Humanity, the Housing Authority of San Joaquin County, and Eden Housing.

## Program Implementation Status pursuant to GC Section 65583

1	2	3	4
Name of Program	Objective	Timeframe in H.E	Status of Program Implementation
Affordability by Design	- Continue to implement the recently adopted Zoning Amendments that incorporate affordability by design concepts described in the General Plan Encourage the development of a variety of housing types that provide affordable housing options for persons with special needs, such as micro-units, senior units, second units, and small-lot developments Promote Affordability by Design principles by placing information on City website and at public counters by 2016.	Dec 31, 2023; Dec 31, 2016	Completed and on-going.  Revised development regulations influenced by Affordability by Design principles were incorporated into the Zoning Ordinance over the last number of years. For example, any use, including multi-family residential, may request up to a 20% reduction in required parking based on a study or survey that illustrates that required number of parking spaces pursuant the City's Off-Street Parking Ordinance is not needed for the use (Ordinance 1181). The City of Tracy has also relaxed setbacks in the High Density Residential Zoning District (Ordinance 1179), permitted a broader degree of housing types in the Central Business District Zone consistent with General Plan densities (Ordinance 1282), and is implementing the State's allowances for ADUs (Government Code Section 65852.150) which were updated effective January 1, 2020. This has provided for greater flexibility for the allowance and maximum usage of residential sites. These available on the City's website and at the front counter. On February 4, 2020, the City Council identified an action plan to address affordable/workforce housing, among which include changes to density and development regulations. Work began on developing these action items in 2020.
Property Acquisition and Improvement	- Continue to identify and seek partnerships with organizations and the County in order to acquire, improve, and develop affordable housing - Continue to assist in site acquisition for affordable housing. As funding permits, prioritize funding assistance to affordable housing projects that set aside units for seniors, persons with disabilities, and extremely low income households.	12/31/2023	On-going as CDBG funds and other funding sources are available.  Responsible Agencies: Tracy Development Services (DS) Department; Economic Development Division; San Joaquin County Neighborhood Preservation Division; and local nonprofits

## Program Implementation Status pursuant to GC Section 65583

1	2	3	4
Name of Program	Objective	Timeframe in H.E	Status of Program Implementation
Inclusionary Housing	- Explore the potential and set the stage for a voluntary inclusionary housing program that includes an extremely low income housing component by 2017 Monitor the City's affordability conditions on an annual basis and identify an inclusionary housing trigger, if necessary.	Dec 31, 2017; on-going	Completed. Projects that voluntarily provide inclusionary housing is granted priority for Residential Growth Allotments that are necessary to obtain a building permit for residential development as established in the Growth Management Ordinance Guidelines (2014-145).  The City Council conducted a workshop on workforce and affordable housing on June 4, 2019, during which inclusionary housing was discussed. On February 4, 2020, the City Council identified an action plan that would encourage more affordable/workforce housing, for which the City subsequently received grant funding and commenced work in 2020.
Resale of Foreclosed Properties	Continue to collaborate with the County, on an ongoing basis, to identify and pursue available resources for the acquisition/rehabilitation of foreclosed and/or substandard housing as affordable housing.	12/31/2023	This is on-going in collaboration with the San Joaquin County Neighborhood Preservation Division.

## Program Implementation Status pursuant to GC Section 65583

1	2	3	4
Name of Program	Objective	Timeframe in H.E	Status of Program Implementation
Zoning Ordinance	- Complete Zoning Ordinance amendments to address the provision of density bonuses, residential care facilities, farmworker housing, and employee housing by the end of 2016. Specifically:  - Density Bonus: Update Density Bonus Ordinance to reflect the requirements of AB 2222 (effective January 2015), including extending the affordability control for the affordable units to 55 years, and requiring the replacement of existing affordable units demolished or removed in order to qualify for a density bonus, incentive, or concession.  - Residential Care Facilities: to In accordance with the Lanterman Act, amend the Zoning Ordinance to permit residential care facilities serving six or fewer persons as a single-family residential use.  In addition, consistent with City practice, amend the Zoning Ordinance to allow residential care facilities of seven or more persons in all residential zones with a Conditional Use Permit.  - Farmworker Housing: The California Employee Housing Act further defines housing for agricultural workers consisting of 36 beds or 12 units be treated as an agricultural use and permitted where agricultural uses are permitted. The City of Tracy permits crop and tree farming in the A, LDR, MDC, MDR, and HDR zones. The City will amend the Zoning Ordinance to address the provision of farmworker housing consistent with the Employee Housing: The California Employee Housing Act requires that housing for six or fewer employees be treated as a regular residential use. The City will amend the Zoning Ordinance to address the provision of farmworker housing consistent with the Employee Housing Act.  - Reevaluate recent amendments to the definition of "family" and "supportive housing" in the Zoning Ordinance and amend, as necessary, to comply with State laws.	12/31/2023	On February 4, 2020, the City Council identified an action plan to address affordable/workforce housing, among which include changes to density and development regulations. Work began on developing these action items in 2020 Implementation of the other zoning code amendments are to follow.  There are no constraints to development of housing in the Zoning Ordinance.

## Program Implementation Status pursuant to GC Section 65583

1	2	3	4
Name of Program	Objective	Timeframe in H.E	Status of Program Implementation
Growth Management Ordinance (GMO)	- Annually monitor and evaluate the Growth Management Ordinance for the impacts on the cost, supply and timing of housing including seeking input from residential developers and affordable housing stakeholders in reviewing the effects of the GMO. The review will reflect the RHNA as a minimum and consider impacts on overall housing supply in addition to accommodating the RHNA. Information will be included and evaluated as part of the annual Growth Management Status report, published in the fourth quarter of each calendar year.	12/31/2023	On-going. The Growth Management Ordinance was amended in November 2015 to permit building permits to be issued beyond the maximum number of Residential Growth Allotments issued in accordance with the Ordinance in an effort to allow housing to be built in accordance with the City's assigned RHNA (Ordinance 1201). The growth management status and pipeline report are on the City's website.
Fair Housing	<ul> <li>Continue to support the San Joaquin Fair Housing Association, or other qualified fair housing agencies, annually with CDBG funds and refer residents seeking fair housing assistance on an ongoing basis.</li> <li>Advertise the services provided by the San Joaquin Fair Housing Association (or other qualified fair housing agencies) on an ongoing basis in City buildings and other public buildings (such as public libraries, community centers, County Housing Authority offices, and post offices, etc.)</li> </ul>	12/31/2023	On-going. The City participates in providing an annual direct allocation to the San Joaquin Fair Housing Association through the CDBG program. For Fiscal Year 20/21, \$5,000 was allocated.  Information on the Fair Housing services are available at City Hall and on the City's website under the Economic Development Division homepage.

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## Program Implementation Status pursuant to GC Section 65583

1	2	3	4
Name of Program	Objective	Timeframe in H.E	Status of Program Implementation
Provision of Adequate Sites	<ul> <li>Complete rezoning of the four parcels on Valpico Road within two years of the adoption of the 2015-2023 Housing Element.</li> <li>Monitor and update the sites inventory annually to assess its adequacy for meeting the RHNA, particularly for sites capable of facilitating the development of lower income housing.</li> <li>Make the inventory of vacant sites available to interested developers after adoption of the Housing Element.</li> <li>Should properties identified in the residential sites inventory become unavailable during the planning period, resulting in a shortfall in sites for meeting the RHNA, the City will identify additional sites per Government Code § 65863.</li> </ul>	March 15, 2018; on- going	The parcels on Valpico Road have not yet been rezoned. The City has had numerous meetings with developers about the appropriate zoning of this site, and these conversations are still going.  The available sites inventory is still accurate and is publically available on the City's website on page 81 of the Housing Element. Tracy's RHNA obligations are being assessed annually. There is currently no shortage on vacant sites.

Jurisdiction	Tracy	
Reporting Period	2020	(Jan. 1 - Dec. 31)

# **ANNUAL ELEMENT PROGRESS REPORT**Housing Element Implementation

Note: "+" indicates an optional field Cells in grey contain auto-calculation formulas

(CCR Title 25 §6202)

	Table E  Commercial Development Bonus Approved pursuant to GC Section 65915.7								
Project Identifier				Units Constructed as Part of Agreement			Description of Commercial Development Bonus	Commercial Development Bonus Date Approved	
	,			2			3	4	
APN	Street Address	Project Name <sup>⁺</sup>	Local Jurisdiction Tracking ID <sup>+</sup>	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Description of Commercial Development Bonus	Commercial Development Bonus Date Approved
Summary Row: Start	Data Entry Below								

Jurisdiction	Tracy	
Reporting Period	2020	(Jan. 1 - Dec. 31)

# ANNUAL ELEMENT PROGRESS REPORT Housing Element Implementation

Note: "+" indicates an optional field

Cells in grey contain auto-calculation formulas

(CCR Title 25 §6202)

#### Table F

#### Units Rehabilitated, Preserved and Acquired for Alternative Adequate Sites pursuant to Government Code section 65583.1(c)

Please note this table is optional: The jurisdiction can use this table to report units that have been substantially rehabilitated, converted from non-affordable to affordable by acquisition, and preserved, including mobilehome park preservation, consistent with the standards set forth in Government Code section 65583.1, subdivision (c). Please note, motel, hotel, hostel rooms or other structures that are converted from non-residential to residential units pursuant to Government Code section 65583.1(c)(1)(D) are considered net-new housing units and must be reported in Table F.

Activity Type	Units that Do Not Count Towards RHNA <sup>+</sup> Listed for Informational Purposes Only			Units that Count Towards RHNA *  Note - Because the statutory requirements severely limit what can be counted, please contact HCD to receive the password that will enable you to populate these fields.				The description should adequately document how each unit complies with subsection (c) of Government	
	Extremely Low- Income <sup>+</sup>	Very Low-Income <sup>+</sup>	Low-Income <sup>+</sup>	TOTAL UNITS <sup>+</sup>	Extremely Low- Income <sup>+</sup>	Very Low- Income <sup>+</sup>	Low-Income <sup>+</sup>	TOTAL UNITS <sup>†</sup>	Code Section 65583.1 <sup>+</sup>
Rehabilitation Activity									
Preservation of Units At-Risk									
Acquisition of Residential Units									
Mobilehome Park Preservation									
Total Units by Income									

Jurisdiction	Tracy	
Reporting Period	2020	(Jan. 1 - Dec. 31)

NOTE: This table must only be filled out if the housing element sites inventory contains a site which is or was owned by the reporting jurisdiction, and has been sold, leased, or otherwise disposed of during the reporting year.

Note: "+" indicates an optional field Cells in grey contain auto-calculation formulas

# ANNUAL ELEMENT PROGRESS REPORT Housing Element Implementation

(CCR Title 25 §6202)

	Table G										
	Locally Owned Lands Included in the Housing Element Sites Inventory that have been sold, leased, or otherwise disposed of										
	Project l	ldentifier									
	1				3	4					
APN	Street Address	Project Name <sup>⁺</sup>	Local Jurisdiction Tracking ID <sup>+</sup>	Realistic Capacity Identified in the Housing Element	Entity to whom the site transferred	Intended Use for Site					
Summary Row: Star	t Data Entry Below										

Jurisdiction	Tracy		
		(Jan. 1 - Dec.	
Reporting Period	2020	(Jan. 1 - Dec. 31)	

# ANNUAL ELEMENT PROGRESS REPORT Housing Element Implementation

(CCR Title 25 §6202)

	Table H										
Locally Owned Surplus Sites											
	Parcel Identifier										
1	1 2 3 4										
APN	Street Address/Intersection	Existing Use	Number of Units	Surplus Designation							
Summary Row: Start Data Entry Below											
212-260-09	3055 N. Corral Hollow Road	Vacant		Surplus Land							
212-270-37	2785 Auto Plaza Drive	Vacant		Surplus Land							

Note: "+" indicates an optional field

Cells in grey contain auto-calculation formulas

Size	Notes
6	7
Parcel Size (in acres)	Notes
0.46	property was sold
0.26	property was sold

Jurisdiction	Tracy	
Reporting Year	2020	(Jan. 1 - Dec. 31)

Building Permits Issued by Affordability Summary			
Income Lev	el	Current Year	
Vondlow	Deed Restricted	0	
Very Low	Non-Deed Restricted	0	
Low	Deed Restricted	0	
Low	Non-Deed Restricted	0	
Madayata	Deed Restricted	0	
Moderate	Non-Deed Restricted	10	
Above Moderate		460	
Total Units		470	

Note: Units serving extremely low-income households are included in the very low-income permitted units totals

Housing Applications Summary			
Total Housing Applications Submitted:	381		
Number of Proposed Units in All Applications Received:	813		
Total Housing Units Approved:	789		
Total Housing Units Disapproved:	0		

Use of SB 35 Streamlining Provisions		
Number of Applications for Streamlining	0	
Number of Streamlining Applications Approved	0	
Total Developments Approved with Streamlining	0	
Total Units Constructed with Streamlining	0	

Units Constructed - SB 35 Streamlining Permits					
Income Rental Ownership Total					
Very Low	0	0	0		
Low	0	0	0		
Moderate	0	0	0		
Above Moderate	0	0	0		
Total	0	0	0		

Cells in grey contain auto-calculation formulas

Jurisdiction	Tracy	
Reporting Year	2020	(Jan. 1 - Dec. 31)

## ANNUAL ELEMENT PROGRESS REPORT Local Early Action Planning (LEAP) Reporting

(CCR Title 25 §6202)

Please update the status of the proposed uses listed in the entity's application for funding and the corresponding impact on housing within the region or jurisdiction, as applicable, categorized based on the eligible uses specified in Section 50515.02 or 50515.03, as applicable.

Total Award Amount	\$		- Total award amount is auto-populated based on amounts entered in rows 15-26.		
Task	\$ Amount Awarded	\$ Cumulative Reimbursement Requested	Task Status	Other Funding	Notes
					1

Summary of entitlements, building permits, and certificates of occupancy (auto-populated from Table A2)

Completed Entitlement Issued by Affordability Summary			
Income Level	Current Year		
Deed Restricted		0	
Very Low	Non-Deed Restricted	0	
1 200	Deed Restricted	0	
Low	Non-Deed Restricted	0	
Deed Restricted		0	
Moderate	Non-Deed Restricted	0	
Above Moderate	905		
Total Units		905	

Building Permits Issued by Affordability Summary				
Income Leve	Current Year			
Very Low	Deed Restricted	0		
Very Low	Non-Deed Restricted	0		
Law	Deed Restricted	0		
Low	Non-Deed Restricted	0		
Madarata	Deed Restricted	0		
Moderate	Non-Deed Restricted	10		
Above Moderate		460		
Total Units		470		

Certificate of Occupancy Issued by Affordability Summary			
Income Level	Current Year		
Very Levy	Deed Restricted		
Very Low	Non-Deed Restricted	0	
Law	Deed Restricted	0	
Low	Non-Deed Restricted	0	
Madazata	Deed Restricted	0	
Moderate	Non-Deed Restricted	9	
Above Moderate		662	
Total Units		671	

Jurisdiction Tracy (Jan. 1 - Dec. 31) 2020 Reporting Year

## ANNUAL ELEMENT PROGRESS REPORT **Housing Element Implementation**

Note: "+" indicates an optional field Cells in grey contain auto-calculation formulas

(CCR Title 25 §6202)

## Table A

Housing	Develo	pment A	pplications	Submitted
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							Housi	ng Develo	pment Apı	olications	Submitted	t							
		Project Identif	ier		Unit Tyր	pes	Date Application Submitted		Pr	oposed Un	its - Affordal	oility by Ho	usehold Ind		Total Approved Units by Project	Total Disapproved Units by Project	Streamlining	Notes	
		1			2	3	4				5				6	7	8	9	10
Prior APN <sup>+</sup>	Current APN	Street Address	Project Name <sup>⁺</sup>	Local Jurisdiction Tracking ID <sup>+</sup>	Unit Category (SFA,SFD,2 to 4,5+,ADU,MH)	Tenure R=Renter O=Owner	Date Application Submitted (see instructions)	Very Low- Income Deed Restricted		Low-Income Deed Restricted	Low-Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income	Total <u>PROPOSED</u> Units by Project	APPROVED	Total <u>DISAPPROVED</u> Units by Project	Was <u>APPLICATION</u> <u>SUBMITTED</u> Pursuant to GC 65913.4(b)? (SB 35 Streamlining)	Notes <sup>+</sup>
Summary Row: S	tart Data Entry Belo							0	0	0	0	0	16	797	813	789	0	0	
	23805020	2480 BYRON			2 to 4	R								4	4			No	
	23805020 24633050	2480 BYRON		D20-0021 D20-0005, TSM19-0003	5+ SFD	R								5	5	13		No	
	25310015 & 25310023	n/a n/a	-	t D20-0005, TSM19-0003	SFD	0	1							214		_		No No	
	25337013		Tracy Hills Phase 1A, Village		SFD									132				No	
	25349001	6138 GRANVILLE	7C Tracy Hills Phase 1A, Village	D20-0011	SFD	C	7/14/2020 3/16/2020			-				70		70		No	
	24210008	1650 SMOKEY LN	6A (Shea Homes)		ADU	0	<del> </del>						1	-	1	1		No	
	24208004		126SQFT LAUNDRY ROOM 391 SQ FT DETACHED ADU	1			3/4/2020						<u> </u>						
	24208004	416 DARLENE LN			ADU SFD	0	3/4/2020						1	1	1	1		No No	Assumption was made
			FAMILY DWELLING												'	'			about tenure due to lack of response from permit applicant.
	23344040	310 E TWENTIETH ST	59 SQ' ADDITION OF 1/2 BATH & GARAGE W/493 SQ'ADU ABOVE	3	ADU	O	3/6/2020						1		1	1		No	
	23543027	2 E SOUTH ST	3,326 SQ FT SFD AND 1,198 SQ FT ADU	RES20-0382	SFD	O	3/18/2020							1	1			No	
	23543027	2 E SOUTH ST	3,326 SQ FT SFD AND 1,198 SQ FT ADU	RES20-0382	ADU	0	3/18/2020						1		1			No	
	21439021	2712 HOLLY UNIT E		RES20-0480	SFD	R	4/2/2020						1		1	1		No	
	24604008	1245 CONSTITUTION	NEW ADU 640SQFT & 667SQFT GARGAE		ADU	C	4/9/2020						1		1			No	
	24032060	1318 HAMLET	SPLIT (E) RESIDENCE INTO 651 SQ FT ADU	RES20-0686	ADU	C	6/2/2020						1		1	1		No	
	23308321	1425 N PARKER AV		RES20-0718	ADU	О	6/9/2020						1		1			No	
	25227005	ST	490SQFT ADU MOTHER IN LAW UNIT	RES20-1006	ADU		7/29/2020						1		1				Appilcant has changed their mind as of 2021 and will no longer be building an ADU.
	23306410		NEW DETACHED 495SQFT ADU	RES20-1162	7.20		8/31/2020						1		1			No	
	23305219	553 W EMERSON AV	ADU	RES20-1169	ADU		9/1/2020						1		1			No	
	23221029	1411 MCDERMOTT CT	CONVERT EXIST 2-CAR GARAGE TO ADU & REMODEL LAUNDRY TO BATH	k )	ADU	C	12/22/2020						1		1			No	
	23331201	1904 N HOLLY DR	CODE CASE: CONVERT GARAGE TO ADU (APPROX 400SQ')		ADU	C	12/31/2020						1		1				Assumption was made about tenure due to lack of response from permit applicant.
	24027015	1336 PERRY CT	341SQFT ADU		ADU	O	9/3/2020						1		1				Assumption was made about tenure due to lack of response from permit applicant.
	24041034	949 MASON CT	441SQFT GARAGECONVERSION TO ADU	RES20-1288	ADU	R	9/16/2020						1		1			No	
	23429045	100 HICKORY AV	ADDITION OF 363SQ' 2- STORY ADU ATTACHED TO EXISTING SFD		ADU	O	11/24/2020						1		1			No	
	n/a	4205 BONSAI AV	BROOKVIEW WEST PLAN 5A, 2476SQFT- 2016 CBC	RES20-0541	SFD	0	4/23/2020							1	1			No	
	n/a	4285 BONSAI AV	BROOKVIEW WEST PLAN 3A, 2202SQFT- 2016 CBC	RES20-0542	5. 2	C	4/23/2020							1	1	1		No	
	n/a	1183 DAVID SENFT LANE	ELISSAGARAY/PLAN4D/3531 SQ/LOT 16		SFD	C	7/27/2020							1	1	1		No	

		Project Identifi	ier		Unit Ty	pes	Date Application Submitted		Pro	oposed Uni	ts - Affordal	bility by Ho	usehold Inc	omes	Proposed Units - Affordability by Household Incomes										
		1			2	3	4				5				6	7	8	9	10						
Prior APN <sup>+</sup>	Current APN	Street Address	Project Name <sup>⁺</sup>	Local Jurisdiction Tracking ID <sup>+</sup>	Unit Category (SFA,SFD,2 to 4,5+,ADU,MH)	Tenure R=Renter O=Owner	Date Application Submitted (see instructions)	Income Deed	Very Low- icome Non Deed Restricted	Low-Income Deed Restricted	Low-Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income			Total <u>DISAPPROVED</u> Units by Project	Was APPLICATION SUBMITTED Pursuant to GC 65913.4(b)? (SB 35 Streamlining)	Notes⁺						
	n/a	2000 11011111101011	ZEPHYR/PLAN 4D/2594 SQ	RES20-0983	SFD	0	7/27/2020							1	1	1		No							
	n/a		ZEPHYR/PLAN 3C/2510 SQ	RES20-0984	SFD	0	7/27/2020							1	1	1		No							
	n/a		FT ZEPHYR/PLAN 2D/2197 SQ	RES20-0986	SFD	0	7/27/2020							1	1	1		No							
	n/a	DRIVE LOT 210 2630 ELLIS TOWN	FT STANFORD/PLAN 2C/2727	RES20-0988	SFD	0	7/27/2020							1	1	1		No							
	n/a	DRIVE 2619 CORDELIA LANE	SQ FT STANFORD/PLAN 3B/2945	RES20-0990	SFD		7/27/2020							1	1	1		No							
	n/a		SQ FT ELISSAGARAY/PLAN4B/3528	-	SFD		9/2/2020							1		· 1		No							
	n/a	LANE LOT 17	SQ/LOT 17 ELISSAGARAY/PLAN2C/2654	,	SFD		9/2/2020								1	1									
	11/a	LANE LOT 18	SQ/LOT 18 ELISSAGARAY/PLAN1A/2405	3												<u> </u>		No							
	n/a	LANE LOT 19	SQ/LOT 19		SFD									1	1	1		No							
	n/a	LANE LOT 20	ELISSAGARAY/PLAN2A/2662 SQ/LOT 20		SFD									1	1	1		No							
	n/a	LANE LOT 21	ELISSAGARAY/PLAN4D/3530 SQ/LOT 21	RES20-1182	SFD	0	9/2/2020							1	1	1		No							
	n/a	1123 DAVID SENFT LANE LOT 22	ELISSAGARAY/PLAN2D/2662 SQ/LOT 22	RES20-1183	SFD	0	9/2/2020							1	1	1		No							
	n/a		ELISSAGARAY/PLAN2C/2662 SQ/LOT 23	RES20-1184	SFD	0	9/2/2020							1	1	1		No							
	n/a		ELISSAGARAY/PLAN4C/3531 SQ/LOT 24	RES20-1185	SFD	0	9/2/2020							1	1	1		No	_						
	n/a	1102 DAVID SENFT	ELISSAGARAY/PLAN2A/2662	RES20-1186	SFD	0	9/2/2020							1	1	1		No							
	n/a		SQ/LOT 25 ELISSAGARAY/PLAN4B/3531	RES20-1187	SFD	0	9/2/2020							1	1	1		No							
	n/a		SQ/LOT 26 ELISSAGARAY/PLAN3C/3524	RES20-1188	SFD	0	9/2/2020							1	1	1		No							
	n/a	LANE LOT 27 1132 DAVID SENFT	SQ/LOT 27 ELISSAGARAY/PLAN1B/2405	RES20-1189	SFD		9/2/2020							1	1	1		No							
	n/a	LANE LOT 28	SQ/LOT 28 ELISSAGARAY/PLAN1C/2405	RES20-1190	SFD										1			No							
	n/a	LANE LOT 29	SQ/LOT 29 ELISSAGARAY/PLAN3A/3524												1	1									
	n/a	LANE LOT 30	SQ/LOT 30		SFD										1	1		No							
	n/a	LANE LOT 31	ELISSAGARAY/PLAN4C/3531 SQ/LOT 31	ıl I	SFD									1	1	1		No							
	n/a	LANE LOT 32	ELISSAGARAY/PLAN1B/2405 SQ/LOT 32	2	SFD									1	1	1		No							
	n/a	1151 DOMINIQUE DRIVE LOT 42	ELISSAGARAY/PLAN4D/3530 SQ/LOT 42	RES20-1194	SFD	0	9/2/2020							1	1	1		No							
	n/a		ELISSAGARAY/PLAN1C/2405 SQ/LOT 43	RES20-1195	SFD	0	9/2/2020							1	1	1		No							
	n/a	1131 DOMINIQUE	ELISSAGARAY/PLAN1A/2405	RES20-1196	SFD	0	9/2/2020							1	1	1		No							
	n/a		SQ/LOT 44 ZEPHYR/PLAN 2A/2197 SQ	RES20-1218	SFD	0	8/31/2020			+				1	1	1		No							
	n/a		FT ZEPHYR/PLAN 4D/2594 SQ	RES20-1219	SFD	0	8/31/2020	<del>                                     </del>						1	1	1		No							
	n/a	DRIVE LOT 207 2610 ELLIS TOWN	FT STANFORD/PLAN 2B/3194	RES20-1221	SFD	0	8/31/2020	<del>                                     </del>						1	1	1		No							
	25303713	DRIVE LOT 8 n/a	SQ FT VILLAGE 7C LOT 6- PLAN 3- PARTIAL PLUMBING	RES20-1685	SFD	0	11/3/2020							1	1	1		No a	address not yet assigned or homes in Village 7C						
	25303713	n/a	VILLAGE 7C LOT 7- PLAN 2R		SFD	0	11/3/2020							1	1	1		l No	project area.						
	25303713		PARTIAL PLUMBING FEE VILLAGE 7C LOT 9- PLAN 1R		SFD		11/3/2020							1	1	1		No							
	25303713		PARTIAL PLUMBING FEE VILLAGE 7C LOT 8- PLAN 3-		SFD		11/3/2020								1	1		No							
	25303713		PARTIAL PLUMBING FEE VILLAGE 7C LOT 10- PLAN 2-													1									
			PARTIAL PLUMBING FEE		SFD										1	1		No							
	25303713		VILLAGE 7C LOT 11- PLAN 3- PARTIAL PLUMBING FEE		SFD		11/3/2020							1	1	1		No							
	25303713		VILLAGE 7C LOT 12- PLAN 2R- PARTIAL PLUMBING FEE		SFD		,							1	1			No							
	25303713		VILLAGE 7C LOT 13- PLAN 1R- PARTIAL PLUMBING FEE		SFD		11/3/2020							1	1	1		No							
	25303713		VILLAGE 7C LOT 14- PLAN 2- PARTIAL PLUMBING FEE		SFD									1	1	1		No							
	25303713		VILLAGE 7C LOT 17- PLAN 2R- PARTIAL PLUMBING FEE	RES20-1700	SFD	0								1	1	1		No							
	25303713	n/a	VILLAGE 7C LOT 18- PLAN 3- PARTIAL PLUMBING FEE		SFD	0	11/3/2020							1	1	1		No							

		Project Identif	ïer		Unit Ty	pes	Date Application Submitted		Pr	oposed Un	its - Affordal	bility by Ho	usehold Inc	comes		Total Approved Units by Project	Total Disapproved Units by Project	Streamlining	Notes
Prior APN <sup>+</sup>	Current APN	1 Street Address	Project Name <sup>⁺</sup>	Local Jurisdiction Tracking ID <sup>+</sup>	Unit Category (SFA,SFD,2 to 4,5+,ADU,MH)	Tenure R=Renter O=Owner	Date Application Submitted (see instructions)	Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low-Income Deed Restricted	Low-Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income	Total <u>PROPOSED</u> Units by Project	APPROVED	Total DISAPPROVED Units by Project	9 Was APPLICATION SUBMITTED Pursuant to GC 65913.4(b)? (SB 35 Streamlining)	10 Notes <sup>+</sup>
	25303713	n/a	VILLAGE 7C LOT 19- PLAN 1R- PARTIAL PLUMBING FEE	RES20-1702	SFD	C	11/3/2020							1	1	1		No	
	25303713	n/a	VILLAGE 7C LOT 20- PLAN 2-	RES20-1703	SFD	О	11/3/2020							1	1	1		No	
	25303713	n/a	PARTIAL PLUMBING FEE VILLAGE 7C LOT 21- PLAN 1R- PARTIAL PLUMBING FEE	RES20-1704	SFD	С	11/3/2020							1	1	1		No	
	25303713	n/a	VILLAGE 7C LOT 22- PLAN 3-	RES20-1705	SFD	0	11/3/2020							1	1	1		No	
	25303713		PARTIAL PLUMBING FEE VILLAGE 7C LOT 23- PLAN	RES20-1706	SFD	С	11/3/2020			<del>                                     </del>				1	1	1		No	
	0500740		2R- PARTIAL PLUMBING FEE	RES20-1707	25-	_	44/0/0000												
	25303713		VILLAGE 7C LOT 24- PLAN 3- PARTIAL PLUMBING FEE VILLAGE 7C LOT 25- PLAN		SFD					1				1	1	1		No	
	25303713	n/a	1R- PARTIAL PLUMBING FEE	RE520-1708	SFD		11/3/2020							1	1	1		No	
	25303713	n/a	VILLAGE 7C LOT 26- PLAN 2- PARTIAL PLUMBING FEE	RES20-1709	SFD	С	11/3/2020							1	1	1		No	
	25303713	n/a	VILLAGE 7C LOT 27- PLAN 1R- PARTIAL PLUMBING FEE	RES20-1710	SFD	С	11/3/2020							1	1	1		No	
	25303713	n/a	VILLAGE 7C LOT 28- PLAN 3- PARTIAL PLUMBING FEE	RES20-1711	SFD	О	11/3/2020							1	1	1		No	
	25303713	n/a	VILLAGE 7C LOT 29- PLAN 3- PARTIAL PLUMBING FEE	RES20-1712	SFD	0	11/3/2020							1	1	1		No	
	25303713	n/a	VILLAGE 7C LOT 30- PLAN 1R- PARTIAL PLUMBING FEE		SFD	С	11/3/2020							1	1	1		No	
	25303713	n/a	VILLAGE 7C LOT 31- PLAN 3- PARTIAL PLUMBING FEE	RES20-1714	SFD	С	11/3/2020							1	1	1		No	
	25303713	n/a	VILLAGE 7C LOT 32- PLAN 1R- PARTIAL PLUMBING FEE	RES20-1715	SFD	O	11/3/2020							1	1	1		No	
	25303713	n/a	VILLAGE 7C LOT 33- PLAN 2- PARTIAL PLUMBING FEE	RES20-1716	SFD	С	11/3/2020							1	1	1		No	
	25303713	n/a	VILLAGE 7C LOT 34- PLAN 1R- PARTIAL PLUMBING FEE	RES20-1717	SFD	С	11/3/2020							1	1	1		No	
	25303713	n/a	VILLAGE 7C LOT 35- PLAN 3- PARTIAL PLUMBING FEE		SFD	С	11/3/2020							1	1	1		No	
	25303713		VILLAGE 7C LOT 36- PLAN 2R- PARTIAL PLUMBING FEE		SFD	O	11/3/2020							1	1	1		No	
	25303713	n/a	VILLAGE 7C LOT 37- PLAN 3- PARTIAL PLUMBING FEE		SFD	О	11/3/2020							1	1	1		No	
	25303713	n/a	VILLAGE 7C LOT 38- PLAN 1R- PARTIAL PLUMBING FEE		SFD	O	11/3/2020							1	1	1		No	
	25303713	n/a	VILLAGE 7C LOT 39- PLAN 2- PARTIAL PLUMBING FEE		SFD	О	11/3/2020							1	1	1		No	
	25303713	n/a	VILLAGE 7C LOT 40- PLAN 1R- PARTIAL PLUMBING FEE	RES20-1723	SFD	0	11/3/2020							1	1	1		No	
	25303713	n/a	VILLAGE 7C LOT 41- PLAN 3- PARTIAL PLUMBING FEE	RES20-1724	SFD	О	11/3/2020							1	1	1		No	
	25303713	n/a	VILLAGE 7C LOT 42- PLAN 2R- PARTIAL PLUMBING FEE	RES20-1725	SFD	O	11/3/2020							1	1	1		No	
	25303713	n/a	VILLAGE 7C LOT 43- PLAN 3- PARTIAL PLUMBING FEE	RES20-1726	SFD	О	11/3/2020							1	1	1		No	
	25303713	n/a			SFD	C	11/3/2020							1	1	1		No	
	25303713	n/a	VILLAGE 7C LOT 45- PLAN 3-		SFD	С	11/3/2020							1	1	1		No	
	25303713	n/a	PARTIAL PLUMBING FEE VILLAGE 7C LOT 46- PLAN 1R- PARTIAL PLUMBING FEE	RES20-1729	SFD	С	11/3/2020							1	1	1		No	
	25303713	n/a	VILLAGE 7C LOT 47- PLAN 2- PARTIAL PLUMBING FEE		0. 5	C	11/3/2020							1	1	1		No	
	25303713	n/a	VILLAGE 7C LOT 48- PLAN 1R- PARTIAL PLUMBING FEE	RES20-1731	SFD	C	11/3/2020							1	1	1		No	
	25303713	n/a	VILLAGE 7C LOT 49- PLAN 3- PARTIAL PLUMBING FEE		SFD	С	11/3/2020							1	1	1		No	
	25303713	n/a	VILLAGE 7C LOT 50- PLAN 2R- PARTIAL PLUMBING FEE	RES20-1733	SFD	O	11/3/2020							1	1	1		No	
	25303713	n/a	VILLAGE 7C LOT 51- PLAN 2- PARTIAL PLUMBING FEE		SFD	С	11/3/2020							1	1	1		No	

		Project Identif		Unit Ty	pes	Date Application Submitted		Pr	oposed Un	its - Affordal	bility by Ho		Total Approved Units by Project	Total Disapproved Units by Project	Streamlining	Notes			
Prior APN <sup>+</sup>	Current APN	1 Street Address	Project Name <sup>+</sup>	Local Jurisdiction Tracking ID <sup>†</sup>	Unit Category (SFA,SFD,2 to 4,5+,ADU,MH)	Tenure R=Renter O=Owner	Date Application Submitted (see instructions)	Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low-Income Deed Restricted	Low-Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income	Total <u>PROPOSED</u> Units by Project	APPROVED	Total DISAPPROVED Units by Project	Was APPLICATION SUBMITTED Pursuant to GC 65913.4(b)? (SB 35 Streamlining)	10 Notes <sup>+</sup>
	25310023	n/a	KT PROJECT LOT 128 PLAN 1- PARTIAL PLUMBING FEE		SFD	C	11/4/2020							1	1	1			address not yet assigned for homes in KT project area.
	25310023		KT PROJECT LOT 126 PLAN 2R- PARTIAL PLUMBING FEE											1	1	1		No	
	25310023		KT PROJECT LOT 127 PLAN 3R- PARTIAL PLUMBING FEE											1	1	1		No	
	25310023	n/a	KT PROJECT LOT 136 PLAN 4- PARTIAL PLUMBING FEE		SFD	C	11/4/2020							1	1	1		No	
	25310023	n/a	KT PROJECT LOT 129 PLAN 1- PARTIAL PLUMBING FEE	RES20-1746	SFD	С	11/4/2020							1	1	1		No	
	25310023		KT PROJECT LOT 130 PLAN 3R- PARTIAL PLUMBING FEE	RES20-1747	SFD	С	11/4/2020							1	1	1		No	
	25310023	n/a	KT PROJECT LOT 131 PLAN		SFD	С	11/4/2020							1	1	1		No	
	25310023	n/a	1- PARTIAL PLUMBING FEE KT PROJECT LOT 132 PLAN	RES20-1749	SFD	C	11/4/2020							1	1	1		No	
	25310023	n/a	2- PARTIAL PLUMBING FEE KT PROJECT LOT 133 PLAN			_	11/4/2020							1					
	25310023		2R- PARTIAL PLUMBING FEE		SFD		11/4/2020							'	1	1		No No	
	25310023		3R- PARTIAL PLUMBING FEE		SFD									'	1	'		No	
			1- PARTIAL PLUMBING FEE	<u> </u>										<u> </u>	1	<u> </u>			
	25310015		KT PROJECT LOT 137 PLAN 2R- PARTIAL PLUMBING FEE		SFD									1	1	1		No	
	25310015		KT PROJECT LOT 138 PLAN 4- PARTIAL PLUMBING FEE	<u> </u>	;	_	<u> </u>							1	1	1		No	
	25310015		KT PROJECT LOT 139 PLAN 4R- PARTIAL PLUMBING FEE		SFD	C	11/4/2020							1	1	1		No	
	25310015		KT PROJECT LOT 140 PLAN 2R- PARTIAL PLUMBING FEE				, 117 17 2020							1	1	1		No	
	25310015	n/a	KT PROJECT LOT 141 PLAN 4- PARTIAL PLUMBING FEE	RES20-1757	SFD	С	11/4/2020							1	1	1		No	
	25310015	n/a	KT PROJECT LOT 142 PLAN 2R- PARTIAL PLUMBING FEE	RES20-1758	SFD	C	11/4/2020							1	1	1		No	
	25310015	n/a	KT PROJECT LOT 143 PLAN		SFD	С	11/4/2020							1	1	1		No	
	25310015		4- PARTIAL PLUMBING FEE KT PROJECT LOT 144 PLAN 2R- PARTIAL PLUMBING FEE	RES20-1760	SFD	C	11/4/2020							1	1	1		No	
	25310015	n/a	KT PROJECT LOT 145 PLAN		SFD	C	11/4/2020				<u> </u>			1	1	1		No	
	25310015		4- PARTIAL PLUMBING FEE KT PROJECT LOT 146 PLAN 2R- PARTIAL PLUMBING FEE	RES20-1763	SFD		11/4/2020							1	1	1		No	
	25310015		KT PROJECT LOT 147 PLAN 3R- PARTIAL PLUMBING FEE		SFD	C	11/4/2020							1	1	1		No	
	25310015	n/a	KT PROJECT LOT 148 PLAN		SFD	С	11/4/2020							1	1	1	1	No	
	25310015	n/a	1- PARTIAL PLUMBING FEE KT PROJECT LOT 149 PLAN	RES20-1766	SFD		11/4/2020			-				1	1	1	<del> </del>	No	
			1- PARTIAL PLUMBING FEE KT PROJECT LOT 150 PLAN	<u> </u>			11/4/2020				<u> </u>			<del>                                     </del>		<u> </u>	1		
	25310015		3R- PARTIAL PLUMBING FEE											1	1	1		No	
	25310015		KT PROJECT LOT 151 PLAN 1- PARTIAL PLUMBING FEE		SFD	_	11/4/2020							1	1	1		No	
	25310015	n/a	KT PROJECT LOT 152 PLAN 2- PARTIAL PLUMBING FEE	RES20-1769	SFD	C	11/4/2020							1	1	1		No	
	25310015	n/a	KT PROJECT LOT 153 PLAN 2R- PARTIAL PLUMBING FEE	RES20-1770	SFD	С	11/4/2020							1	1	1		No	
	25310015		KT PROJECT LOT 154 PLAN 3R- PARTIAL PLUMBING FEE		SFD	С	11/4/2020							1	1	1		No	
	25310015	n/a	KT PROJECT LOT 155 PLAN		SFD	С	11/4/2020			1	<u> </u>			1	1	1		No	
	25310015	n/a	1- PARTIAL PLUMBING FEE KT PROJECT LOT 156 PLAN	RES20-1773	SFD	0	11/4/2020		<u> </u>	<del> </del>	<del> </del>			1	1	1	1	No	
	25310015	n/a	4- PARTIAL PLUMBING FEE KT PROJECT LOT 157 PLAN				11/4/2020							1	1		-	No	
	23310013		2R- PARTIAL PLUMBING FEE		350		,							'		'		INO	

	Project Identifier						Date Application Submitted		Pr	oposed Uni	its - Affordal	bility by Ho	usehold Inc	comes		Total Approved Units by Project	Total Disapproved Units by Project	Streamlining	Notes
Prior APN <sup>+</sup>	Current APN	1 Street Address	Project Name <sup>+</sup>	Local Jurisdiction Tracking ID <sup>+</sup>	Unit Category (SFA,SFD,2 to 4,5+,ADU,MH)	Tenure R=Renter O=Owner	Date Application Submitted (see instructions)	Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low-Income Deed Restricted	Low-Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income	Total <u>PROPOSED</u> Units by Project	APPROVED	Total DISAPPROVED Units by Project	Was APPLICATION SUBMITTED Pursuant to GC 65913.4(b)? (SB 35 Streamlining)	10 Notes <sup>+</sup>
	25310015	n/a	KT PROJECT LOT 158 PLAN	N RES20-1775	SFD	C	11/4/2020							1	1	1		No	
	25310015	n/a	4- PARTIAL PLUMBING FEE KT PROJECT LOT 159 PLAN	N RES20-1776	SFD	С	11/4/2020							1	1	1		No	
			4R- PARTIAL PLUMBING FEE																
	25310015		KT PROJECT LOT 160 PLAN 2R- PARTIAL PLUMBING FEE		SFD	С	11/4/2020							1	1	1		No	
	25310015	n/a	KT PROJECT LOT 161 PLAN 4R- PARTIAL PLUMBING FEE	N RES20-1778	SFD	С	11/4/2020							1	1	1		No	
	25310015		KT PROJECT LOT 162 PLAN 2R- PARTIAL PLUMBING FEE		SFD	C	11/4/2020							1	1	1		No	
	25310015	n/a	KT PROJECT LOT 163 PLAN	N RES20-1780	SFD	C	11/4/2020							1	1	1		No	
	25310015		4- PARTIAL PLUMBING FEE KT PROJECT LOT 164 PLAN	N RES20-1781			11/4/2020							1	1	1		No	
			2R- PARTIAL PLUMBING FEE																
	25310015		KT PROJECT LOT 165 PLAN 4- PARTIAL PLUMBING FEE	E	0. 2									1	1	1		No	
	25310015		KT PROJECT LOT 184 PLAN 2- PARTIAL PLUMBING FEE	E	5. 2		11/4/2020							1	1	1		No	
	25310015		KT PROJECT LOT 185 PLAN 1- PARTIAL PLUMBING FEE	Ε	SFD	С	11/4/2020							1	1	1		No	
	25310015		KT PROJECT LOT 186 PLAN 3R- PARTIAL PLUMBING FEE		SFD	С	11/4/2020							1	1	1		No	
	25310015		KT PROJECT LOT 189 PLAN 4R- PARTIAL PLUMBING FEE		SFD	C	11/4/2020							1	1	1		No	
	n/a	6416 CALLAWAY	MODEL ELAN LOT 27 PLAN	RES20-1787	SFD	C	11/4/2020							1	1	1		No	
	n/a	6406 CALLAWAY DRIVE	MODEL ELAN LOT 28 PLAN	RES20-1788	SFD	C	11/4/2020							1	1	1		No	
	n/a		MODEL ELAN LOT 29 PLAN	N RES20-1789	SFD	С	11/4/2020							1	1	1		No	
	n/a	6188 GRANVILLE STREET	ELAN LOT 6 PLAN 1A-R		SFD	С	11/4/2020							1	1	1		No	
	n/a	6198 GRANVILLE STREET	ELAN LOT 7 PLAN 2B	RES20-1794	SFD	С	11/4/2020							1	1	1		No	
	n/a	6208 GRANVILLE STREET	ELAN LOT 8 PLAN 3A	- RES20-1795	SFD	С	11/4/2020							1	1	1		No	
	n/a	6218 GRANVILLE STREET	ELAN LOT 9 PLAN 1B-R	RES20-1796	SFD	С	11/4/2020							1	1	1		No	
	n/a	6228 GRANVILLE STREET	ELAN LOT 10 PLAN 2A	- RES20-1797	SFD	С	11/4/2020							1	1	1		No	
	n/a	6238 GRANVILLE STREET	ELAN LOT 11 PLAN 1C	- RES20-1798	SFD	С	11/4/2020							1	1	1		No	
	n/a	6248 GRANVILLE	ELAN LOT 12 PLAN 3A-R	RES20-1799	SFD	С	11/4/2020							1	1	1		No	
	n/a	STREET 6258 GRANVILLE	ELAN LOT 13 PLAN 2C-R	RES20-1800	SFD	С	11/4/2020							1	1	1		No	
	n/a	STREET 6325 CALLAWAY	ELAN LOT 43 PLAN 1A	- RES20-1807	SFD	C	11/4/2020							1	1	1		No	
	n/a	DRIVE 6315 CALLAWAY	ELAN LOT 44 PLAN 3A	- RES20-1808	SFD	С	11/4/2020							1	1	1		No	
	n/a	DRIVE 6305 CALLAWAY	ELAN LOT 45 PLAN 2C-R	RES20-1809	SFD	C	11/4/2020							1	1	1		No	
	n/a	DRIVE 6295 CALLAWAY	ELAN LOT 46 PLAN 1B-F	RES20-1810	SFD	C	11/4/2020							1	1	1		No	
	n/a	DRIVE 2808 SASSER PLACE		A RES20-1812	SFD	C	11/4/2020							1	1	1		No	
	n/a	2777 TEAGARDEN			SFD	C	11/4/2020							1	1			No	
	n/a	PLACE 2787 TEAGARDEN	ELAN LOT 62 PLAN 3A	- RES20-1816	SFD	C	11/4/2020							1	1	1		No	
	n/a	PLACE 2797 SASSER PLACE	ELAN LOT 63 PLAN 2B-R	RES20-1817	SFD	C	11/4/2020							1	1	1		No	
	n/a	6375 CALLAWAY		RES20-1818	SFD	C	11/4/2020							1	1	1		No	
1	n/a	DRIVE 6365 CALLAWAY	ELAN LOT 39 PLAN 2B	RES20-1819	SFD	C	11/4/2020							1	1	1		No	
	n/a		ELAN LOT 40 PLAN 1C-R	RES20-1820	SFD	C	11/4/2020							1	1	1		No	
	n/a	DRIVE 6345 CALLAWAY	ELAN LOT41 PLAN 3B	RES20-1821	SFD	C	11/4/2020							1	1	1		No	
	n/a	STREET 6335 CALLAWAY	ELAN LOT42 PLANB-2F	R RES20-1822	SFD	C	11/4/2020							1	1	1		No	
	n/a		ELAN LOT 64 PLAN 1C-R	RES20-1823	SFD	C	11/4/2020							1	1	1		No	
			PARTIAL PLUMBING FEE			<u> </u>	<u> </u>	<u> </u>		<u> </u>		<u> </u>		<u> </u>		<u> </u>		110	

	Project Identifier				Unit Tyր	pes	Date Application Submitted		Proposed Units - Affordability by Household Incomes								Total Disapproved Units by Project	Streamlining	Notes
		1			2	3	4				5				6	7	8	9	10
Prior APN <sup>+</sup>	Current APN	Street Address	Project Name <sup>⁺</sup>	Local Jurisdiction Tracking ID <sup>+</sup>	Unit Category (SFA,SFD,2 to 4,5+,ADU,MH)	Tenure R=Renter O=Owner	Date Application Submitted (see instructions)	Very Low- Income Deed Restricted	I INCOMO NON	Low-Income Deed Restricted	Low-Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income	Total <u>PROPOSED</u> Units by Project	APPROVED	Total <u>DISAPPROVED</u> Units by Project	Was APPLICATION SUBMITTED Pursuant to GC 65913.4(b)? (SB 35 Streamlining)	Notes <sup>+</sup>
	n/a	2786 TEAGARDEN			SFD	0	11/4/2020							1	1	1		No	
	n/a	PLACE 2776 TEAGARDEN		RES20-1825	SFD	0	11/4/2020							1	1	1		No	
	n/a	PLACE 2765 DUNSMUIR	ELAN LOT 67 PLAN 1B-		SFD	0	11/4/2020							1	1	1		No	
	n/a	PLACE 2775 DUNSMUIR	ELAN LOT 68 PLAN 2C-	RES20-1827	SFD	0	11/4/2020							1	1	1		No	
	n/a	PLACE 2785 DUNSMUIR	ELAN LOT 69 PLAN 1A-		SFD	0	11/4/2020							1	1	1		No	
	n/a	PLACE 2795 DUNSMUIR		RES20-1829	SFD	0	11/4/2020							1	1	1		No	
	n/a	PLACE 6268 GRANVILLE	PARTIAL PLUMBING FEE ELAN LOT 14 PLAN 1B-		5. 2		11/4/2020					-		1	1	1		No	
	n/al	STREET 6278 GRANVILLE	PARTIAL PLUMBING FEE		SFD		11/4/2020							1	1	'		No	
	n/a	STREET 6288 GRANVILLE	PARTIAL PLUMBING FEE				11/4/2020							'	1	'		No	
	n/a	STREET 6298 GRANVILLE	PARTIAL PLUMBING FEE				11/4/2020							1	1	'		No	
	n/a	STREET 2623 CALLAWAY	PARTIAL PLUMBING FEE				11/4/2020							1	1	'			
	11/a	COURT												<u> </u>	'			No	
	II/a	2603 CALLAWAY  COURT	PARTIAL PLUMBING FEE		SFD	0	11/4/2020							1	1	1		No	
	n/a	2562 CALLAWAY  COURT	PARTIAL PLUMBING FEE			0	11/4/2020							1	1	1		No	
	n/a	2582 CALLAWAY COURT	PARTIAL PLUMBING FEE		0. 5	0	11/4/2020							1	1	1		No	
	n/a	2602 CALLAWAY COURT	PARTIAL PLUMBING FEE		5. 5	0	11/4/2020							1	1	1		No	
	n/a	2622 CALLAWAY COURT	PARTIAL PLUMBING FEE		0. 5	0	11/4/2020							1	1	1		No	
	n/a	6386 CALLAWAY DRIVE	PARTIAL PLUMBING FEE			0	11/4/2020							1	1	1		No	
	n/a	2794 DUNSMUIR PLACE	PARTIAL PLUMBING FEE		5. 2	0	11/4/2020							1	1	1		No	
	n/a	2784 DUNSMUIR COURT			SFD	0	11/4/2020							1	1	1		No	
	n/a	6257 GRANVILLE STREET			SFD	0	11/4/2020							1	1	1		No	
	n/a	6267 GRANVILLE STREET	ELAN LOT 34 PLAN 3B-R-	RES20-1844	SFD	0	11/4/2020							1	1	1		No	
	n/a	6277 GRANVILLE STREET	ELAN LOT 35 PLAN 2C-R	RES20-1845	SFD	0	11/4/2020							1	1	1		No	
	n/a	6425 CALLAWAY DRIVE		RES20-1846	SFD	0	11/4/2020							1	1	1		No	
	n/a	6415 CALLAWAY DRIVE	ELAN LOT 25 PLAN 2B-R -	RES20-1847	SFD	0	11/4/2020							1	1	1		No	
	n/a	6405 CALLAWAY DRIVE	ELAN LOT 26 PLAN 1B-	RES20-1848	SFD	0	11/4/2020							1	1	1		No	
	n/a	6395 CALLAWAY	ELAN LOT 36 PLAN 1C-R-	RES20-1849	SFD	0	11/4/2020							1	1	1		No	
	n/a	DRIVE 6385 CALLAWAY	ELAN LOT 37 PLAN 2A -	RES20-1850	SFD	0	11/4/2020							1	1	1		No	
	n/a		PARTIAL PLUMBING FEE ZEPHYR/PLAN 2A/2197 SQ	RES20-1862	SFD	0	11/5/2020							1	1	1		No	
	25310023	DRIVE LOT 177 n/a	FT KT PROJECT LOT 1 PLAN 1- PARTIAL PLUMBING FEE	RES20-2140	SFD	0	12/17/2020							1	1	1		No addre for he area.	ess not yet assigned omes in KT project
	25310023	n/a	KT PROJECT LOT 5 PLAN 1- PARTIAL PLUMBING FEE	RES20-2141	SFD	0	12/17/2020							1	1	1		No No	
	25310023	n/a	KT PROJECT LOT 9 PLAN 1- PARTIAL PLUMBING FEE	RES20-2142	SFD	0	12/17/2020							1	1	1		No	
	25310023	n/a	KT PROJECT LOT 120 PLAN	RES20-2143	SFD	0	12/17/2020							1	1	1		No	
	25310023	n/a	1- PARTIAL PLUMBING FEE KT PROJECT LOT 124 PLAN		SFD	0	12/17/2020							1	1	1		No	
	25310023		1- PARTIAL PLUMBING FEE KT PROJECT LOT 191 PLAN		SFD	0	12/17/2020							1	1	1		No	
	25310023		1- PARTIAL PLUMBING FEE KT PROJECT LOT 196 PLAN	RES20-2146	SFD	0	12/17/2020					<del> </del>		1	1	1		No	
	25310023	n/a	1- PARTIAL PLUMBING FEE KT PROJECT LOT 202 PLAN	RES20-2147	SFD	0	12/17/2020							1	1	1		No	
	25310023	n/a	1- PARTIAL PLUMBING FEE KT PROJECT LOT 208 PLAN	RES20-2148	SFD	0	12/17/2020							1	1	1		No	
	25310023	n/a	1- PARTIAL PLUMBING FEE KT PROJECT LOT 209 PLAN	RES20-2149		<u> </u>	12/17/2020					-	-	1	1	1		No	
			2R- PARTIAL PLUMBING FEE													<u> </u>			
	25310023	n/a	KT PROJECT LOT 209 PLAN 2- PARTIAL PLUMBING FEE		SFD	Ō	12/17/2020							1	1	1		No	

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	25310023	n/a	KT PROJECT LOT 205 PLAN 2R- PARTIAL PLUMBING FEE	RES20-2151	SFD	С	12/17/2020							1	1	1		No	
	25310023	n/a	KT PROJECT LOT 203 PLAN	RES20-2152	SFD	C	12/17/2020							1	1	1		No	
	25310023	n/a	2- PARTIAL PLUMBING FEE KT PROJECT LOT 201 PLAN 2R- PARTIAL PLUMBING FEE	RES20-2153	SFD	С	12/17/2020							1	1	1		No	
	25310023	n/a	KT PROJECT LOT 199 PLAN 2R- PARTIAL PLUMBING FEE	RES20-2154	SFD	C	12/17/2020							1	1	1		No	
	25310023		KT PROJECT LOT 197PLAN	RES20-2155	SFD	C	12/17/2020			<u> </u>				1	1	1		No	
	25310023	n/a	2- PARTIAL PLUMBING FEE KT PROJECT LOT 195 PLAN 2R- PARTIAL PLUMBING FEE	RES20-2156	SFD		1							1	1	1		No	
	25310023	n/a	KT PROJECT LOT 193 PLAN 2R- PARTIAL PLUMBING FEE	RES20-2157	SFD	C	12/17/2020							1	1	1		No	
	25310023		KT PROJECT LOT 121 PLAN 2R- PARTIAL PLUMBING FEE		SFD	C	12/17/2020							1	1	1		No	
	25310023	n/a	KT PROJECT LOT 6 PLAN 2R- PARTIAL PLUMBING FEE		SFD	C	12/17/2020							1	1	1		No	
	25310023	n/a	KT PROJECT LOT 2 PLAN 2R- PARTIAL PLUMBING FEE		SFD	C	12/17/2020							1	1	1		No	
	25310023	n/a	KT PROJECT LOT 4 PLAN 3R- PARTIAL PLUMBING FEE		SFD	C	12/17/2020							1	1	1		No	
	25310023		KT PROJECT LOT 8 PLAN 3R- PARTIAL PLUMBING FEE		SFD	C	12/17/2020							1	1	1		No	
	25310023		KT PROJECT LOT 10 PLAN 3R- PARTIAL PLUMBING FEE		SFD	C	12/17/2020							1	1	1		No	
	25310023		KT PROJECT LOT 123 PLAN 3R- PARTIAL PLUMBING FEE		SFD	C	12/17/2020							1	1	1		No	
	25310023		KT PROJECT LOT 190PLAN 3R- PARTIAL PLUMBING FEE		SFD	C	12/17/2020							1	1	1		No	
	25310023	n/a	KT PROJECT LOT 3 PLAN 4-		SFD	C	12/17/2020							1	1	1		No	
	25310023	n/a	PARTIAL PLUMBING FEE KT PROJECT LOT 7 PLAN 4-	RES20-2168	SFD	C	12/17/2020							1	1	1		No	
	25310023	n/a	PARTIAL PLUMBING FEE KT PROJECT LOT 122 PLAN	RES20-2169	SFD	С	12/17/2020							1	1	1		No	
	25310023	n/a	4- PARTIAL PLUMBING FEE KT PROJECT LOT 125 PLAN	RES20-2170	SFD	C	12/17/2020							1	1	1		No	
-	25310023		4- PARTIAL PLUMBING FEE KT PROJECT LOT 192 PLAN	RES20-2171	SFD		12/17/2020			1	-	+		1	1	1		No	
			4R- PARTIAL PLUMBING FEE													<u> </u>			
	25310023	n/a	KT PROJECT LOT 194 PLAN 4- PARTIAL PLUMBING FEE		SFD	С	12/17/2020							1	1	1		No	
	25310023		KT PROJECT LOT 198 PLAN 4R- PARTIAL PLUMBING FEE	RES20-2173	SFD	C	12/17/2020							1	1	1		No	
	25310023	n/a	KT PROJECT LOT 200 PLAN 4- PARTIAL PLUMBING FEE		SFD	С	12/17/2020							1	1	1		No	
	25310023		KT PROJECT LOT 204 PLAN 4R- PARTIAL PLUMBING FEE	RES20-2175	SFD	C	12/17/2020							1	1	1		No	
	25310023	n/a	KT PROJECT LOT 206 PLAN 4- PARTIAL PLUMBING FEE		SFD	C	12/17/2020							1	1	1		No	
	n/a		BERKSHIRE/PLAN 3D/3129		SFD	С	9/30/2020			1				1	1	1		No	
	n/a		BERKSHIRE/PLAN 2A/2979		SFD	C	9/30/2020			1			1	1	1	1		No	
	n/a	STREET LOT 109 2732 BREWER	BERKSHIRE/PLAN 3B/3129	RES20-1381						1				1	1	1		No	
	n/a	STREET LOT 110	SQ FT BERKSHIRE/PLAN 3B/3129	-						1				1	1	1		No	
	n/a	STREET LOT 117		-	;				-	1	-	-		<u>'</u>	1	'		No	
	n/a	STREET LOT 114		-										<u> </u>		<u> </u>		No	
	n/a	STREET LOT 111		-			9/30/2020									<u> </u>			
	.,,	STREET LOT 118		-			9/30/2020			1				1	1	1		No	
	n/a	STREET LOT 119			SFD		9/30/2020							1	1	<sup>1</sup>		No	

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		1			2	3	4				5				6	7	8	9	10
Prior APN <sup>+</sup>	Current APN	Street Address	Project Name <sup>⁺</sup>	Local Jurisdiction Tracking ID <sup>+</sup>	Unit Category (SFA,SFD,2 to 4,5+,ADU,MH)	Tenure R=Renter O=Owner	Date Application Submitted (see instructions)	Very Low- Income Deed Restricted		Low-Income Deed Restricted	Low-Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income	Total <u>PROPOSED</u> Units by Project	APPROVED	Total <u>DISAPPROVED</u> Units by Project	Was APPLICATION SUBMITTED Pursuant to GC 65913.4(b)? (SB 35 Streamlining)	Notes⁺
	n/a	2743 BREWER STREET LOT 120	BERKSHIRE/PLAN 3A/3129 SQ FT		SFD	0	9/30/2020							1	1	1		No	
	n/a	2702 BREWER STREET LOT 112			SFD	0	11/5/2020							1	1	1		No	
	n/a	2692 BREWER STREET LOT 113			SFD	0	11/5/2020							1	1	1		No	
	n/a		BERKSHIRE/PLAN 1A/2865 SQ FT	RES20-1871	SFD	0	11/5/2020							1	1	1		No	
	n/a	STREET LOT 116	BERKSHIRE/PLAN 4D/3613 SQ FT	Γ	SFD	0	11/5/2020							1	1	1		No	
		2708 CORDELIA LANE LOT 140	SQ FT	Γ	SFD	0	11/5/2020							1	1	1		No	
		2698 CORDELIA LANE LOT 141	SQ FT	Γ	SFD	0	11/5/2020							1	1	1		No	
	n/a	LOT 142	BERKSHIRE/PLAN 4C/2979 SQ FT BERKSHIRE/PLAN 2C/2979	9 RES20-1876	SFD	0	11/5/2020							1	1	1		No	
	n/a	2761 RIO GRANDE DRIVE LOT 101	SQ FT BERKSHIRE/PLAN 4D/3613	Γ	SFD	0	12/21/2020 12/21/2020							1	1	1		No	
	n/a	DRVE LOT 102 2781 RIO GRANDE	SQ FT	Γ	SFD SFD	0	12/21/2020							1	1	1		No	
	n/a	DRIVE LOT 103	SQ FT ELISSAGARAY/PLAN2/2662S	Γ	SFD	0	7/21/2020							'	1	1		No No	
	n/a	LANE		Q		0	8/31/2020							1	1	1		No	
	n/a	LOT 44		r			8/31/2020							1	1	1		No	
	n/a	DRIVE LOT 208 2649 NORTHINGTON	FT ZEPHYR/PLAN 4B/2594 SQ	г										1	1	1		No	_
	n/a	DRIVE LOT 175 2670 RIO GRANDE	ZEPHYR/PLAN 3B/2510 SQ	Γ RES20-1404	SFD	0	9/30/2020							1	1	1		No	
	n/a	DRIVE LOT 206 2650 RIO GRANDE	ZEPHYR/PLAN 1C/2002 SQ	RES20-1865	SFD		11/5/2020							1	1	1		No	
	n/a	DRIVE LOT 204 2609 NORTHINGTON	ZEPHYR/PLAN 1D/2002 SQ	RES20-2185	SFD	0	12/21/2020							1	1	1		No	
	n/a	DRIVE LOT 179 2620 ELLIS TOWN	STANFORD/PLAN 3A/3412		SFD	0	8/31/2020							1	1	1		No	
	24249047	DRIVE LOT 9 2486 MITS WY LOT 108	SQ FT SUNGOLD/PLAN 3D/2643SQ' W/CA ROOM	RES20-0281	SFD	0	2/26/2020							1	1	1		No	
	24249048	2496 MITS WY LOT 109	SUNGOLD/PLAN 1A/2190SQ' W/CA ROOM	r RES20-0282	SFD	0	2/26/2020							1	1	1		No	
	24249007	1607 BUTTERCUP LN LOT 68	SUNGOLD/PLAN 1C/2190SQ'	RES20-0418	SFD	0	3/31/2020							1	1	1		No	
	24249008		SUNGOLD/PLAN 4B/2888SQ'		SFD	0	3/31/2020							1	1	1		No	_
	24249009		SUNGOLD/PLAN 3A/2643SQ'	P RES20-0420	SFD	0	3/31/2020							1	1	1		No	
	24249010		SUNGOLD/PLAN 2D/2342SQ'	l' RES20-0421	SFD	0	3/31/2020							1	1	1		No	
		2468 SUNFLOWER LN LOT 72	SUNGOLD/PLAN 1C/2190SQ' W/CA ROOM	RES20-0422	SFD	0	3/31/2020							1	1	1		No	
		2488 SUNFLOWER LN LOT 73	SUNGOLD/PLAN 4B/2888SQ' W/CA ROOM	RES20-0423			3/31/2020							1	1	1		No	
		2498 SUNFLOWER LN LOT 74	SUNGOLD/PLAN 1A/2190SQ' W/CA ROOM	RES20-0424	SFD	0	3/31/2020							1	1	1		No	
		LOT 75		4	SFD	0	3/31/2020							1	1	1		No	
		LOT 76		4	SFD		3/31/2020							1	1	1		No	
		LOT 77		4	SFD		3/31/2020							1	1	1		No	_
		LOT 78		И	5. 5		3/31/2020							1	1	1		No	
		LOT 79		1	SFD		3/31/2020							1	1	1		No	
	24249019		SUNGOLD/PLAN 3B/2643SQ' W/CA ROOM SUNGOLD/PLAN 3C/2643SQ'	4			3/31/2020							1	1	1		No	
	24249023 24249020		SUNGOLD/PLAN 3C/2643SQ' W/CA ROOM SUNGOLD/PLAN 1E/2190SQ'	Л		0	3/31/2020 3/31/2020							1	1	1		No	
	24249020 24249021		SUNGOLD/PLAN 2A/2342SQ'	r RES20-0435	0, 5	0	3/31/2020							1 1	1	1 1		No No	
	24249022	1612 IVY LN LOT 83	W/CA ROOM SUNGOLD/PLAN 4B/2888SQ'	l' RES20-0436	SFD	0	3/31/2020							1	1	1		No	
	24249024	1632 IVY LN LOT 85	W/CA ROOM SUNGOLD/PLAN 4A/2888SQ'	l' RES20-0438	SFD	0	3/31/2020							1	1	1		No	
	24249025	1642 IVY LN LOT 86	W/CA ROOM SUNGOLD/PLAN 1E/2190SQ'	l' RES20-0439	SFD	0	3/31/2020							1	1	1		No	_
	24249026	1652 IVY LN LOT 87	W/CA ROOM SUNGOLD/PLAN 2A/2342SQ' W/CA ROOM	l' RES20-0440	SFD	0	3/31/2020							1	1	1		No	_

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	24249027	1662 IVY LN LOT 88	SUNGOLD/PLAN 3D/2643SQ		SFD	C	3/31/2020							1	1	1		No	
	24249028	1672 IVY LN LOT 89	W/CA ROOM SUNGOLD/PLAN 4B/2888SQ	Q' RES20-0442	SFD	C	3/31/2020	)						1	1	1		No	
	24249029	1671 IVY LN LOT 90	W/CA ROOM SUNGOLD/PLAN 3A/2643SQ	Q' RES20-0443	SFD	C	3/31/2020	)						1	1	1		No	
	24249030	1661 IVY LN LOT 91	W/CA ROOM SUNGOLD/PLAN 4C/2888SQ	Q' RES20-0444	SFD	C	3/31/2020	)						1	1	1		No	
	24249031	1651 IVY LN LOT 92	W/CA ROOM SUNGOLD/PLAN 1B/2190SQ	Q' RES20-0445	SFD	C	3/31/2020	)						1	1	1		No	
	24249032	1641 IVY LN LOT 93	W/CA ROOM SUNGOLD/PLAN 2C/2342SQ	Q' RES20-0446	SFD	C	3/31/2020							1	1	1		No	
	24249033	1640 FLORA WY LOT	W/CA ROOM SUNGOLD/PLAN 2A/2342SQ	Q' RES20-0447	SFD	C	3/31/2020	)						1	1	1		No	
	24249034	94 1650 FLORA WY LOT	W/CA ROOM SUNGOLD/PLAN 3B/2643SQ	Q' RES20-0448	SFD	C	3/31/2020							1	1	1		No	
	24249035	1660 FLORA WY LOT	W/CA ROOM SUNGOLD/PLAN 4A/2888SQ	Q' RES20-0449	SFD	C	3/31/2020							1	1	1		No	
	24249038	1669 FLORA WY LOT	W/CA ROOM SUNGOLD/PLAN 4D/2888SQ	Q' RES20-0450	SFD	C	3/31/2020							1	1	1		No	
	24249036	99 1670 FLORA WY LOT	W/CA ROOM SUNGOLD/PLAN 1C/2190SQ	Q' RES20-0451	SFD	C	3/31/2020	)						1	1	1		No	
	24249037	97 1679 FLORA WY LOT	W/CA ROOM SUNGOLD/PLAN 3A/2643SQ	Q' RES20-0452	SFD	C	3/31/2020	)						1	1	1		No	
	24249039	98 1659 FLORA WY LOT	W/CA ROOM SUNGOLD/PLAN 1E/2190SQ	Q' RES20-0453	SFD	C	3/31/2020	)						1	1	1		No	
	24249040	100 1649 FLORA WY LOT	W/CA ROOM SUNGOLD/PLAN 4C/2888SQ	Q' RES20-0455	SFD	C	3/31/2020	)						1	1	1		No	
	24249049	101 2526 MITS WY LOT 110	W/CA ROOM SUNGOLD/PLAN 2B/2342SQ	Q' RES20-0456	SFD	C	3/31/2020	)						1	1	1		No	
	24249050	2536 MITS WY LOT 111	W/CA ROOM SUNGOLD/PLAN 3D/2643SQ	Q' RES20-0457	SFD	C	3/31/2020	)						1	1	1		No	
	24249051	2546 MITS WY LOT 112	W/CA ROOM SUNGOLD/PLAN 2C/2342SQ	Q' RES20-0458	SFD	C	3/31/2020	)						1	1	1		No	
	24249052	2566 MITS WY LOT 113	W/CA ROOM SUNGOLD/PLAN 1B/2190SQ	Q' RES20-0459	SFD	C	3/31/2020	)						1	1	1		No	
	24249053	2586 MITS WY LOT 114	W/CA ROOM SUNGOLD/PLAN 2D/2342SQ	Q' RES20-0460	SFD	C	3/31/2020	)						1	1	1		No	
	24249054		W/CA ROOM SUNGOLD/PLAN 2B/2342SQ	Q' RES20-0461	SFD	C	3/31/2020	)						1	1	1		No	
	24249055		SUNGOLD/PLAN 2C/2342SQ	Q' RES20-0462	SFD	C	3/31/2020	)						1	1	1		No	
	24249056		SUNGOLD/PLAN 3A/2643SQ	Q' RES20-0463	SFD	C	3/31/2020	)						1	1	1		No	
	24249057		SUNGOLD/PLAN 1E/2190SQ	Q' RES20-0464	SFD	C	3/31/2020	)						1	1	1		No	
	24249058		SUNGOLD/PLAN 4D/2888SQ	Q' RES20-0465	SFD	C	3/31/2020	)						1	1	1		No	
	24249059		SUNGOLD/PLAN 2C/2342SQ	Q' RES20-0466	SFD	C	3/31/2020	)		1				1	1	1		No	
	24249060		SUNGOLD/PLAN 1B/2190SQ	Q' RES20-0467	SFD	C	3/31/2020	)						1	1	1		No	
	24249061		SUNGOLD/PLAN 3C/2643SQ	Q' RES20-0468	SFD	C	3/31/2020	)		1				1	1	1		No	
	24249062		SUNGOLD/PLAN 2B/2342SQ	Q' RES20-0469	SFD	С	3/31/2020			1				1	1	1		No	
	n/a		STANFORD/PLAN 3B/2945	5 RES20-1389	SFD	C	9/30/2020							1	1	1		No	
	n/a		STANFORD/PLAN 3B/2945	5 RES20-1395	SFD	С	9/30/2020			1				1	1	1		No	
	n/a	LOT 47 2560 ELLIS TOWN	STANFORD/PLAN 1C/2377	7 RES20-1390	SFD	С	9/30/2020	)		1				1	1	1		No	
	n/a		STANFORD/PLAN 3A/3412	2 RES20-1387	SFD	С	9/30/2020							1	1	1		No	
	n/a		STANFORD/PLAN 2A/2727	7 RES20-1388	SFD	С	9/30/2020	)		1				1	1	1		No	
	n/a	DRIVE LOT 3 2570 ELLIS TOWN	STANFORD/PLAN 2B/3194	4 RES20-1391	SFD	C	9/30/2020	)						1	1	1		No	
	n/a	DRIVE LOT 6 2600 ELLIS TOWN	STANFORD/PLAN 3A/2945	5 RES20-1392	SFD	C	9/30/2020	)						1	1	1		No	
	n/a		STANFORD/PLAN 3C/3412	2 RES20-1393			9/30/2020	)						1	1	1		No	
	n/a		STANFORD/PLAN 2A/2727	7 RES20-1394	SFD	C	9/30/2020	)						1	1	1		No	
	n/a		STANFORD/PLAN 3A/2945	5 RES20-1397	SFD	C	9/30/2020	)						1	1	1		No	
	n/a		STANFORD/PLAN 2B/2727	7 RES20-1399	SFD	C	9/30/2020	)						1	1	1		No	
	n/a		STANFORD/PLAN 3C/2945	5 RES20-1866	SFD	C	11/5/2020	)						1	1	1		No	
	n/a		STANFORD/PLAN 2B/3194	4 RES20-1867	SFD	C	11/5/2020	)						1	1	1		No	
	.,,	LOT 23			01 0		1 3,232							<u> </u>		<u> </u>		140	

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	n/a	2289 JESSICA WAY		RES20-1868	SFD	0	11/5/2020							1	1	1		No	
	n/a	LOT 24 2520 ELLIS TOWN DRIVE LOT 1		7 RES20-1386	SFD	0	9/30/2020							1	1	1		No	
	n/a	2559 CORDELIA LANE LOT 48		7 RES20-1396	SFD	0	9/30/2020							1	1	1		No	
	n/a		STANFORD/PLAN 2C/2727 SQ FT	RES20-0989	SFD	0	7/27/2020							1	1	1		No	
	n/a	2539 CORDELIA LANE LOT 50		RES20-1398	SFD	0	9/30/2020							1	1	1		No	
	n/a	2788 TOSTALINDA DRIVE LOT 2	FDN ONLY - VANTAGE/PLAN 5B-R/1729 SQ FT	-	SFD	0	3/23/2020							1	1	1		No	
	n/a	2798 TOSTALINDA DRIVE LOT 1	FDN ONLY -VANTAGE/PLAN 1C/2155SQ FT	<sup>-</sup>	SFD		9/11/2020							1	1	1		No	
	n/a	2748 TOSTALINDA DRIVE LOT 6	FDN ONLY - VANTAGE/PLAN 5A-R/1729 SQ FT	r I	SFD		9/11/2020							1	1	1		No	
	n/a	DRIVE LOT 8	FDN ONLY - VANTAGE/PLAN 5C-R/1729 SQ FT				9/11/2020							1	1	1		No	
	n/a	DRIVE LOT 9	FDN ONLY -VANTAGE/PLAN 1A/2155SQ FT	r I	SFD		9/11/2020							1	1	1		No	
	n/a	DRIVE LOT 10	FDN ONLY - VANTAGE/PLAN 4B-R/2648SQ FT	T	SFD		,							1	1	1		No	
	n/a	DRIVE LOT 12					9/11/2020							1	1	1		No	
	n/a	13	FDN ONLY - VANTAGE/PLAN 4B/2648SQ FT	Г			9/11/2020							1	1	1		No	_
	n/a	DRIVE LOT 33			SFD		9/11/2020							1	1	1		No	
		LOT34	FDN ONLY - VANTAGE/PLAN 5B-R/1729 SQ FT FDN ONLY - VANTAGE/PLAN											1	1	1		No	
	n/a	LOT 45					9/11/2020							1	1	1		No	
	n/a	DRIVE LOT 46		T	SFD		9/13/2020							'	1	1		No No	
	n/a	DRIVE LOT 138		r			9/13/2020							<u>'</u>	1	'		No	
	n/a	DRIVE LOT 139					9/13/2020							<u>'</u>	1	1		No	
	n/a	DRIVE LOT 140			SFD									1	1	1		No	
	n/a	PLACE LOT 142		r			9/13/2020							1	1	1		No	
	n/a	DRIVE LOT 143	1C-R/2155SQ FT FDN ONLY - VANTAGE/PLAN		SFD		9/13/2020							1	1	1		No	_
	n/a	DRIVE LOT 144 2889 TOSTALINDA	4A/2648SQ FT FDN ONLY - VANTAGE/PLAN	RES20-1258			9/13/2020							1	1	1		No	_
	n/a		FDN ONLY - VANTAGE/PLAN	RES20-1259			9/13/2020							1	1	1		No	
	n/a		FDN ONLY -VANTAGE/PLAN	RES20-1260			9/13/2020							1	1	1		No	
	n/a		FDN ONLY - VANTAGE/PLAN	RES20-1304	SFD	0	9/21/2020			1				1	1	1		No	
	n/a		FDN ONLY - VANTAGE/PLAN	RES20-1305	SFD	0	9/21/2020							1	1	1		No	
	n/a		FDN ONLY - VANTAGE/PLAN	RES20-1306	SFD	0	9/21/2020							1	1	1		No	
	n/a	DRIVE LOT 150 2979 TOSTALINDA DRIVE LOT 151	4A/2648SQ FT FDN ONLY -VANTAGE/PLAN	RES20-1307	SFD	0	9/21/2020							1	1	1		No	
	n/a		1B-R/2155SQ FT FDN ONLY - VANTAGE/PLAN 2C/2340SQ FT	RES20-1308	SFD	0	9/21/2020			1				1	1	1		No	
	n/a		FDN ONLY - VANTAGE/PLAN 5C-R/1729 SQ FT	RES20-1326	SFD	0	9/24/2020							1	1	1		No	
	n/a		FDN ONLY - VANTAGE/PLAN	RES20-1327	SFD	0	9/24/2020							1	1	1		No	
	n/a		FDN ONLY - VANTAGE/PLAN	RES20-1328	SFD	0	9/24/2020							1	1	1		No	
	n/a		FDN ONLY - VANTAGE/PLAN	RES20-1329	SFD	0	9/24/2020							1	1	1		No	_
	n/a		FDN ONLY - VANTAGE/PLAN	RES20-1330	SFD	0	9/24/2020							1	1	1		No	
	n/a	2948 TOSTALINDA DRIVE LOT 169	FDN ONLY - VANTAGE/PLAN 5A/1729 SQ FT	RES20-1331	;		9/24/2020							1	1	1		No	
	n/a	2938 TOSTALINDA DRIVE LOT 170	FDN ONLY - VANTAGE/PLAN 2C-R/2340SQ FT	RES20-1332	;									1	1	1		No	
	n/a	2928 TOSTALINDA DRIVE LOT 171	FDN ONLY - VANTAGE/PLAN 3A/2565SQ FT	RES20-1333			9/24/2020							1	1	1		No	
	n/a	DRIVE LOT 172		-	0.		9/24/2020							1	1	1		No	
	n/a	2908 TOSTALINDA DRIVE LOT 173	FDN ONLY -VANTAGE/PLAN 1C/2155SQ FT		SFD	0	9/24/2020							1	1	1		No	

Project Identifier  Unit Types Application Submitted									Pro	oposed Uni	its - Afforda	bility by Ho	Total Approved Units by Project	Total Disapproved Units by Project	Streamlining	Notes			
		1			2	3	4		5 6								8	9	10
Prior APN <sup>+</sup>	Current APN	Street Address	Project Name <sup>⁺</sup>	Local Jurisdiction Tracking ID <sup>+</sup>	Unit Category (SFA,SFD,2 to 4,5+,ADU,MH)	Tenure R=Renter O=Owner	Date Application Submitted (see instructions)	Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low-Income Deed Restricted	Low-Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income	Total <u>PROPOSED</u> Units by Project	APPROVED	Total <u>DISAPPROVED</u> t Units by Project	Was APPLICATION SUBMITTED Pursuant to GC 65913.4(b)? (SB 35 Streamlining)	Notes⁺
	n/a	2898 TOSTALINDA DRIVE LOT 174	FDN ONLY - VANTAGE/PLAN 5A-R/1729 SQ FT	RES20-1338	SFD	0	9/24/2020							1	1	1	1	No	
	n/a	2888 TOSTALINDA	FDN ONLY - VANTAGE/PLAN	RES20-1340	SFD	0	9/24/2020							1	1	1	1	No	
	n/a	DRIVE LOT 175 2878 TOSTALINDA	3C/2565SQ FT FDN ONLY - VANTAGE/PLAN	RES20-1341	SFD	0	9/24/2020							1	1	1	1	No	
	n/o	DRIVE LOT 176	5B-R/1729 SQ FT FDN ONLY - VANTAGE/PLAN			0	9/24/2020							,	'		<u>'                                     </u>		
	TI/A	DRIVE LOT 177	2A/2340SQ FT			U								1	1		l	No	
	n/a	2858 TOSTALINDA DRIVE LOT 178	FDN ONLY - VANTAGE/PLAN 3B-R/2565SQ FT		SFD	0	9/24/2020							1	1	1		No	
	n/a		FDN ONLY - VANTAGE/PLAN 5C/1729 SQ FT	RES20-1345	SFD	0	9/24/2020							1	1	1	1	No	
	n/a	2838 TOSTALINDA	FDN ONLY -VANTAGE/PLAN	RES20-1346	SFD	0	9/24/2020							1	1	1	1	No	
	n/a	DRIVE LOT 180 2828 TOSTALINDA	1A-R/2155SQ FT FDN ONLY - VANTAGE/PLAN	RES20-1347	SFD	0	9/24/2020							1	1	1	1	No	
	n/a	DRIVE LOT 181	2B/2340SQ FT FDN ONLY -VANTAGE/PLAN	RES20-1348		0	9/24/2020							1	1		1	No	
	11/4	DRIVE LOT 182	1A-R/2155SQ FT											<u>'</u>					
	n/a	2660 RIO GRANDE DRIVE LOT 205	ZEPHYR/PLAN 4A/2594 SQ FT	1		0	9/30/2020							1	1	1		No	
	n/a	2619 NORTHINGTON DRIVE LOT 178	ZEPHYR/PLAN 4C/2594 SQ FT	RES20-2184	SFD	0	12/21/2020							1	1	1	<u></u>	No	
	n/a	2620 RIO GRANDE	ZEPHYR/PLAN 4C/2594 SQ	RES20-2188	SFD	0	12/21/2020							1	1	1	1	No	
	n/a		ZEPHYR/PLAN 3D/2510 SQ	RES20-1861	SFD	0	11/5/2020							1	1	1	1	No	
	n/a	DRIVE LOT 176 2630 RIO GRANDE	FT ZEPHYR/PLAN 3D/2510 SQ	RES20-1863	SFD	0	11/5/2020							1	1	1	1	No	
		DRIVE LOT 202	FT			9								'	1		1		
	n/a	DRIVE LOT 203	ZEPHYR/PLAN 2B/2197 SQ FT			O	11/5/2020							1	1	1		No	
	n/a	2669 NORTHINGTON LOT 173	ZEPHYR/PLAN 3C/2510 SQ FT	RES20-1400	SFD	0	9/30/2020							1	1	1	1	No	
	n/a		ZEPHYR/PLAN 1A/2002 SQ	RES20-1401	SFD	0	9/30/2020							1	1	1	1	No	
	n/a	2599 NORTHINGTON	ZEPHYR/PLAN 3B/2510 SQ	RES20-2186	SFD	0	12/21/2020							1	1	1	1	No	
	n/a	DRIVE LOT 180 2610 RIO GRANDE DRIVE LOT 200	FT ZEPHYR/PLAN 3A/2510 SQ	RES20-2187	SFD	0	12/21/2020							1	1	1	1	No	



The matrix approach has its limitations. By itself, a matrix cannot answer questions about the zoning's compatibility with the objectives, policies, and programs of the general plan, nor can it answer questions about timing. A number of local governments use a checklist to evaluate the consistency of individual zoning proposals. The checklist repeats the major goals and policies of the general plan and rates the degree to which the proposed zoning conforms to each of them (e.g., "furthers," "deters," "no effect"). A point system that rates development projects by their level of consistency with the goals, objectives, and policies of the general plan is a similar approach.

#### **Subdivision Consistency**

Before a city or county may approve a subdivision map (including parcel maps) and its provisions for design and improvement, the city or county must find that the proposed subdivision map is consistent with the general plan and any applicable specific plans (Gov. Code § 66473.5). These findings can only be made when the local agency has officially adopted a general plan and the proposed subdivision is "compatible with the objectives, policies, general land uses and programs specified in such a plan" (Ibid.).

Government Code sections 66474 and 66474.61 require a city or county to deny approval of a tentative map if it makes either of the following findings: the proposed map is not consistent with applicable general and specific plans or the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

## **Enforcement and Remedies**

Any resident or property owner may sue to enforce the requirements for the adoption of an adequate general plan (58 Ops.Cal. Atty.Gen. 21 (1975)). The same is true for enforcing the requirements that zoning and subdivisions must be consistent with the general plan (Gov. Code §§ 65860(b), 66499.33). As the state's chief law enforcement officer, the Attorney General may do the same (58 Ops.Cal.Atty.Gen. 21; Cal. Const., art. V, § 13). Additionally, persons living outside a city have standing to sue if the city's zoning practices exclude them from residing in the city or raise their housing costs by adversely affecting the regional housing market (Stocks v. City of Irvine (1981) 114 Cal.App.3d 520).

The courts may impose various remedies for failure to have a complete and adequate general plan (Gov. Code §§ 65750, et seq.). One is a writ of mandate to compel a local government to adopt a legally adequate general plan. The courts also have general authority to issue an injunction to limit approvals of additional subdivision maps, parcel maps, rezonings, and public works projects or (under limited circumstances) the issuance of building permits pending adoption of a complete and adequate general plan (Id., 58 Ops.Cal.Atty.Gen. 21 (1975), Friends of "B" Street v. City of Hayward (1980) 106 Cal.App.3d 988, Camp v. Mendocino (1981) 123 Cal.App.3d 334). Where a court finds that specific zoning or subdivision actions or public works projects are inconsistent with the general plan, it may set aside such actions or projects. Under certain circumstances, the court may impose any of these forms of relief prior to a final judicial determination of a general plan's inadequacy (Gov. Code § 65757).

## Annual Progress Reports

After the general plan has been adopted, Government Code section 65400(a)(2)(A) requires the planning agency to provide an annual report to their legislative body, OPR, and HCD on the status of the plan and progress in its implementation. The report



must detail progress in meeting the jurisdiction's share of regional housing needs determined pursuant to Government Code section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to Government Code section 65583(c)(3) (Id. at § 65400(a)(2)(B)).

The annual progress report must be provided to the legislative body, OPR, and HCD on or before April 1 of each year. Jurisdictions must report on a calendar-year basis (January 1 through December 31). Jurisdictions are able to complete the housing element portion of the annual progress report online through the Department of Housing and Community Development's online portal. While there is a standard format for the housing element portion of the annual report, there is no standardized format for the preparation of the annual progress report for the rest of the general plan. The form and content of the report may vary based on the circumstances, resources, and constraints of each jurisdiction. This section is meant to provide general guidance to cities and counties in the preparation of their annual progress reports.

#### **Purpose of the Report**

- To provide enough information to allow local legislative bodies to assess how the general plan is being implemented in accordance with adopted goals, policies, and implementation measures.
- To provide enough information to identify necessary course adjustments or modifications to the general plan as a means to improve local implementation.
- To provide a clear correlation between land use decisions that have been made during the 12-month reporting period and the goals, policies, and implementation measures contained in the general plan.
- To provide information regarding local agency progress in meeting its share of regional housing needs and removing governmental constraints to the development of housing pursuant to Government Code section 65583(c)(3).

#### **Format of the Report (General)**

The following describes ways in which various cities and counties have organized and formatted their annual progress reports:

- Focus on individual policies and implementation measures: Provide a comprehensive listing of all general plan policies, including those which have been incorporated by reference, categorized by element, with a commentary on how each policy was implemented during the reporting period (i.e., a description of the activities underway or completed for implementation of each policy). This listing can most easily be accomplished by using a table format.
- Focus on development activities and projects approved: Provide comprehensive listing of all development applications that the planning agency received and processed with commentary on how the agency's actions on these development applications further the goals, policies, and/or implementation measures of the general plan. Link the major projects, including public projects, to the general plan using policy numbers or by element.
- Focus on general plan elements: Provide a general summary of each of the mandatory and optional elements of the general plan with a brief description of various actions taken by the agency (e.g., development application approvals, adoption of ordinances or plans, agency-initiated planning studies, etc.) that advanced specific goals and policies of each element.
- Broad annual report format: Incorporate the annual progress report into a broadly focused annual report on all of



the activities and programs of the jurisdiction, drawing upon data and sources such as an annual performance report on budgeting, processing of land use entitlements, redevelopment activities, housing construction, or other programs or "state of the city/county" reports.

#### **CONSISTENCY PROVISIONS IN STATE LAW AND LEGAL PRECEDENTS**

All statutory references are to the California Government Code unless otherwise noted.

#### **Agricultural Preserves**

- § 51234 requires that agricultural preserves established under the Williamson Act be consistent with the general plan.
- § 51282 requires a city or county, when approving a Williamson Act contract cancellation, to make a finding that the proposed alternate use is consistent with the general plan.

#### **Capital Improvements**

- §§ 65401 and 65402 require planning agencies to review and report on the consistency with the applicable general plan of proposed city, county, and special district capital projects, including land acquisition and disposal.
- § 65103(c) requires planning agencies to review annually their city or county capital improvement programs and other local agencies' public works projects for consistency with the general plan.
- Friends of B Street v. City of Hayward (1980) 106 Cal. App. 3d 988 held that a city's capital facilities projects must be consistent with the city's general plan.
- § 53090, et seq., require that most public works projects undertaken by special districts, including school districts, must be consistent with local zoning, which in turn must be consistent with the general plan. A school district board may render a zoning ordinance inapplicable with respect to school classroom facilities (§ 53094). A special district governing board may render the zoning ordinance inapplicable if it makes a finding after a public hearing that there is no feasible alternative to the project (§ 53096). State entities are an exception to this consistency requirement (Rapid Transit Advocates, Inc. v. Southern California Rapid Transit District (1986) 185 Cal.App.3d 996).

#### **Condominium Conversion**

• § 66427.2 requires that when the general plan contains objectives and policies addressing the conversion of rental units to condominiums, any conversion must be consistent with those objectives and policies.

#### **Development Agreements**

• § 65867.5 requires development agreements to be consistent with the general plan.



#### **Consistency Provisions in State Law and Legal Precedents, Continued**

#### **Housing Authority Projects**

• Health and Safety Code § 34326 declares that all housing projects undertaken by housing authorities are subject to local planning and zoning laws.

#### **Integrated Waste Management**

- Public Resources Code section 41701 states that if a county determines that the existing capacity of a solid waste facility will be exhausted within 15 years or if the county desires additional capacity, then the countywide siting element of the county's hazardous waste management plan must identify an area or areas, consistent with the applicable general plan, for the location of new solid waste transformation or disposal facilities or for the expansion of existing facilities.
- Public Resources Code section 41702 states that an area is consistent with the city or county general plan if:
  - 1. The city or county has adopted a general plan.
  - 2. The area reserved for the new or expanded facility is located in, or coextensive with, a land use area designated or authorized by the applicable general plan for solid waste facilities.
  - 3. The adjacent or nearby land use authorized by the applicable general plan is compatible with the establishment or expansion of the solid waste facility.

#### **On-Site Wastewater Disposal Zones**

• Health and Safety Code section 6965 requires a finding that the operation of an on-site wastewater disposal zone created under Health and Safety Code section 6950, et seq., will not result in land uses that are inconsistent with the applicable general plan.

#### **Park Dedications**

• § 66477 enables local governments to require as a condition of subdivision and parcel map approval the dedication of land or the payment of in lieu fees for parks and recreational purposes if the parks and recreational facilities are consistent with adopted general or specific plan policies and standards.

#### **Parking Authority Projects**

 Streets and Highway Code section 32503 specifies that parking authorities, in planning and locating any parking facility, are subject to the relationship of the facility to any officially adopted master plan or sections of such master plan for the development of the area in which the authority functions to the same extent as if it were a private entity.

#### **Planning Commission Recommendations**

• § 65855 requires that the planning commission's written recommendation to the legislative body on the adoption or amendment of a zoning ordinance include a report on the relationship of the proposed adoption or amendment to the general plan.



#### **Consistency Provisions in State Law and Legal Precedents, Continued**

#### Reservations of Land Within Subdivisions

• § 66479 specifies that reservations of land for parks, recreational facilities, fire stations, libraries, and other public uses within a subdivision must conform to the general plan.

#### **Special Housing Programs**

• Health and Safety Code section 50689.5 specifies that housing and housing programs developed under Health and Safety Code section 50680, et seq., for the developmentally disabled, mentally disordered, and physically disabled must be consistent with the housing element of the general plan.

#### **Specific Plans**

- § 65359 requires that a specific plan covering an area affected by a general plan amendment shall be reviewed and amended as necessary to make it consistent with the applicable general plan.
- § 65454 specifies that a specific plan may not be adopted or amended unless the proposed plan is consistent with the general plan.

#### **Format of the Report (Housing Element)**

In 2010, the State Department of Housing and Community Development adopted regulations on the preparation of the annual housing element progress report (Cal. Code Regs., tit. 25, §§ 6200, et seq.). All housing element progress reports must conform to these regulations. Forms, instructions, and a copy of the regulations can be found at the HCD's website at http://www.hcd.ca.gov/community-development/ housing-element/index.shtml. In general, the following information is required for housing element reporting:

- Listing of building permits issued for the calendar year by income category.
- Demonstration of the progress towards meeting the regional housing need.
- A description of the progress in implementation of the policies and programs in the housing element.
- A city or county that is the successor to a former redevelopment agency shall include financial and housing information specified at Health and Safety Code section 34176.1(f) in its annual report.

The report must be considered at an annual public meeting before the legislative body where members of the public may provide oral testimony and written comments.

#### **Contents of the Report**

Each jurisdiction should determine which locally relevant issues are important to include in the annual report. The following items may be useful in the annual progress report:

- Introduction.
- Table of contents.
- Date of presentation to and acceptance by the local legislative body.
- List of major agency-initiated planning activities that were initiated, in progress, or completed during the reporting period (i.e., master plans, specific plans, master environmental assessments, annexation studies, and other studies or plans carried out in support of specific general plan implementation measures). Include a brief comment on how each of these activities advances the goals, policies, and/or implementation measures contained in the general plan. Provide specific reference to individual elements where applicable.
- List each of the general plan amendments that have been processed, along with a brief description and the action taken (e.g., approval, denial, etc.). This listing should include agency-initiated as well as applicant-driven amendments.
- List each of the development applications that have been processed, along with a brief description, the action taken (e.g., approval, denial, etc.), and a brief comment on how each action furthers the goals, policies, and/or implementation measures of the general plan. Provide specific reference to individual elements where applicable.
- Identify significant projects built within jurisdiction but not approved by jurisdiction, such as large school facilities not approved by city or county, but affecting general plan.
- Identify priorities for land use decision-making that have been established by the local legislative body (e.g., passage of moratoria, emergency ordinances, development of community or specific plans, etc.).
- The annual progress report should identify goals, policies, objectives, standards, or other plan proposals that need to be added, deleted, amended, or otherwise adjusted.

#### **Submitting the Report to OPR and HCD**

Annual progress reports can be submitted to OPR in either electronic or paper format. Preference is for electronic reporting. If you wish to submit your annual report to OPR electronically, e-mail it to state.clearinghouse@opr.ca.gov. Word, Excel, PowerPoint or PDF are the only acceptable file formats. Printed copies of the annual report should be sent to Governor's Office of Planning and Research, State Clearinghouse and Planning Unit, P.O. Box 3044, Sacramento, CA 95812-3044.

A copy of the report must also be sent to the Department of Housing and Community Development via their online system, or printed copies to Division of Housing Policy Development, P.O. Box 952053, Sacramento, CA 94252-2053

#### **Coastal Act Compliance for those Jurisdictions Located in the Coastal Zone**

#### **CALIFORNIA COASTAL ACT**

The California Coastal Act of 1976 (Public Resources Code section 30000 et seq.) was enacted to "[p]rotect, maintain, and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources" (Id. at § 30001.5). The Coastal Act applies to the coastal zone, defined in section 30103(a) as a strip along the California coast



# HOUSING ELEMENT ANNUAL PROGRESS REPORT (APR) INSTRUCTIONS

#### INTRODUCTION

Government Code section 65400 requires that each city, county, or city and county, including charter cities, prepare an annual progress report (APR) on the status of the housing element of its general plan and progress in its implementation, using forms and definitions adopted by the California Department of Housing and Community Development (HCD). The following form is to be used for satisfying the reporting requirements of Government Code section 65400, subdivision (a)(2).

These forms and instructions, originally adopted March 27, 2010, have been updated to incorporate new housing element APR requirements pursuant to Chapter 374, Statutes of 2017 (Assembly Bill 879); Chapter 366, Statutes of 2017 (Senate Bill 35); Chapter 664, Statutes of 2019 (Assembly Bill 1486); Chapter 159, Statues of 2019 (Assembly Bill 101); Chapter 661, Statutes of 2020 (Assembly Bill 1255); Chapter 15, and Statutes of 2020 (Assembly Bill 83).

#### How to submit the Housing Element Annual Progress Report (APR)

The APR must be submitted to HCD and the Governor's Office of Planning and Research (OPR) on or before April 1 of each year using the forms and tables specified by HCD. The APR provides information for the previous calendar year and must be submitted separately to both HCD and OPR (Gov. Code, § 65400.). There are two methods available for submitting APRs:

- 1. <u>Online Annual Progress Reporting System</u> This allows jurisdictions to upload directly into HCD's database, limiting the risk of errors. To use the online system, email <u>APR@hcd.ca.gov</u>, and request login information for your jurisdiction. *Please note: Using the online system only provides the information to HCD. The APR must still be submitted to OPR. Their email address is <u>opr.apr@opr.ca.gov</u>.*
- 2. <u>Email</u> Jurisdictions complete the Excel APR forms and submit to HCD at <u>APR@hcd.ca.gov</u> and to OPR at <u>opr.apr@opr.ca.gov</u>. When using the email method, send the electronic version as an Excel workbook attachment. Do not send a scanned copy of the tables. In addition to submitting housing element APRs, jurisdictions must also submit general plan APRs to both HCD and OPR. Please email these documents to <u>APR@hcd.ca.gov</u> and <u>opr.apr@opr.ca.gov</u>.

NOTE: When submitting successor entity reporting data as required pursuant to California Health and Safety Code 34176.1, the data must be identified as an addendum to the APR and emailed to <a href="APR@hcd.ca.gov">APR@hcd.ca.gov</a> concurrently with the APR submittal. When using the online system, this report should be sent separately to the APR email box to satisfy the Government Code section 65400 reporting requirement.

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#### **DEFINITIONS**

- 1. "Above moderate income" means households earning more than 120 percent of area median income.
- 2. "Annual Progress Report (APR)" means the housing element annual progress report required by Government Code section 65400 and due to HCD by April 1 of each year reporting on the prior calendar year's activities.
- 3. "Application submitted" means an application submittal that has been determined complete by the jurisdiction.
- 4. "Area Median Income (AMI)" means the median household income based on household size of a geographic area of the state, as annually updated by HCD, pursuant to Health and Safety Code, section 50093.
- 5. "Certificate of occupancy date" is the date(s) the certificate(s) of occupancy, or other evidence of readiness for occupancy (e.g., final inspection, notice of completion), was/were issued.
- 6. "Committed Assistance" is when a local government has entered into a legally enforceable agreement within a specific timeframe spanning from the beginning of the RHNA projection and may be executed throughout the planning period. Committed Assistance includes obligating funds or other in-kind services for affordable units available for occupancy within two years of the agreement.
- "Completed Entitlement" means a housing development or project which has received all the required land use approvals or entitlements necessary for the issuance of a building permit. This means that there is no additional action required to be eligible to apply for and obtain a building permit.
- 8. "Density Bonus" is as defined in Government Code section 65915.
- 9. "Extremely low-income" means a household earning less than 30 percent of area median income pursuant to Health and Safety Code, section 50105.
- "Infill housing unit" is defined as being a unit located within an urbanized area or within an urban cluster on a site that has been previously developed for urban uses, or a vacant site where the properties adjoining at least two sides of the project site are, or previously have been, developed for urban uses. For the purposes of this definition, an urbanized area or an urban cluster is as defined by the United States Census Bureau.
- 11. "Locality" or "local government" means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.

- 12. "Lower-income or Low-Income" means a household earning less than 80 percent of AMI pursuant to Health and Safety Code, section 50079.5.
- 13. "Moderate income" means households whose income does not exceed 120 percent of AMI pursuant to Health and Safety Code, section 50093.
- 14. "Permitted units" mean units for which building permits for new housing construction have been issued by the local government during the reporting calendar year. For this purpose, "new housing unit" means housing units as defined by the Department of Finance for inclusion in the Department of Finance's annual "E-5 City/County Population and Housing Estimates" report, which is the same as the Census definition of a housing unit.
  - Note: Accessory dwelling units (ADU) and junior accessory dwelling units (JADU) pursuant to Government Code sections 65852.2 and 65852.22 meet the definition above.
- 15. "Production report" or "Annual Progress Report (APR)" means the information reported pursuant to subparagraph (D) of paragraph (2) of subdivision (a) of Section 65400 of the Government Code.
- 16. "Project" or "Development" refers to a housing related activity where new construction of a unit(s) is proposed or has had a building permit and/or certificate of occupancy issued during the reporting calendar year. This may include single family, mixed use, multifamily, accessory dwelling unit, or any other developments where housing units, as defined by the U.S. Census Bureau and the Department of Finance, are a component of the project.
- 17. "Realistic Capacity" means an estimate of the number of units that can be accommodated on each site in the inventory. The estimate must include adjustments to reflect land use controls and site improvement requirements but may rely on established minimum density standards.
- 18. "Reporting period" means the prior calendar year's activities for the housing element annual progress report required by Government Code section 65400 and due to HCD by April 1 of each year and utilized to create the determination for which locality is subject to the Streamlined Ministerial Approval (SB 35 Streamlining) Provisions.
- 19. "RHNA" means the local government's share of the regional housing need allocation pursuant to Government Code section 65584 et seq.
- 20. Unit Category: type of units that are classified under the following categories:
  - **Single Family-Detached Unit (SFD)** a one-unit structure with open space on all four sides. The unit often possesses an attached garage.
  - Single Family-Attached Unit (SFA)- a one-unit structure attached to another unit by a common wall, commonly referred to as a townhouse, half-plex, or row house. The shared wall or walls extend from the foundation to the roof with adjoining units to form a property line. Each unit has individual heating and plumbing systems.
  - 2-, 3-, and 4-Plex Units per Structure (2-4)- a structure containing two, three, or four units and not classified as single-unit attached structure.
  - 5 or More Units per Structure (5+)- a structure containing five or more housing units.

- Accessory Dwelling Unit (ADU) means a unit that is attached, detached or located within the living area of the existing dwelling or residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel on which the single-family dwelling is situated pursuant to Government Code section 65852.2. An ADU also includes the following: an efficiency unit, as defined in Section 17958.1 of the Health and Safety Code or a manufactured home, as defined in Section 18007 of the Health and Safety Code.
- Mobilehome Unit/Manufactured Home a one-unit structure that was originally constructed to be towed on its own chassis. <u>Please note:</u> Spaces in a mobilehome park can be counted towards RHNA, if the spaces counted are new hook-ups/spaces rather than new mobilehome park residents moving onto existing lots.
- 21. "Very low-income" means households earning less than 50 percent of AMI pursuant to Health and Safety Code, section 50105.

AUTHORITY CITED: Government Code section 65400.

#### FORM INSTRUCTIONS

#### **GENERAL INFORMATION**

Fields in gray auto-populate. No data entry is needed.

Some of the cells are locked to ensure data can be automatically uploaded to the online system.

Tables A and A2 of the worksheet are currently configured to accept up to 1,000 lines of data. Insert rows if needed.

Projects are now tracked at all stages of development, from initial application to final certificate of occupancy.

All dates must be entered as month/date/year (e.g., 6/1/2018).

The form works best with macros enabled in Excel.

Begin with the "Start Here" tab, as previous years' information will pre-populate in Table B after the jurisdiction's name is entered.

#### **START HERE**

Enter general contact and report information in the "Start Here" tab.

It is important to start with this worksheet because the answers entered will affect how information is displayed (e.g., permit numbers from prior years are pre-populated when the jurisdiction's name is entered).

Information to enter includes:

- City or county name
- Reporting calendar year (e.g., 2019). Please note: The reporting year will always be from January 1 December 31 of the previous year.
- Contact person
- Title
- Email
- Phone
- Mailing address

This sheet includes instructions regarding submitting the housing element APR to HCD and OPR.

## TABLE A

## **Housing Development Applications Submitted**

Only include data on housing units and developments for which an application was submitted deemed complete between January 1 and December 31 of the reporting year identified on the "Start Here"

tab. In table A, an "application" is a formal submittal of a project for approval. This application is either an application for a discretionary entitlement, or where only a ministerial process is required (e.g., zoned by right), or the application for a building permit.

**Project Identifier:** Include the Current Assessor Parcel Number (APN) and street address. The Prior APN, Project Name and Local Jurisdiction Tracking ID are optional.

- Prior APN Enter an APN previously associated with the parcel, if applicable (optional field).
- Current APN Enter the current available APN. If necessary, enter additional APNs in the notes section field number 10.
- Street Address Enter the number and name of the street.
- Project Name Enter the project name, if available (optional field).
- Local Jurisdiction Tracking ID This may be the permit number or other identifier (optional field).
- **2. Unit Types:** Each development should be categorized by one of the following codes. Refer to "Unit Category" in the Definitions section for additional descriptions. Use the drop-down menu to select one of the following options:
  - SFA (single-family attached unit)
  - SFD (single-family detached unit)
  - 2-4 (two-to four-unit structures)
  - 5+ (five or more unit structure, multifamily)
  - ADU (accessory dwelling unit)
  - MH (mobilehome/manufactured home)
- **3. Tenure:** Identify whether the units within the development project are either proposed or planned at initial occupancy for either renters or owners. Use the drop-down menu to select one of the following options:
  - Renter occupant (R) or
  - Owner occupant (O)
- **4. Date Application Submitted**: Enter the date the housing development application was submitted. If the application was incomplete at the time of submittal, enter the date the application was determined complete by the local government (refer to "application submitted" under Definitions). Enter date as month/day/year (e.g., 6/1/2020).
- **5. Proposed Units Affordability by Household Incomes:** For each development, list the number of units proposed in the application by affordability level and whether the units are deed restricted or non-deed restricted. Refer to the Definitions section for additional descriptions:
  - Very low-income households: 0-50 percent AMI
  - Low-income households: 50-80 percent AMI
  - Moderate-income households: 80-120 percent AMI
  - Above-moderate households: above 120 percent

- To verify income levels, refer to the income limit charts on HCD's website at
   <a href="http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml">http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml</a>
   (see section for Official State Income Limits).
- **6. Total Proposed Units by Project:** This field auto-populates with the total number of units proposed, as entered in #5 (total of deed restricted & non-deed restricted units for Very Low-, Low-, Moderate-and Above Moderate- income households).
- **7. Total Approved Units by Project:** Enter the number of units that the jurisdiction approved for this project application.
- **8. Total Disapproved Units by Project.** If the project is denied or total number of units is reduced, please enter the number of units denied or reduced. This value should equal Total Proposed Units by Project minus Total Approved Units by Project.
- 9. Was "Application Submitted" pursuant to Government Code section 65913.4, subdivision (b) (Streamlined Ministerial Approval Process (SB 35 Streamlining))? Use the drop-down menu to select one of the following options:
  - No
  - Yes But no action taken
  - Yes Approved
  - Yes Denied
- **10. Notes:** Use this field to enter any applicable notes about the project or development. Completion of this field is optional.

#### **TABLE A2**

# Annual Building Activity Report Summary – New Construction, Entitled, Permits and Completed Units

#### Fields 1 through 15 - Housing Development Information

This table requires information for very low, low, moderate and above moderate income housing affordability categories and for mixed-income projects. Include data on net new housing units and developments that have received any one of the following:

- An entitlement
- A building permit.
- A certificate of occupancy or other form of readiness that was issued during the reporting year.

Please note: Only building permits are used for the purposes of determining progress towards RHNA (fields 7, 8 and 9 of this table, described below).

New housing units: For the APR, "new housing unit" means housing units as defined by the Department of Finance for inclusion in the Department of Finance's annual "E-5 City/County Population and Housing Estimates" report, which is the same as the census definition of a housing unit.

Development activity spanning multiple years: It is highly likely that the same project will be reported in multiple years of APRs. For example, a project should be listed in three separate APRs if it is entitled in one year, receives the building permit the next year, and the certificate of occupancy in the year following.

In scenarios where development activity spans multiple years, the jurisdiction should only report activity that occurred within the reporting year. For example, if a project received building permits in 2018, but received entitlements in 2017, the 2018 APR should only report the building permit information (fields 7, 8 and 9), and not include entitlement information (fields 4, 5 and 6).

Separate living quarters: A house, an apartment, a mobilehome, a group of rooms, or a single room occupied as separate living quarters, or if vacant, intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live separately from any other individuals in the building and which have direct access from outside the building or through a common hall. For vacant units, the criteria of separateness and direct access are applied to the intended occupants whenever possible.

Please note: Group quarters facilities, such as dormitories, bunkhouses, and barracks, cannot be counted as housing units, but student housing that is set up as separate living quarters per the census definition can be counted. This type of student housing must be counted per unit, and not on a bedroom or per person basis.

Net new units: If a building is being demolished to build the new units, the APR should report net new units. For example, if 10 units are being demolished on a site to build a 100-unit building, the APR should report 90 new units. In the case of new construction where fewer units are being built than were there previously, do not report negative permits. For example, if 10 units are being torn down on a site to build 5 units, this would not count as any new units on the APR and should not be reported as a negative number.

To assist in reporting demolished/destroyed units, refer to section number 20 below (Table A2, column 20).

All new unit information is to be listed in the following fields:

#### <u>Fields 1 through 3 – Project Identifier and Unit Types</u>

- **1. Project Identifier:** Include the Current Assessor Parcel Number (APN) and street address. The prior APN, project name or local jurisdiction tracking ID are optional.
  - Prior APN Enter an APN previously associated with the parcel, if applicable (optional field).
  - Current APN Enter the current available APN. This field allows a maximum of 40 characters. If necessary, enter additional APNs in the notes section field number 21.
  - Street Address Enter the number and name of the street.
  - Project Name Enter the project name, if available (optional field).
  - Local Jurisdiction Tracking ID This may be the permit number or other identifier (optional field).

- **2. Unit Category Codes:** Each development should be categorized by one of the following codes: Refer to "Unit Category" in the Definitions section for additional descriptions. Use the drop-down menu to select one of the following options:
  - SFA (single-family attached unit)
  - SFD (single-family detached unit)
  - 2-4 (two- to four-unit structures)
  - 5+ (five or more unit structure, multifamily)
  - ADU (accessory dwelling unit)
  - MH (mobilehome/manufactured home)
- **3. Tenure:** Identify whether the units within the development project are either proposed or planned at initial occupancy for either renters or owners. Use the drop-down menu to select one of the following options:
  - Renter occupant (R) or
  - Owner occupant (O)

#### Fields 4 through 6 - Completed Entitlement

- **4.** Affordability by Household Income Completed Entitlement: For each development, list the number of units that have been issued a completed entitlement during the reporting year by affordability level and whether the units are deed restricted or non-deed restricted. Refer to the Definitions section for additional descriptions:
  - Very low-income households: 0-50 percent AMI
  - Low-income households: 50-80 percent AMI
  - Moderate-income households: 80-120 percent AMI
  - Above-moderate households: above 120 percent

To verify income levels, refer to the income limit charts on HCD's website at <a href="http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml">http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml</a> (see section for Official State Income Limits).

- **5. Entitlement Date Approved:** Enter the date within the reporting year that all required land use approvals or entitlements were issued by the jurisdiction; leave blank if entitlement was approved outside the reporting year. Enter date as month/day/year (e.g., 6/1/2020). Refer to definition of "Completed Entitlement."
- **6. # of Units Issued Entitlements:** This is an auto-populated field. This field reflects the total number of units that were entitled for very-low, low, moderate, and above moderate income, as entered in field 4 on this table.

#### Fields 7 through 9 – Building Permit

**7. Affordability by Household Income – Building Permits:** For each development, list the number of units that have been issued a building permit during the reporting year by affordability level and whether the units are deed restricted or non-deed restricted. Refer to the Definitions section for additional descriptions:

- Very low-income households: 0-50 percent AMI
- Low-income households: 50-80 percent AMI
- Moderate-income households: 80-120 percent AMI
- Above-moderate households: above 120 percent

To verify income levels, refer to the income limit charts on HCD's website at <a href="http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml">http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml</a> (see section for Official State Income Limits).

- **8. Building Permits Date Issued:** Enter the date within the reporting year that the building permit was issued by the jurisdiction; leave blank if the building permit was issued outside the reporting year. Enter the date as month/day/year (e.g., 6/1/2020). Refer to definition of "Permitted Units."
- **9.** # of Units Issued Building Permits: This is an auto-populated field. This field will sum units that were permitted for very-low, low, moderate, and above moderate income, as entered in field 7 on this table.

#### Fields 10 through 12 – Certificates of Occupancy

- **10. Affordability by Household Income Certificates of Occupancy:** For each development, list the number of units that issued certificates of occupancy or other form of readiness (e.g., final inspection, notice of completion) during the reporting year by affordability level and whether the units are deed restricted or non-deed restricted. Refer to the Definitions section for additional descriptions:
  - Very low-income households: 0-50 percent AMI
  - Low-income households: 50-80 percent AMI
  - Moderate-income households: 80-120 percent AMI
  - Above-moderate households: above 120 percent

To verify income levels, refer to the income limit charts on HCD's website at <a href="http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml">http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml</a> (see section for Official State Income Limits).

- **11. Certificates of Occupancy (or other forms of Readiness) Date Issued**: Enter the date the certificate of occupancy or other form of readiness (e.g., final inspection, notice of completion) was issued for the project. For most jurisdictions, this is the final step before residents can occupy the unit. Leave blank if the certificate of occupancy was not issued in the reporting year. Enter the date as month/day/year (e.g., 6/1/2020).
- **12.** # of Units Issued Certificates of Occupancy or other forms of Readiness: This is an auto-populated field. This field will sum units that were issued a certificate of occupancy for very-low, low, moderate, and above moderate income, as entered in field 10 on this table.
- **13.** How many of the Units were Extremely-Low Income Units (Optional): To gain a greater understanding of the level of building activity to meet the needs of extremely low-income households in the state, HCD asks that you estimate, to the extent possible, the number of units affordable to extremely-low income households. This number will be a subset of the number of units affordable to very low-income households, as indicated in fields 4, 7 and 10 above. *Please note: The number entered*

in the very low section will not be reduced by the number entered here. Although completion of this field is optional, your input would be greatly appreciated.

- 14. Was the project approved using Government Code section 65913.4, subdivision (b) (Streamlined Ministerial Approval Process (SB 35 Streamlining))? Use the drop-down menu to select one of the following options:
  - "Y" if the jurisdiction approved the project application pursuant to the streamlined ministerial approval process (SB 35 Streamlining).
  - "N" for all other situations.
- **15.** Are these infill units? To gain a greater understanding of the level of infill housing activity in the state, HCD asks that you clarify if the housing units reported are infill by selecting "Yes" or "No." Although completion of this field is optional, your input would be greatly appreciated. See the Definitions section for "infill housing units" definition.

Fields 16 through 18: Please note, if any units are reported as very-low, low, or moderate income in fields 4, 7 or 10, then the information in fields 16, 17 and/or 18 must be completed to demonstrate affordability. In the absence of justification that the unit is affordable to a very-low, low, and moderate income household, the unit must be counted as above-moderate income.

#### Fields 16 and 17 Housing with Financial Assistance and/or Deed Restrictions

For all housing units developed or approved with public financial assistance and/or have recorded affordability deed restrictions or covenants, identify funding sources and/or mechanisms that enable units to be affordable.

**16. Assistance Programs Used for Each Development:** Enter information here if units received financial assistance from the city or county and/or other subsidy sources, have affordability restrictions or covenants, and/or recapture of public funds upon resale.

Use the drop-down menu to select the acronym of the applicable funding program(s), as listed below. To select more than one funding source click once, then select the cell again, and click another source.

- Acq/Rehab: CalHFA Acquisition/Rehab Loan Program
- AHP: Affordable Housing Program Fed Home Loan
- AHSC: Affordable Housing and Sustainable Communities
- CalHOME: CalHOME
- CDBG: Community Development Block Grant
- CDLAC: CDLAC Bonds (CA Debt Limit Allocation Committee)
- CESH: CA Emergency Solutions & Housing
- ESG: Emergency Solutions Grant
- GSAF: Golden State Acquisition Fund
- HEAP: Homeless Emergency Aid Program
- HHAP: Homeless Housing, Assistance and Prevention Program
- HKEY: Homekey
- HOME: Housing Investment Partnership Program
- HOPWA: Housing Opportunities for Persons with AIDS

- IIG: Infill Infrastructure Grant
- LHTF: Local Housing Trust Funds
- LIHTC: CTCAC/Low Income Housing Tax Credits
- MHP: Multifamily Housing Program HCD
- MHSA: Mental Health Services Act Funding
- MPRROP: Mobilehome Park Rehabilitation & Resident Ownership Program
- MRB: Mortgage Revenue Bonds
- MyHOME: MyHome Down Payment Assistance
- NHTF: National Housing Trust Fund
- NPLH: No Place Like Home
- PBS8: Section 8 Project-Based Rental Assistance
- PDLP: Predevelopment Loan Program
- RAD: Rental Assistance Demonstration Program
- RDA: Redevelopment Agency or Successor Agency Funds
- Sec 202: HUD Section 202 Housing for the Elderly
- Sec 811: Section 811 Project Rental Assistance
- SERNA: Joe Serna, Jr. Farmworker Housing Program
- SHMHP: Supportive Housing MHP
- SNHP: Special Needs Housing Program CalHFA
- TOD: Transit Oriented Development Program
- USDA: USDA Rural Development Housing Programs
- VHHP: Veterans Housing and Homeless Prevention Program
- Other: Describe in Notes
- **17. Deed Restriction Type:** Enter information here if units in the project are considered affordable to very-low, low, and/or moderate income households due to a local program or policy, such as an inclusionary housing ordinance, regulatory agreement, or a density bonus. This field <u>should not</u> be used to enter the number of deed restricted units. Identify the <u>mechanism</u> used to restrict occupancy based on affordability to produce "deed restricted" units. Use the drop-down menu to select one of the following options:
  - "INC" if the units were approved pursuant to a local inclusionary housing ordinance.
  - "DB" if the units were approved using a density bonus.
  - "Other" for any other mechanism. Describe the source in notes section number 21.
- **18.** Housing without Financial Assistance or Deed Restrictions: Enter information here if the units are affordable to very-low, low and moderate income households without financial assistance and/or deed restrictions. In these cases, affordability must be demonstrated by proposed sales price or rents.
  - Sales prices and rents must meet the definition of affordable as defined in Health and Safety Code Section 50052.5 for owner-occupied units or Health and Safety Code section 50053 for renter-occupied units.
  - Describe how the newly constructed rental or ownership housing units were determined to be affordable to very- low, low, and moderate income households without either public subsidies or restrictive covenants. This may be based on various methods considering sales prices or rents

relative to the income levels of households, such as through a survey of comparable units in the area that show the unit would be affordable to very-low, low, or moderate income households.

- The jurisdiction can consider comparable rental prices or new sales prices (actual or anticipated). The jurisdiction should consider costs for renters (i.e., 30 percent of household income for rent and utilities) or owners (e.g., 30 percent of household income for principal, interest, taxes, insurance and utilities, pursuant to Title 25 CCR Section 6920).
- In the absence of justification that the unit is affordable to a very-low, low, and moderate income household, the unit must be counted as above-moderate income.
- **19. Term of Affordability or Deed Restriction:** If the units have committed financial assistance and/or are deed restricted, enter the duration of the affordability or deed restriction. If the units are affordable in perpetuity, enter 1,000. If multiple funding sources or deed restrictions on the development have different terms of affordability, please enter the longest term of affordability. Although completion of this field is optional, your input would be greatly appreciated.
- **20. Demolished/Destroyed Units**: This section is to report if the project and associated APN has a permit, entitlement or certificate of occupancy in the reporting year, and the APN previously had demolished or destroyed units.
  - Enter the "Number of Demolished or Destroyed Units" in the reporting calendar year.
  - From the drop-down menu select "demolished" if the units were torn down. Select "Destroyed" if the units were lost due to fire or other natural disaster.
  - From the drop-down menu "Demolished/Destroyed Units Owner or Renter" select "R" for renter or "O" for owner.
- 21. Notes: Use this field to enter any applicable notes about the project or development.

#### **TABLE B**

# Regional Housing Needs Allocation Progress – Permitted Units Issued By Affordability

Table B is a summary of prior permitting activity in the current planning cycle, including permitting activity for the calendar year being reported. To assist jurisdictions in completing this form, HCD has prefilled permit data as reported to HCD on prior APRs. Past unit information will auto-populate when the jurisdiction's name in the general information section of the "Start Here" tab is entered. Current year permitted units will auto-populate from data reported in Table A2. If permit activity for the current year is inaccurate, jurisdictions should make adjustments on field number 7, Affordability by Household Income – Building Permits in table A2.

Please contact HCD at <u>APR@hcd.ca.gov</u> if data from previous years does not populate or if different than the information supplied in Table B. Any changes made by localities to previous years' data in Table B will not update prior APR records maintained by HCD.

Table B reports the number of units for which permits were issued to demonstrate progress in meeting the jurisdiction's share of the RHNA for the planning period.

- **1. Regional Housing Needs Allocation by Income Level:** Lists the jurisdiction's assigned RHNA for the planning cycle by income group. This field will auto-populate once the jurisdiction's name is entered in the "Start Here" tab.
- **2. Year:** Lists the building <u>permit data</u> for each year of the RHNA planning cycle beginning in the first year and ending with the data from the current reporting year, which can be found in Table A2.
- 3. Total Units to Date (all years): Totals the number of units permitted in each income category.
- **4. Total Remaining RHNA by Income Level:** This field uses the information from the "Total Units to Date" category and deducts the units by income category from the jurisdiction's assigned RHNA number. Note: The total units remaining to meet the RHNA allocation is in the bottom right hand corner.

#### **TABLE C**

### Sites Identified or Rezoned to Accommodate Shortfall Housing Need

Please note: This table should only be filled out when a city or county identified an unaccommodated need of sites from the previous planning period pursuant to Government Code section 65584.09, has a shortfall of sites as identified in the housing element pursuant to Government Code section 65583, subdivision (c)(1); or is identifying additional sites required by No Net Loss law pursuant to Government Code section 65863. The data in this inventory serves as an addendum to the housing element sites inventory. This table should not include rezoning for a specific project.

- **1. Project Identifier:** Include the Assessor Parcel Number (APN) and street address. The project name and local jurisdiction tracking ID are optional.
- **2. Date of Rezone:** If a rezone was required, identify the date the rezone occurred. Enter the date as month/day/year (e.g., 6/1/2020).
- **3. RHNA Shortfall by Household Income Category:** For each development or site, list the number of units that are affordable to the following income levels (refer to the Definitions section for more detail):
  - Very low-income households: 0-50 percent AMI
  - Low-income households: 50-80 percent AMI

Note: rezoning is not required to accommodate moderate or above moderate RHNA shortfall.

- **4. Type of Shortfall:** From the dropdown list, select one of the following for each project:
  - No Net Loss (Government Code section 65863): When a jurisdiction permits or causes its
    housing element sites inventory site capacity to be insufficient to meet its remaining unmet
    RHNA for lower and moderate-income households. In general, a jurisdiction must demonstrate
    sufficient capacity on existing sites or make available adequate sites within 180 days of there
    being insufficient sites to meet the remaining RHNA.
  - Unaccommodated Need (Government Code section 65584.09): When a jurisdiction failed to
    identify or make adequate sites available in the prior planning period to accommodate its RHNA
    by income category. Note: When this condition occurred, the housing element in the current

- planning period in most cases will have a program to make available adequate sites to address the unmet RHNA by income category in the first year of the planning period.
- Shortfall of Sites (Government Code section 65583, subdivision (c)(1)): When a jurisdiction does not identify adequate sites to accommodate its RHNA by income category in the current planning period. Note: When this condition occurred, the housing element for the current planning period must have included a program to make available adequate sites to address the unmet RHNA by income category. For jurisdictions on an eight-year planning period, the rezones must be complete within the first three years of the planning period.
- **5. Parcel Size (Acres):** Enter the size of the parcel in acres.
- **6. General Plan Designation:** Enter the new General Plan Land Use designation. If no change was made, enter the current designation.
- **7. Zoning:** Enter the new zoning designation for the parcel. If no change was made, enter the current zoning designation.
- **8. Density Allowed:** Enter the minimum and maximum density allowed on each parcel. This is the density allowed after any zoning amendments are made. If no maximum density, enter N/A.
- **9. Realistic Capacity:** Enter the estimated realistic unit capacity for each parcel. Refer to the Definitions for more information about "Realistic Capacity."
- **10.** Vacant/Non-vacant: From the drop-down list, select if the parcel is vacant or non-vacant. If the parcel is non-vacant, then enter the description of existing uses in Field 11.
- **11. Description of Existing Uses:** Include a description of existing uses. Description must be specific (i.e., SFR, MF, surplus school site, operating business, vacant commercial building, parking lot). Classifications of uses (i.e., "commercial", "retail", "office", or "residential") are not sufficient.

#### **TABLE D**

## **Program Implementation Status Pursuant to Government Code Section 65583**

Report the status/progress of housing element program and policy implementation for **all** programs described in the housing element:

- 1. Name of Program: List the name of the program as described in the housing element.
- 2. Objective: List the program objective (for example, "Update the accessory dwelling unit ordinance").
- 3. Timeframe in Housing Element: Enter the date the objective is scheduled to be accomplished.
- **4. Status of Program Implementation**: List the action or status of program implementation.

For your information, the following list includes the statutory requirements for housing element programs:

• Adequate sites (Gov. Code, § 65583, subd. (c)(1)). Please note: Where a jurisdiction has included a rezone program pursuant to Government Code section 65583.2, subdivision (h) to address a shortfall of capacity to accommodate its RHNA, Table C must include specific information

demonstrating progress in implementation including total acres, brief description of sites, date of rezone, and compliance with by-right approval and density requirements.

- Assist in the development of low- and moderate-income housing (Gov. Code, § 65583, subd. (c)(2)).
- Remove or mitigate constraints (Gov. Code, § 65583, subd. (c)(3)).
- Conserve and improve existing affordable housing (Gov. Code, § 65583, subd. (c)(4)).
- Promote and affirmatively further fair housing opportunities (Gov. Code, § 65583, subd. (c)(5)).
- Preserve units at-risk of conversion from low-income use (Gov. Code, § 65583, subd. (c)(6).

Please note: Jurisdictions may add additional rows in Table D to include all housing element programs, or to provide clarification or information relevant to demonstrating progress towards meeting RHNA objectives.

#### **TABLE E**

# Commercial Development Bonus Approved Pursuant to Government Code Section 65915.7

#### **Government Code section 65915.7 states:**

"(a) When an applicant for approval of a commercial development has entered into an agreement for partnered housing described in subdivision (c) to contribute affordable housing through a joint project or two separate projects encompassing affordable housing, the city, county, or city and county shall grant to the commercial developer a development bonus as prescribed in subdivision (b). Housing shall be constructed on the site of the commercial development or on a site that..." meets several criteria.

If the jurisdiction has approved any commercial development bonuses during the reporting year, enter the following information:

- **1. Project Identifier:** Include the parcel's APN number and street address. The project name and local jurisdiction tracking ID are optional.
- **2. Units Constructed as Part of the Agreement:** For each development, list the number of units that are affordable to the following income levels (refer to the Definitions section for more detail):
  - Very low-income households: 0-50 percent AMI
  - Low-income households: 50-80 percent AMI
  - Moderate-income households: 80-120 percent AMI
  - Above-moderate households: above 120 percent
- **3. Description of Commercial Development Bonus:** Include a description of the commercial development bonus approved by the jurisdiction.
- **4. Commercial Development Bonus Date Approved:** Enter the date that the jurisdiction approved the commercial development bonus. Enter the date as month/day/year (e.g., 6/1/2018).

#### **TABLE F**

# Units Rehabilitated, Preserved and Acquired for Alternative Adequate Sites Pursuant to Government Code Section 65583.1, subdivision (c)

Please note this table is optional: The jurisdiction can use this table to report units that have been substantially rehabilitated, converted from non-affordable to affordable by acquisition, and preserved, including mobilehome park preservation, consistent with the standards set forth in Government Code section 65583.1, subdivision (c). Please note, motel, hotel, hostel rooms or other structures that are converted from non-residential to residential units pursuant to Government Code section 65583.1(c)(1)(D) are considered net new housing units and must be reported in Table A2 and not reported in Table F.

**Units that Do Not Count Toward RHNA**: The jurisdiction may list, for informational purposes only, units that do not count toward RHNA but were substantially rehabilitated, acquired or preserved.

**Units that Count Toward RHNA:** To enter units in this table as progress toward RHNA, please contact HCD at <a href="APR@hcd.ca.gov">APR@hcd.ca.gov</a>. HCD will provide a password to unlock the grey fields.

In order to count units reported in this table as progress towards RHNA, the jurisdiction will need to provide information that demonstrates the units meet the standards set forth in Government Code section 65583.1, subdivision (c). These program requirements are summarized on the <u>Alternative Adequate Sites Checklist</u>.

If HCD finds that the units meet the standards set forth in Government Code section 65583.1, subdivision (c), these units may credit up to 25 percent of the jurisdiction's adequate sites requirement per income category.

#### **TABLE G**

# Locally Owned Lands Included in the Housing Element Sites Inventory, that have been sold, leased, or otherwise disposed of, Pursuant to Government Code Section 65400.1

Chapter 664, Statutes of 2019 (AB 1486) added to the Government Code section 65400.1, which requires jurisdictions to include in this APR a listing of sites owned by the locality that were included in the housing element sites inventory and were sold, leased, or otherwise disposed of during the reporting year.

The listing of sites must include the entity to whom the site was transferred, and the intended use of the site.

#### **TABLE H**

# Locally Owned or Controlled Lands Declared Surplus Pursuant to Government Code Section 54221, or Identified as Excess Pursuant to Government Code Section 50569

Chapter 661, Statutes of 2019 (AB 1255) amended Government Code section 54230 to require cities and counties to create an inventory of surplus lands defined in subdivision (b) of Section 54221, and all lands in excess of its foreseeable needs, if any, identified pursuant to Section 50569, located in all urbanized areas and urban clusters, as designated by the United States Census Bureau, within the jurisdiction of the county or city that the county or city or any of its departments, agencies, or authorities owns or controls. Please note: Jurisdictions are only required to report on property located in an urban area or urbanized cluster. For a map of urban areas and urban clusters, please see the HCD website here: <a href="https://cahcd.maps.arcgis.com/apps/webappviewer/index.html?id=5a63b04d7c494a6ebb2aa38a2c357">https://cahcd.maps.arcgis.com/apps/webappviewer/index.html?id=5a63b04d7c494a6ebb2aa38a2c357</a>

Cities and counties must make a description of each parcel described in paragraph (1) of Government Code section 54230 and the present use of the parcel a matter of public record and shall report this information to HCD no later than April 1 of each year, beginning April 1, 2021, in a form prescribed by HCD, as part of its APR submitted pursuant to paragraph (2) of subdivision (a) of Section 65400.

"Surplus land" means land owned in fee simple by any local agency for which the local agency's governing body takes formal action in a regular public meeting declaring that the land is surplus and is not necessary for the agency's use. Land shall be declared either "surplus land" or "exempt surplus land," as supported by written findings, before a local agency may take any action to dispose of it consistent with an agency's policies or procedures. A local agency, on an annual basis, may declare multiple parcels as "surplus land" or "exempt surplus land."

"Surplus land" includes land held in the Community Redevelopment Property Trust Fund pursuant to Section 34191.4 of the Health and Safety Code and land that has been designated in the long-range property management plan approved by the Department of Finance pursuant to Section 34191.5 of the Health and Safety Code, either for sale or for future development, but does not include any specific disposal of land to an identified entity described in the plan.

Parcel description must include the following:

- 1. APN: Enter the parcel number of the identified property.
- **2. Street Address/Intersection:** Enter the street address of the property. If no street address is available, enter the closest known intersection.
- **3. Existing Use:** Select the existing use of the property. Use the drop-down menu to select one of the following options:
  - Residential
  - Commercial
  - Industrial
  - Public Facilities

- Vacant
- Air Rights
- Other
- **4. Number of Units:** If the existing use is residential, please enter the number of units on the property.
- **5. Designated Surplus Land, Exempt Surplus Land or Excess:** Please identify if the property has been designated surplus or exempt surplus pursuant to Government Code section 54221, or excess pursuant to Government Code section 50569.
- **6. Parcel Size (in acres)**: Enter the parcel size in acres.
- **7. Notes** (Optional): Please include any applicable notes providing additional property description. This could include a description of any characteristics of the property.

## **Local Early Action Planning (LEAP) Grant Reporting**

Pursuant to Health and Safety Code section 50515.04, recipients of Local Early Action Planning (LEAP) grants shall annually report by April 1 of the year following receipt of those funds on the status of proposed uses in the application. The report shall address the housing impact within the jurisdiction, including a summary of building permits, certificates of occupancy or other completed entitlements. Data sources may include the LEAP application (e.g., Attachment 1: Project Timeline and Budget), reimbursement requests, other portions of the APRs, and other summary records of program activities.

- **1. Total Award Amount:** Utilizing the LEAP application and award letter, fill in the total award amount for all proposed LEAP activities.
- **2. Task:** Utilizing Attachment 1: Project Timeline and Budget from the LEAP application, fill in all project level tasks. Do not fill in sub-tasks. For example, an application might include a project level task to prepare and adopt a downtown specific plan. In this case, simply fill in the downtown specific plan and do not fill in sub-tasks such as outreach, traffic studies, drafting and adoption.
- **3.** \$ Amount Awarded: Utilizing Attachment 1: Project Timeline and Budget from the LEAP application, fill in the total amount awarded for each project level task.
- **4. \$ Cumulative Reimbursement Requested:** Utilizing reimbursement requests sent to HCD, add up all requested amounts for each project level task. Note, this is reimbursement "requested" and not reimbursement "received". At the time of reporting, some reimbursement requests may be in process. The table does not need to address reimbursements in process.
- **5. Task Status:** Select either completed, in progress or other for project level tasks. Include additional description in the notes column as appropriate for information such as upcoming milestones, anticipated completion dates, any schedule slippage o progress as a percentage of completion (e.g., 50 percent complete).
- **6. Other Funding:** Note any other funding sources by amount being utilized to complete each project level task. If no other funding sources are being utilized, enter N/A. Examples of other funding

include the SB 2 planning grants program, the SB 1 sustainability planning grants program and local general funds.

- **7. Notes:** Enter any other relevant information related to progress and impacts such as reasons for delays, anticipated numerical outcomes, etc.
- **8. Summary of Entitlements, Building Permits and Certificates of Occupancy:** These tables will autopopulate from Table A2.

<b>RESOLUTION</b> 2	2021-
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AUTHORIZING STAFF TO SUBMIT THE ANNUAL PROGRESS REPORT AND THE ANNUAL ELEMENT PROGRESS REPORT FOR CALENDAR YEAR 2020 TO THE OFFICE OF PLANNING AND RESEARCH, AND STATE HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT REGARDING THE IMPLEMENTATION OF THE GENERAL PLAN AND HOUSING ELEMENT

WHEREAS, State law requires each city to adopt a comprehensive, long-term general plan for its physical development and that of land outside its boundaries that bears a relationship to a city's planning activities, and

WHEREAS, Government Code Section 65400(a) requires that a planning agency or planning department submit an APR to the legislative body of a local agency, OPR and HCD on or before April 1<sup>st</sup> each year that contains the information prescribed in the statute for the previous calendar year, and

WHEREAS, The City of Tracy's General Plan, adopted in 2011, "provides a vision for the future and establishes a framework for how Tracy should grow and change over the next two decades." The General Plan provides direction through 2025, and

WHEREAS, The City's Housing Element was adopted in March 2016 for the time period of 2015-2023 in accordance with the housing element update cycle for jurisdictions in the San Joaquin Council of Governments region, and

WHEREAS, The Annual Progress Report for 2020 and Annual Housing Element Progress Report for 2020 were presented to Council at their April 6, 2021 meeting;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby authorizes staff to submit the Annual Progress Report for calendar year 2020 and Annual Element Progress Report for calendar year 2020 to the Office of Planning and Research and State Housing and Community Development Department regarding the implementation of the General Plan and Housing Element.

#### **AGENDA ITEM 1.G**

#### **REQUEST**

APPROVE MASTER PROFESSIONAL SERVICES AGREEMENTS WITH BARRY & WYNN ARCHITECTS, INC., AND THE KPA GROUP, INC. TO PROVIDE ON-CALL PROFESSIONAL ENGINEERING SERVICES FOR CAPITAL IMPROVEMENT PROJECTS, AND AUTHORIZE THE DEVELOPMENT SERVICES DIRECTOR TO EXECUTE NOTICES TO PROCEED RELATED TO THE AGREEMENTS, FOR A NOTTO-EXCEED AMOUNT OF \$600,000 FOR EACH CONSULTANT PER CALENDAR YEAR

#### **EXECUTIVE SUMMARY**

This agenda item, with City Council approval, would approve Master Professional Services Agreements (MPSAs) with Barry & Wynn Architects, Inc., and The KPA Group, Inc. to retain each consultant for on-call professional engineering services for Capital Improvement Projects for a not-to-exceed amount of \$600,000 for each consultant per calendar year. It is important to note that the not-to-exceed amount is a maximum contract cap and expenses may not reach that level. The MPSAs are for Capital Improvement Projects (CIPs) as a way to augment city engineering staff vacancies and expedite the various capital projects such as the various amenities, such as Legacy Fields, Arbor Road Shelter, Grand Theater repairs, parks sports court lighting project, and the Larch water main replacement project, to name just a few. This is in contrast to the more recently approved MPSAs for technical assistance related to tasks such as traffic analyses and interchange grant submissions. The funding for these consultant services will be through budgeted CIP projects for which such consultant services are required.

#### DISCUSSION

Capital Improvement Projects (CIPs) can require specialized professional engineering services that City Design Engineering staff are not licensed to perform. On-call services allow staff to quickly access the specific type of design support (structural, electrical, etc.) needed to move the project towards design completion while also augmenting existing City staff to expedite projects. The Engineering Department has had vacancies over the past several years due to recruitment challenges, while others have been temporarily frozen due to the City's budget situation.

On-call consultants can also provide additional design capacity to supplement the City's Engineering Design team. The on-call consultants have the capacity to complete design work on portions or entire Capital Improvement Projects, perform studies and provide analysis depending the specific project needs. The on-call services will allow funded CIPs to be completed in a timely manner, even though Design Engineering is not fully staffed. All work performed by the consultants is funded through the approved Capital Improvement Project budget.

On November 10, 2020 the City issued a Request for Proposals (RFP) for the Architectural, Structural and Civil Engineering On-Call Design Services for Capital

Improvement Projects. On December 10, 2020, the City received a total of twenty (20) proposals in response to the RFP. Staff reviewed and rated the proposals and selected Barry & Wynn Architects, Inc. and The KPA Group, Inc., as the firms that best fit the engineering design support needs of the City at this time.

After negotiations between the City and the consultants, the parties reached an agreement for the performance of services and said services are in accordance with the terms set forth in the MPSA, with a not-to-exceed amount of \$600,000 for each consultant per calendar year. The terms of each MPSA is set to begin on April 8, 2021 and expire on April 30, 2024, with an optional two-year extension by the City Manager following a written determination that Consultant has satisfactorily met all the requirements of this Agreement.

#### STRATEGIC PLAN

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

#### FISCAL IMPACT

This agenda item, with City Council approval, would approve Master Professional Services Agreements (MPSAs) with Barry & Wynn Architects, Inc., and The KPA Group, Inc. to retain each consultant for on-call professional engineering services for Capital Improvement Projects for a not-to-exceed amount of \$600,000 for each consultant per calendar year. It is important to note that the not-to-exceed amount is a maximum contract cap and expenses may not reach that level.

The funding for these consultant services will be through budgeted CIP projects for which such consultant services are required. Consultant services will be used on an asneed or on-call basis as CIP projects are ready to proceed and the staffing assistance is needed. Funding sources for the consultant services will vary and may include, but are not limited to the general fund, program management fees, development impact fees, various grants, annual gas tax, Community Development Block Grant, or other federal and state funds.

#### RECOMMENDATION

Staff recommends that the City Council approve, by resolution, Master Professional Services Agreements with Barry & Wynn Architects, Inc. and The KPA Group, Inc. to retain each consultant for on-call professional engineering services for Capital Improvement Projects, and authorize the Development Services Director to execute notices to proceed related to the agreements, for a not-to-exceed amount of \$600,000 for each consultant per calendar year.

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 Agenda Item 1.G April 6, 2021 Page 3

Approved by: Jenny Haruyama, City Manager

## **ATTACHMENTS**

Attachment A – Master Professional Services Agreement with Barry & Wynn Architects, Inc. Attachment B – Master Professional Services Agreement with The KPA Group, Inc.

# CITY OF TRACY MASTER PROFESSIONAL SERVICES AGREEMENT WITH BARRY & WYNN ARCHITECTS, INC. FOR ARCHITECTURAL, STRUCTURAL AND CIVIL ENGINEERING ON-CALL DESIGN SERVICES FOR CAPITAL IMPROVEMENT PROJECTS

This Master Professional Services Agreement (**Agreement**) is entered into between the City of Tracy, a municipal corporation (**City**), and **Barry & Wynn Architects, 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 on-call architectural, structural and civil engineering design services for Capital Improvement Projects.
- **B.** On November 10, 2020 the City issued a Request for Proposals (RFP) for the Architectural, Structural and Civil Engineering On-Call Design Services for Capital Improvement Projects ("Project"). On December 10, 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 l	being executed	pursuant to	Resolution I	No	approved by	Tracy	City
Council	on _	, 2021.	-				-	-	

## Now therefore, the Parties mutually agree as follows:

- 1. <u>Scope of Work</u>. Consultant shall perform the services generally described in Exhibit "A" attached, and incorporated by reference, as directed by written Notice to Proceed by the City's Development Services Director. The services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Steven Wynn, AIA. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit "A," nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.
- 1.1 Non-Exclusive Agreement. The City reserves the right to contract with other consultants providing the same or similar scope of services described above during the term of this Agreement. The City further reserves the right to, assign work, at its sole discretion, to consultants other than Consultant based on City's budget, experience, and skills of consultants based on the City's specific needs.
- 2. <u>Time of Performance</u>. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance, and shall complete all required services no later than the dates set forth in each individual Notice to Proceed. Any services for which times for performance are not specified in each individual Notice to Proceed shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated by the City to the Consultant. Consultant shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

- **2.1 Term.** The term of this Agreement shall begin on April 8, 2021 and end on April 30, 2024, unless terminated for any reason, including a lack of appropriated funds to compensate services provided under this Agreement, in accordance with Section 6. Any such termination of this Agreement due to failure of the City of Tracy Council to appropriate funds for payment for services under this Agreement shall not be a breach of the Agreement.
- **2.1.1 Option to Extend.** This Agreement may be extended for an additional 2 years by the City Manager following a written determination that Consultant has satisfactorily met all the requirements of this Agreement.
- **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 \$600,000 per calendar year. Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. Effective July 1, 2022, Consultant's billing rates under this Agreement may be annually increased in July of each year by the lesser of 3% or the annual increase in the Cost of Living Index All Items, for the Sacramento Metropolitan Region. No work shall be performed by Consultant in excess of the total compensation amount provided in this section without the City's prior written approval.
- **3.2 Invoices.** Consultant shall submit monthly invoice(s) to the City that describe the services performed, including times, dates, and names of persons performing the services.
- **3.2.1** If Consultant is providing services in response to a development application, separate invoice(s) must be issued for each application and each invoice shall contain the City's designated development application number.
- **3.2.2** Consultant's failure to submit invoice(s) in accordance with these requirements may result in the City rejecting said invoice(s) and thereby delaying payment to Consultant.
- **3.3 Payment.** Within 30 days after the City's receipt of invoice(s), City shall make payment to the Consultant based upon the services described on the invoice(s) and approved by the City.
- **4.** <u>Indemnification</u>. 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.

- **Insurance.** Consultant shall, throughout the duration of this Agreement, maintain insurance to cover Consultant, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.
- **5.1 Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than \$4,000,000 general

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

- **5.2 Automobile Liability** (with coverage at least as broad as ISO form CA 00 01 07 97, for "any auto") "claims made" coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
- **5.3 Workers' Compensation** coverage shall be maintained as required by the State of California.
- **5.4 Professional Liability** "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Consultant in an amount not less than \$1,000,000 per claim.
- **5.5 Endorsements.** Consultant shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions:
- **5.5.1** The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."
- **5.5.2** For any claims related to this Agreement, Consultant's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.
- **5.6 Notice of Cancellation.** Consultant shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Consultant shall immediately obtain a replacement policy.
- **5.7 Authorized Insurers.** All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- **5.8 Insurance Certificate.** Consultant shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance and endorsements, in a form satisfactory to the City, before the City signs this Agreement.
- **5.9** Substitute Certificates. Consultant shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.
- **5.10** Consultant's Obligation. Maintenance of insurance by the Consultant as specified in this Agreement shall in no way be interpreted as relieving the Consultant of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Consultant may carry, at its own expense, such additional insurance as it deems necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.
- **Termination.** The City may terminate this Agreement by giving ten days' written notice to Consultant. Upon termination, Consultant shall give the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant for this Agreement. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.
- 7. <u>Dispute Resolution</u>. 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 sub consultants) 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.** <u>Notices</u>. 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 (3) three working days after the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

To City:
Development Services Department
Attn: Robert Armijo, P.E
City Engineer
333 Civic Center Plaza
Tracy, CA 95376

With a copy to: City Attorney 333 Civic Center Plaza Tracy, CA 95376 To Consultant:
Barry & Wynn Architects, Inc.
Attn: Steven Wynn, AIA
CFO
379 Hartz Avenue
Danville, CA 94526

## 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 <a href="http://www.dir.ca.gov/DLSR">http://www.dir.ca.gov/DLSR</a>. 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.** <u>Signatures</u>. 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]

Page 6 of 10 Rev. July 2020

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

City of Tracy	Consultant
	Barry & Wynn Architects, Inc., a
	California corporation
By: Nancy D. Young Title: Mayor Date:	By: Steven Wynn, AIA Title: CFO Date: 3-26-21
Attest:	Federal Employer Tax ID No. 68 0457271
Adrianne Richardson, City Clerk	By: Blair Barry, AIA Title: CEO
Approved as to form:	Date: 3/16/1/
e/	
Leticia M. Ramirez, City Attorney	

## Exhibits:

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

## EXHIBIT A - Scope of Work

The specific scope of work will be determined by the City on a project-by-project basis. Not all tasks will be required for all projects. The Consultant will provide supplemental support to City staff on City designed projects as requested by the City.

As part of the Engineering Design Services, Consultant may assist the City in the performance of any the following services:

Project management and project coordination

Architectural Design

Civil and Structural Engineering and Design

Design of Mechanical, Electrical, Plumbing, HVAC, Fire Suppression, or other specialties

Geotechnical Investigations

Utility Location and Potholing

Coordination with outside agencies (Utility, Railroad, San Joaquin County, CalTrans, etc.)

General drafting services

Environmental permitting and preparation of CEQA or NEPA documents

## **Typical Tasks**

<u>Task 1 – Project Management.</u> The consultant shall provide professional and technical services during the scoping and design of the project. The proposed design shall be based on alternatives recommended in Task 1 and approved by the City.

- Develop a project team and prepare the project scope of work, activities, schedule, and work plan. Define key issues and goals and coordinate responsibilities of project team members.
- Hold regular project team coordination and status meetings, prepare agenda, prepare meeting minutes and summarize action items. Meetings should be held a minimum of once a month.

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- Define and analyze the feasibility of proposed improvements, structures and features.
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<u>Task 5 – Permitting.</u> The Consultant will identify the permits that will be required on this project.

• The Consultant shall identify all agencies with permitting authority over any aspects of the project and shall maintain communication and coordination efforts with such agencies throughout all phases of the work. Consultant shall identify permitting requirements and, in conjunction with City staff, establish how these requirements will be implemented. The incorporation of all permitting requirements in preliminary engineering, final engineering and PS&E shall be accomplished during the appropriate phases of the work.

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- Consultant shall be responsible for the plan check process as needed to procure building permit from the City Building Division.

## Task 6 – Reconnaissance and Field Surveys

- Define and analyze the feasibility of proposed project
- Review the existing survey/geotechnical data and determine what additional data is required (Geotechnical and Land Surveying services may arranged through the City's existing Agreements or provided by the Consultant.)
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- Perform potholing as needed to verify the exact location and depth of existing utilities as needed

## **Task 7 – Construction Documents**

- Prepare contract construction plans, technical specifications, and cost estimates (PS&E) associated with the project. These documents shall be suitable for public bidding. Prepare all plans using AutoCAD format in a version compatible with the City's and to City CAD standards.
- Final drawings will be delivered to the City on using City border and title block, in both printed and electronic signed copies.
- City staff will prepare the "Boiler Plate" portion of the specifications and incorporate the Consultant's technical specification into the final bid package to be reproduced (along with the project plans) by the City.
- The Consultant shall submit three (3) sets of plans, technical specifications, and cost estimates at 60%, 90%, 100%, and at the Final completion stage of the project for City review. The Consultant shall incorporate the comments received after the reviews and should plan on a meeting with the City staff at each submittal level to review the City's comments. Final submittal requires signed originals, AutoCAD files, and electronic files of all the PS&E documents.
- At the completion of construction, consultant shall prepare Record (as-constructed) Drawings of the
  final project and submit those to the City in AutoCAD electronic format (on CD) and printed full size
  on 4 mil Mylar, 24" x 36", including all signatures and City of Tracy title blocks. These record drawings
  will be prepared using the AutoCAD construction drawings and the contractor's marked up set of asconstructed drawings and creating a "conform" set of drawings, which is turned off to produce the
  final as-constructed mylars.
- Plans and specifications for the project shall comply with the latest editions of the City of Tracy Design Standards, Standard Plans, Parks and Streetscape Standard Plans, Standard Specifications, and other reference standards such as the State of California Building Code, and the Standard Specification for Public Works Construction (Greenbook), and any other applicable codes.
- All work for the design services should be performed under the direct supervision of a Registered Architect, Structural Engineer or Civil Engineer registered in the State of California,
- The title sheet of the specifications, reports, and each sheet of the project plans shall bear the professional seal, certificate number, registration classification, expiration date of the certificate, and signature of the professional engineer or architect responsible for their preparation.

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### Task 8 - Bid Period Services:

Consultant shall provide clarification and information about the PS&E package during advertising and construction process. The Consultant shall assist the City in the preparation of any addenda to the PS&E during the advertisement period. Consultant shall review the contractor's shop drawings and any other submittals required. Additionally, Consultant shall be responsible for resolving any errors in the design, which are identified during construction at no additional cost to the City and in a timely manner to ensure construction delays, are avoided or minimized.

Assist in the review of contractor change order requests and assist in any redesign efforts leading up to change order preparation for the construction contract.

Answer questions, review submittals, shop drawings, and schedules required to be submitted by the construction documents, for conformance with the design plans and specifications. Review and respond to contractor's request for information (RFI) and clarifications during construction must be done within five calendar days.

- Clarification of documents during advertising and construction including preparation of any addenda
- Provide review comments and acceptance letters/memos for each of the contractor's shop drawings and any other submittals required
- Attend pre-construction meeting and take meeting notes
- Prepare plan revisions as required
- Prepare conform set of construction documents which includes all addendums
- Provide Record Drawings on mylar

### Key Personnel:

Barry & Wynn Architects, Inc. - Steven Wynn, AIA

Finn Design Group – Jeff Finn, S.E.

West Yost – Elizabeth Drayer, P.E.

Ruggeri-Jensen-Azar (RJA) – Eddie Sieu, P.E.

ENGEO Inc. - Jeff Fippin, G.E.

Turley & Associates Mechanical Engineering Group, Inc. – John Thompson, M.E.

Capitol City Design, Inc. - Tony Baker, L.C.

Leland Saylor Associates – Jeff Saylor

Pawprint Specs, LLC – Gloria Abston, CSI, CCS, CCCA, SCIP

# CITY OF TRACY MASTER PROFESSIONAL SERVICES AGREEMENT WITH THE KPA GROUP FOR ARCHITECTURAL, STRUCTURAL AND CIVIL ENGINEERING ON-CALL DESIGN SERVICES FOR CAPITAL IMPROVEMENT PROJECTS

This Master Professional Services Agreement (**Agreement**) is entered into between the City of Tracy, a municipal corporation (**City**), and **The KPA Group, Inc.**, a California corporation (**Consultant**). City and Consultant are referred to individually as "Party" and collectively as "Parties."

### Recitals

City desires to retain Consultant to perform on-call architectural, structural and civil engineering design services for Capital Improvement Projects.

- **A.** On November 10, 2020 the City issued a Request for Proposals (RFP) for the Architectural, Structural and Civil Engineering On-Call Design Services for Capital Improvement Projects ("Project"). On December 10, 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.
- **B.** 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.

<b>C</b> .	This .	Agreement is l	being executed	pursuant to	Resolution I	No	approved by	Tracy	City
Council	on _	, 2021.	-				- -	-	

## Now therefore, the Parties mutually agree as follows:

- 1. <u>Scope of Work</u>. Consultant shall perform the services generally described in Exhibit "A" attached, and incorporated by reference, as directed by written Notice to Proceed by the City's Development Services Director. The services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Paul Powers, AIA. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit "A," nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.
- 1.1 Non-Exclusive Agreement. The City reserves the right to contract with other consultants providing the same or similar scope of services described above during the term of this Agreement. The City further reserves the right to, assign work, at its sole discretion, to consultants other than Consultant based on City's budget, experience, and skills of consultants based on the City's specific needs.
- 2. <u>Time of Performance</u>. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance, and shall complete all required services no later than the dates set forth in each individual Notice to Proceed. Any services for which times for performance are not specified in each individual Notice to Proceed shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated by the City to the Consultant. Consultant shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

- **2.1 Term.** The term of this Agreement shall begin on April 8, 2021 and end on April 30, 2024, unless terminated for any reason, including a lack of appropriated funds to compensate services provided under this Agreement, in accordance with Section 6. Any such termination of this Agreement due to failure of the City of Tracy Council to appropriate funds for payment for services under this Agreement shall not be a breach of the Agreement.
- **2.1.1 Option to Extend.** This Agreement may be extended for an additional 2 years by the City Manager following a written determination that Consultant has satisfactorily met all the requirements of this Agreement.
- **3.** <u>Compensation</u>. 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 \$600,000 per calendar year. Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. Effective July 1, 2022, Consultant's billing rates under this Agreement may be annually increased in July of each year by the lesser of 3% or the annual increase in the Cost of Living Index All Items, for the Sacramento Metropolitan Region. No work shall be performed by Consultant in excess of the total compensation amount provided in this section without the City's prior written approval.
- **3.2 Invoices.** Consultant shall submit monthly invoice(s) to the City that describe the services performed, including times, dates, and names of persons performing the services.
- **3.2.1** If Consultant is providing services in response to a development application, separate invoice(s) must be issued for each application and each invoice shall contain the City's designated development application number.
- **3.2.2** Consultant's failure to submit invoice(s) in accordance with these requirements may result in the City rejecting said invoice(s) and thereby delaying payment to Consultant.
- **3.3 Payment.** Within 30 days after the City's receipt of invoice(s), City shall make payment to the Consultant based upon the services described on the invoice(s) and approved by the City.
- **4.** <u>Indemnification</u>. 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.** <u>Insurance.</u> Consultant shall, throughout the duration of this Agreement, maintain insurance to cover Consultant, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.
- **5.1 Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than \$4,000,000 general

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

- **5.2 Automobile Liability** (with coverage at least as broad as ISO form CA 00 01 07 97, for "any auto") "claims made" coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
- **5.3 Workers' Compensation** coverage shall be maintained as required by the State of California.
- **5.4 Professional Liability** "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Consultant in an amount not less than \$1,000,000 per claim.
- **5.5 Endorsements.** Consultant shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions:
- **5.5.1** The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."
- **5.5.2** For any claims related to this Agreement, Consultant's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.
- **5.6 Notice of Cancellation.** Consultant shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Consultant shall immediately obtain a replacement policy.
- **5.7 Authorized Insurers.** All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- **5.8 Insurance Certificate.** Consultant shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance and endorsements, in a form satisfactory to the City, before the City signs this Agreement.
- **5.9** Substitute Certificates. Consultant shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.
- **5.10** Consultant's Obligation. Maintenance of insurance by the Consultant as specified in this Agreement shall in no way be interpreted as relieving the Consultant of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Consultant may carry, at its own expense, such additional insurance as it deems necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.
- **Termination.** The City may terminate this Agreement by giving ten days' written notice to Consultant. Upon termination, Consultant shall give the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant for this Agreement. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.
- 7. <u>Dispute Resolution</u>. 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 sub consultants) 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.** <u>Notices</u>. 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 (3) three working days after the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

To City:
Development Services Department
Attn: Robert Armijo, P.E
City Engineer
333 Civic Center Plaza
Tracy, CA 95376

With a copy to: City Attorney 333 Civic Center Plaza Tracy, CA 95376 To Consultant:
The KPA Group
Attn: Paul W. Powers, A.I.A
President
6700 Koll Center Parkway, Suite 125
Pleasanton, CA 94566

## 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 <a href="http://www.dir.ca.gov/DLSR">http://www.dir.ca.gov/DLSR</a>. 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.
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Page 6 of 10 Rev. July 2020

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City of Tracy	Consultant The KPA Group, a California corporation
By: Nancy D. Young Title: Mayor Date:	By: Paul W. Powers, A.I.A. Title: President Date: 2 24 2021
Attest:	Federal Employer Tax ID No. 94-3202960
Adrianne Richardson, City Clerk	By: Matthew Evans Title: Vice President
Approved as to form:	Date: 3/4/001
Leticia M. Ramirez, City Attorney	

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- Final drawings will be delivered to the City on using City border and title block, in both printed and electronic signed copies.
- City staff will prepare the "Boiler Plate" portion of the specifications and incorporate the Consultant's technical specification into the final bid package to be reproduced (along with the project plans) by the City.
- The Consultant shall submit three (3) sets of plans, technical specifications, and cost estimates at 60%, 90%, 100%, and at the Final completion stage of the project for City review. The Consultant shall incorporate the comments received after the reviews and should plan on a meeting with the City staff at each submittal level to review the City's comments. Final submittal requires signed originals, AutoCAD files, and electronic files of all the PS&E documents.
- At the completion of construction, consultant shall prepare Record (as-constructed) Drawings of the
  final project and submit those to the City in AutoCAD electronic format (on CD) and printed full size
  on 4 mil Mylar, 24" x 36", including all signatures and City of Tracy title blocks. These record drawings
  will be prepared using the AutoCAD construction drawings and the contractor's marked up set of asconstructed drawings and creating a "conform" set of drawings, which is turned off to produce the
  final as-constructed mylars.
- Plans and specifications for the project shall comply with the latest editions of the City of Tracy Design Standards, Standard Plans, Parks and Streetscape Standard Plans, Standard Specifications, and other reference standards such as the State of California Building Code, and the Standard Specification for Public Works Construction (Greenbook), and any other applicable codes.
- All work for the design services should be performed under the direct supervision of a Registered Architect, Structural Engineer or Civil Engineer registered in the State of California,
- The title sheet of the specifications, reports, and each sheet of the project plans shall bear the professional seal, certificate number, registration classification, and signature of the professional engineer or architect responsible for their preparation.

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### Task 8 - Bid Period Services:

Consultant shall provide clarification and information about the PS&E package during advertising and construction process. The Consultant shall assist the City in the preparation of any addenda to the PS&E during the advertisement period. Consultant shall review the contractor's shop drawings and any other submittals required. Additionally, Consultant shall be responsible for resolving any errors in the design, which are identified during construction at no additional cost to the City and in a timely manner to ensure construction delays, are avoided or minimized.

Assist in the review of contractor change order requests and assist in any redesign efforts leading up to change order preparation for the construction contract.

Answer questions, review submittals, shop drawings, and schedules required to be submitted by the construction documents, for conformance with the design plans and specifications. Review and respond to contractor's request for information (RFI) and clarifications during construction must be done within five calendar days.

- Clarification of documents during advertising and construction including preparation of any addenda
- Provide review comments and acceptance letters/memos for each of the contractor's shop drawings and any other submittals required
- Attend pre-construction meeting and take meeting notes
- Prepare plan revisions as required
- Prepare conform set of construction documents which includes all addendums
- Provide Record Drawings on mylar

Key Personnel:

## The KPA Group

Paul Powers, A.I.A.
Martin Baker
Cindy Chen
Matthew Evans
Agnes Gao
Dan Herms
Sam Liu
Paul Powers
Shraddha Santhosh

Sub Consultant staff will be assigned by project need.

SJ Engineers

Jessica Tyler

Circlepoint Environmental

BSK Engineers

Morrison Maierle

Rockridge Geotechnical

Pharis Engineering

Carducci & Associates, Landscaping

Hratch Kouyoumdjian

## **EXHIBIT B**

## **Billing Rates**

KPA's Billing Rates throughout 2021 to 2023 are as follows:

Category	2021	2022	2023
Principal	\$255	\$265	\$280
Project Manager	\$245	\$250	\$260
Registered Architect or Engineer	\$210	\$215	\$230
Designer/Technical Professional	\$190	\$195	\$205
CAD Technician	\$150	\$155	\$160
Administrative	\$100	\$100	\$110



## SJ ENGINEERS

300 Frank H. Ogawa Plaza, Suite 8• Oakland, California 94612 • Tel (510) 832-1505 • Fax (510) 832-1507

## SJ Engineers' hourly billing rates:

PRINCIPAL	\$ 235.00/hr.
ASSOCIATE	\$ 170.00/hr.
PROJECT ENGINEER	\$ 170.00/hr.
SENIOR DESIGNER	\$ 160.00/hr.
DESIGNER	\$ 140.00/hr.
CADD OPERATOR	\$ 95.00/hr.
STAFF	\$ 85.00/hr.

Listed rates are valid through December 31, 2023.



#### 2021 - 2023 TIME & MATERIALS FEE SCHEDULE\*

I. Professional services will be rendered based on the following hourly rates:

	2021	2022	2023
Senior Managing Principal	\$295	\$305	\$315
Managing Principal	\$275	\$285	\$290
Principal	\$250	\$260	\$265
Senior Project Manager	\$195	\$200	\$210
Project Manager	\$155	\$160	\$165
Senior Associate	\$135	\$140	\$145
Associate	\$110	\$115	\$120
Assistant/Coordinator	\$100	\$105	\$110

II. Creative services will be rendered based on the following hourly rates:

	2021	2022	2023
Creative Director	\$250	\$260	\$265
Senior Art Director	\$195	\$200	\$210
Art Director	\$155	\$160	\$165
Web Manager	\$155	\$160	\$165
Senior Web/Graphic Designer	\$135	\$140	\$145
Web/Graphic Designer	\$120	\$125	\$130

III. Supportive services will be rendered based on the following hourly rates:

	2021	2022	2023
Accounting Manager	\$160	\$165	\$170
Accounting Clerk	\$100	\$105	\$110
Clerical	\$80	\$80	\$85

IV. Provision of related services and reimbursable expenses will be charged to the client as follows:

Black and White Prints/Copies, In House \$0.06-0.25 per page, depending on paper size Color Prints/Copies, In House \$0.50-\$1.75 per page, depending on paper size

Faxes \$0.60 per page

Phone/Postage at cost

Mileage Per IRS Standard Mileage Rate

Online Surveys \$20 each
Project Email Account at cost
Eblasts \$14 each
Web Hosting \$300 per year
Domain \$15 per year

Vendor & Subconsultant Services 10% mark up for administration

AV/Equipment Rental at cost

V. Expert witness testimony or technical assistance on legal matters shall be provided at the rate of \$350 per hour of witness and preparation time.

<sup>\*</sup> Rates are effective through December 31, 2023 and subject to escalation in January 2024.

## 2021-2023 BSK Fee Schedule - PW

Additional Special Forms, as required - per project

PERSONNEL RA	TES				
PROFESSIONAL STAFF		2021	2022		2023
Principal	\$	248.00 \$	255.00	\$	263.00
Senior Professional	\$	221.00 \$	228.00	\$	235.00
Project Professional II	\$	204.00 \$	210.00	\$	216.00
Project Professional I	\$	171.00 \$	176.00	\$	181.00
Staff Professional II	\$	154.00 \$	159.00	\$	164.00
Staff Professional I	\$	138.00 \$	142.00	\$	146.00
Seismic GIS	\$	193.00 \$	199.00	\$	205.00
GIS Specialist	\$	138.00 \$	142.00	\$	146.00
Information Specialist II	\$	154.00 \$	159.00	\$	164.00
Information Specialist II	\$	138.00 \$	142.00	\$	146.00
CAD	\$	100.00 \$	103.00	\$	106.00
Project Administrator	\$	95.00 \$	98.00	\$	101.00
TECHNICAL STAFF (PREVAILING WAGE)		2021	2022		2023
Field Supervisor	\$	171.00 \$	176.00	\$	181.00
Group 1 - Special Inspector	\$	149.00 \$	153.00	\$	158.00
Group 2 - Special Inspector	\$	142.00 \$	146.00	\$	150.00
Group 3 - Engineering Technician	\$	129.00 \$	133.00	\$	137.00
Group 4 - Technician	\$	112.00 \$	115.00	\$	118.00
Ground Penetrating Radar Scanning Technician	\$	289.00 \$	298.00	\$	307.00
Core Drilling Technician	\$	210.00 \$	216.00	\$	222.00
Floor Flatness Testing Technician	\$	189.00 \$	195.00	\$	201.00
Sample Pickup / Transportation / Delivery	\$	108.00 \$	111.00	\$	114.00
Laboratory Technician	\$	108.00 \$	111.00	\$	114.00
Administrative Assistant / Clerical	\$	86.00 \$	89.00	\$	92.00
Litigation support		1	.5x standard rate		
OTHER RATE:	s				
BASIS OF CHARGES FOR FIELD TECHNICIAN SERVICES			2021-2023		
Field Work from 0 to 4 hours			Bill 4 hours		
Field Work from 4 to 6 hours			Bill 6 hours		
Field Work from 6 to 8 hours			Bill 8 hours		
Field Work over 8 hours / Saturdays		Bill time a	and a half base rat	e (1.5x	·)
Sundays, holidays and over 12 hours		Bill tw	o times base rate	(2x)	
Swing shift (4:00pm to Midnight)		Ad	ld \$20.00 per hour	-	
Graveyard Shift		Ad	ld \$30.00 per hour	-	
Show-up time (no work performed), minimum charge			Bill 2 hours		
Sample or cylinder pickup, minimum charge			Bill 2 hours		
REIMBURSABLES			2021-2023		
Mileage (Portal to Portal)		\$0.88/	mile (years 2021-2	023)	
Per Diem (as required)		\$150.	00 (years 2021-20	23)	
Bridge Toll	Cost + 15%				
Parking Fees			Cost + 15%		
Subconsultant/Subcontractor Services, Vendors, and Expenses			Cost + 15%		
Project Administration Fees (Monthly)		10% of Invoice	or \$300 minimum	n per p	roject
BSK SERVICES / DIR / PREVAILING WAGE ADMINISTRATION FEES		2021	2022		2023
Certified Payroll / DIR Upload (Monthly) - per project	\$	300.00 \$	309.00	\$	318.00
Non-Performance Certified Payroll / DIR Upload (Monthly) - per project	\$	100.00 \$			106.00
Subcontractor Management / Compliance Forms (Monthly) - per project	\$	100.00 \$	103.00		106.00
Additional LCP Tracker or Other Compliance Software - per project	\$	200.00 \$	206.00		212.00
Additional Special Forms as required - per project	¢	150.00 \$	155.00		160.00



160.00

155.00 \$

150.00 \$



## **Industrial Billing Rate Schedule**

		2021 2022 2023		2022		23	
		Standard	Overtime	Standard	Overtime	Standard	Overtime
		Rate	Rate	Rate	Rate	Rate	Rate
For all the same	Our and the Foreign on IV	007.00	007.00	044.00	044.00	054.00	054.00
Engineer	Supervising Engineer IV	237.00	237.00	244.00	244.00	251.00	251.00
	Supervising Engineer III	217.00	217.00	224.00	224.00	231.00	231.00
	Supervising Engineer II	204.00	204.00	210.00	210.00	216.00	216.00
	Supervising Engineer I	192.00	192.00	198.00	198.00		204.00
	Senior Engineer II	180.00	180.00	185.00	185.00		191.00
	Senior Engineer I	164.00	164.00	169.00	169.00	174.00	174.00
	Design Engineer II	154.00	154.00	159.00	159.00	164.00	164.00
	Design Engineer I	143.00	143.00	147.00	147.00	151.00	151.00
	Engineer Intern II	124.00	124.00	128.00	128.00	132.00	132.00
	Engineer Intern I	109.00	109.00	112.00	112.00	115.00	115.00
Planner	Supervising Senior Planner	196.00	196.00	202.00	202.00	208.00	208.00
	Senior Planner	163.00	163.00	168.00	168.00	173.00	173.00
	Planner III	132.00	132.00	136.00	136.00	140.00	140.00
	Planner II	120.00	120.00	124.00	124.00	128.00	128.00
	Planner I	105.00	105.00	108.00	108.00	111.00	111.00
Scientist	Supervising Environmental Scientist	204.00	204.00	210.00	210.00	216.00	216.00
	Environmental Scientist III	163.00	163.00	168.00	168.00	173.00	173.00
	Environmental Scientist II	124.00	124.00	128.00	128.00	132.00	132.00
	Environmental Scientist I	105.00	105.00	108.00	108.00	111.00	111.00
	Environmental Technician	92.00	92.00	95.00	95.00	98.00	98.00
	Supervising Geologist	219.00	219.00	226.00	226.00	233.00	233.00
	Senior Geologist	194.00	194.00	200.00	200.00	206.00	206.00
	Geologist III	167.00	167.00	172.00	172.00	177.00	177.00
	Geologist II	143.00	143.00	147.00	147.00	151.00	151.00
	Geologist I	122.00	122.00	126.00	126.00	130.00	130.00
Designer and Technician	Senior Communications Designer	153.00	153.00	158.00	158.00	163.00	163.00
	CAD Designer III	136.00	136.00	140.00	140.00	144.00	144.00
	CAD Designer II	125.00	125.00	129.00	129.00		133.00
	CAD Designer I	116.00	174.00	119.00	178.50	123.00	184.50
	CAD Tech III	114.00	171.00	117.00	175.50	121.00	181.50
	CAD Tech II	99.00	148.50	102.00	153.00	105.00	157.50
	CAD Tech I	87.00	130.50	90.00	135.00	93.00	139.50
	Senior Engineering Technician	160.00	160.00	165.00	165.00	170.00	170.00
	Engineering Technician	109.00	109.00	112.00	112.00	115.00	115.00
Resident Project							
Representative	Senior Resident Project Representative	152.00	152.00	157.00	157.00	162.00	162.00
	Resident Project Representative III	145.00	145.00	149.00	149.00		153.00
	Resident Project Representative II	128.00	128.00	132.00	132.00	136.00	136.00
	Resident Project Representative I	110.00	165.00	113.00	113.00	116.00	116.00
Administrative	Administrative Manager	110.00	110.00	113.00	113.00	116.00	116.00
rammonativo	Administrative Coordinator III	102.00	102.00	105.00	105.00		108.00
	Administrative Coordinator II	96.00	144.00	99.00	148.50		153.00
	Administrative Coordinator I	79.00	118.50	81.00	121.50		109.50
	Project Coordinator III	103.00	154.50	106.00	159.00	109.00	163.50
	Project Coordinator II	91.00	136.50	94.00	141.00		145.50
	Project Coordinator I	79.00	118.50	81.00	121.50	83.00	124.50
	Technical Intern	75.00	112.50	77.00	115.50		118.50
	Senior Communication Specialist	112.00	112.00	115.00	115.00		118.00
	•	92.00	92.00	95.00	95.00		98.00
	Graphic Designer Health & Safety Administrator	122.00	122.00	126.00	126.00		130.00
Cunyou	Conjor Curvoy Monogor	107.00	107.00	207.00	207.00	212.00	212.00
Survey	Senior Survey Manager	197.00	197.00	207.00	207.00	213.00	213.00
	Survey Manager	153.00	153.00	161.00	161.00	166.00	166.00
	Land Surveyor IV	147.00	147.00	154.00	154.00	159.00	159.00
	Land Surveyor III	138.00	138.00	145.00	145.00	149.00	149.00
	Land Surveyor II	126.00	126.00	132.00	132.00		136.00
	Land Surveyor I	116.00	116.00	122.00	122.00		126.00
	Remote Sensing Specialist	122.00	122.00	128.00	128.00		132.00
	Survey Technician IV	112.00	112.00	118.00	118.00		122.00
	Survey Technician III	100.00	150.00	105.00	157.50		162.00
	Survey Technician II	87.00	130.50	91.00	136.50		141.00
	Survey Technician I	73.00	109.50	77.00	115.50	79.00	118.50



## Rockridge Geotechnical, Inc.

## **Professional Billing Rates for 2021-2023 Period**

## CITY OF TRACY Architectural, Structural, and Civil Engineering On-Call Design Services for Capital Improvement Projects

Principal Engineer - \$240/hr

Associate Engineer - \$175/hr

Senior Engineer - \$165/hr

Senior Project Engineer - \$155/hr

Project Engineer \$145/hr

Senior Staff Engineer - \$135/hr

Staff Engineer - \$130/hr

Field Technician - \$130/hr

Graphics - \$100/hr

Subcontractor/Direct Expense Markup – 10%

## Pharis Engineering - 2021 to 2023 Rates City of Tracy

Position	2021	2022	2023
Supervising Electrical Engineer	\$210.00	\$215.00	\$225.00
Jr. Electrical Engineer	\$175.00	\$180.00	\$185.00
CAD Drafting	\$135.00	\$140.00	\$144.00
Administrative	\$80.00	\$80.00	\$85.00

## Carducci & Associates Rate Schedule

Billing Rates	2021	2022	2023	2024	2025
Principal	\$215.00	\$225	\$235	\$245.00	\$255.00
Associate Principal	\$190.00	\$195.00	\$200.00	\$205.00	\$210.00
Senior Associate	\$180.00	\$180.00	\$190.00	\$190.00	\$195.00
Associate	\$150.00	\$150.00	\$155.00	\$160.00	\$165.00
Clerical	\$95.00	\$95.00	\$100.00	\$110.00	\$110.00
Intern?					
Expert Witness					
Expert Witness - Principal	\$425.00	\$450.00	\$450.00	\$500.00	\$525.00
Expert Witness - Deposition	\$525.00	\$550.00	\$550.00	\$575.00	\$600.00
Expert Witness - Court	\$525.00	\$550.00	\$550.00	\$575.00	\$600.00
Expert Witness - Administrative	\$150.00	\$165.00	\$165.00	\$175.00	\$200.00

## **2021-2023 HOURLY RATE SCHEDULE**

CATEGORY	RATE PER HOUR	
STRUCTURAL ENGINEER - 2021	\$215	
STRUCTURAL ENGINEER - 2022	\$225	
STRUCTURAL ENGINEER - 2023	\$230	

## GHD INC.

## **HOURLY RATES**

Key Personnel	Year 1	Year 2	Year 3
Senior Technical Director 2	\$255.00	\$263.00	\$271.00
Senior Technical Director 3	\$235.00	\$242.00	\$249.00
Technical Director 1	\$215.00	\$221.00	\$228.00
Technical Director 2	\$195.00	\$201.00	\$207.00
Senior Professional 1	\$170.00	\$175.00	\$180.00
Senior Professional 2	\$155.00	\$160.00	\$165.00
Design Technician 1	\$145.00	\$149.00	\$153.00
Professional 1	\$135.00	\$139.00	\$143.00
Admin Officer 3	\$100.00	\$103.00	\$106.00

City of Tracy On-Call Page 1

<b>RESOLUTION</b>	2021-
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APPROVING MASTER PROFESSIONAL SERVICES AGREEMENTS WITH BARRY & WYNN ARCHITECTS, INC. AND THE KPA GROUP, INC. TO PROVIDE ON-CALL PROFESSIONAL ENGINEERING SERVICES FOR CAPITAL IMPROVEMENT PROJECTS, AND AUTHORIZING THE DEVELOPMENT SERVICES DIRECTOR TO EXECUTE NOTICES TO PROCEED RELATED TO THE AGREEMENTS, FOR A NOT-TO-EXCEED AMOUNT OF \$600,000 FOR EACH CONSULTANT PER CALENDAR YEAR

WHEREAS, The City requires specialized professional engineering design services for some Capital Improvement Projects (CIPs), and

WHEREAS, The City requires additional engineering design capacity to supplement the City's Engineering Design staff, and

WHEREAS, On November 20, 2020, the City published a Request for Proposals (RFP) from Consultants for Architectural, Structural and Civil Engineering On-Call Design Services for Capital Improvement Projects, and

WHEREAS, On December 10, 2020, staff received a total of twenty (20) proposals in response to the RFP, and staff reviewed and rated the proposals and selected FGCA Architects, LLC., Barry & Wynn Architects, Inc., and The KPA Group, Inc., and

WHEREAS, The terms for these agreements will expire on April 30, 2024, and can be extended for an additional two (2) years by the City Manager following a written determination that Consultant has satisfactorily met all the requirements of this Agreement, and

WHEREAS, The funding for these consultant services will be through the budgeted CIP projects for which the consultant services are required;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy, hereby approves the Master Professional Services Agreements with Barry & Wynn Architects, Inc. and The KPA Group, Inc. to provide on-call professional engineering services for Capital Improvement Projects, and authorizes the Development Services Director to execute notices to proceed related to the agreements, for a not-to-exceed amount of \$600,000 for each consultant per calendar year.

\* \* \* \* \* \* \* \* \* \* \* \* \*

Resolution 20 Page 2	)21	
	oregoing Resolution 2021 021, by the following vote:	was adopted by the Tracy City Council on the 6 <sup>th</sup>
AYES: NOES: ABSENT: ABSTAIN:	COUNCIL MEMBERS: COUNCIL MEMBERS: COUNCIL MEMBERS: COUNCIL MEMBERS:	
ATTEST:		MAYOR
CITY CLERK		

#### AGENDA ITEM 3.A

## **REQUEST**

## RECEIVE UPDATE ON THE WESTSIDE SPECIFIC PLAN PROJECT (FORMALLY KNOWN AS TRACY GATEWAY)

## **EXECUTIVE SUMMARY**

The Westside Specific Plan project (formally known as Tracy Gateway) is a proposed 538-acre mixed commercial / retail, medical, institutional, and residential project located at the southwest corner of Eleventh Street and Lammers Road. The Project was originally approved and annexed to the City in 2002.

In 2018, Council directed staff to work with the existing property owners to reanalyze and reimage the Specific Plan and facilitate a new project implementation. The project was renamed as the Westside Specific Plan. Council also appropriated \$500,000 in funding to allow the City to take the lead in starting the new entitlement process. It should be noted that these funds were only advanced and that the property owners will reimburse the City for the advanced funding. The exact mechanism for the reimbursement is still being developed. It is also important to note that any necessary funding required beyond the initial \$500,000 will come directly from the property owners and not the City.

This agenda item provides an update on the status of the Westside Specific Plan project. Following this update, Development Services staff, with assistance from the City's consultant, will commence public outreach, refine the land use plan, return to City Council for land use direction, then complete the draft Specific Plan and EIR for public review. This may take approximately 12 months.

## DISCUSSION

The 538-acre Westside Specific Plan project area, annexed to the City in 2002, is located southwest of the intersection of Eleventh Street and Lammers Road (Attachment A). Its Concept Development Plan, also approved by the Tracy City Council in 2002, includes a business park with up to 5.8 million square feet of office buildings, research and development facilities, retail, a hotel, and other commercial uses around a nine-hole golf course.

Following annexation to the City, a final map affecting a portion of the area was approved, some subsurface utilities were installed, and a small segment of roads was built on the west side of the site (although improvements have not, yet, been accepted by the City). Nevertheless, development stalled, property ownership changed, and no applications for private development were initiated. Lack of progress at the Gateway project contributed to a sense that the plan is out of step with current market conditions.

In response to the inactivity, in 2018, the City Council awarded a contract to Kimley-Horn Associates (KHA) to help property owners and the City re-evaluate the land use assumptions of the project and to develop a new Specific Plan for the property. The process began with a real estate market analysis forecast, continued with multiple

property-owner meetings, and evaluation of land use plan alternatives and infrastructure solutions.

The City Council received an update on the project on March 5, 2019 and was presented with the property owners' preferred land use plan, which is now subject to change. This land use plan was a significant departure from the 2002 plan. The City Council gave general direction to continue with the project, using the owners' preferred land use plan, and to include a 250-foot wide overlay zone along the visually prominent Eleventh Street and I-205 frontage. The overlay zone would require an enhanced emphasis on building orientation, architectural design, and landscape planting and screening. The City Council also indicated the intention to establish a reimbursement program likely to be collected concurrently with discretionary approvals (development review permits, subdivision maps, rezoning, etc.), likely within two to five years from adoption of the plan, through which property owners would reimburse the City for initial costs to develop the Specific Plan. Such reimbursement program would be created with adoption of the Specific Plan.

Based on direction from Council at its March 5, 2019 City Council meeting, drafting of a Specific Plan and EIR began. An administrative draft of both documents was completed in mid-2020. In late 2020, one of the property owners expressed a preference to redesignate approximately 180 acres of the property owners' preferred plan. This change involves a shift from institutional and assisted living zoning to industrial zoning. For example, introducing truck traffic to this Specific Plan could present challenges, especially since Lammers Road is not intended to be a truck route. It also represents a shift in the community character in that institutional/assisted living and industrial uses present a different built environment as seen from the Freeway. The property owner has expressed some flexibility in his proposed land uses. This change is significant in that it would change the character of the plan from an institutional/residential/commercial focus to an industrial focus for one-third of the plan area. Any changes to land use will require refinement of the draft Specific Plan and EIR. Additionally, property owner collaboration will be a necessary part of drafting the plan.

Included in the staff report are two different Zoning Districts map alternatives for the draft Specific Plan (Attachment B & C). The differences between the two are located in the central and northwest portions of the plan area. Zoning District Map Attachment B reflects residential zoning and Attachment C proposes industrial zoning for these areas. It has not been concluded which of these alternatives will go forward in the draft plan. Before the draft EIR can be completed, the proposed zoning map, circulation plan, and other details will be finalized and brought back to the City Council at a future date for review and direction on these land use changes.

Immediate next steps will include a public engagement process with the creation of a web site to describe the project and receive public input, outreach to the Tracy community, and public meetings and/or workshops to engage participants.

Tonight's verbal report will include a presentation from KHA, highlighting the draft land use plan and other project features and describing the plan development process going forward from this point.

Agenda Item 3.A April 6, 2021 Page 3

## STRATEGIC PLANS

This project is related to the City Council's Economic Development Strategy purpose (to enhance the competitiveness of the City while further developing a strong and diverse economic base); and Objective 4 of Goal 1: enhance the development process for predictability and transparency.

## FISCAL IMPACT

In FY 2017/18, the City budgeted \$500,000 to initiate the Westside Specific Plan effort and entered into contract with KHA. Kimley-Horn Associates' work is financed through a Professional Services Agreement (PSA) approved by the City Council on May 1, 2018, by Resolution No. 2018-081 for a not-to-exceed amount of \$500,000. This \$500,000 will be reimbursed to the City. The exact mechanism for the reimbursement is still being developed. The initial \$500,000 is nearly all spent and, going forward, the City will seek direct financing from the property owners to pay for amendments to the PSA with KHA or any additional professional services.

## RECOMMENDATION

Staff recommends that the City Council receive the Westside Specific Plan update.

Prepared by: Alan Bell, Senior Planner

Bill Dean, Assistant Development Services Director

Reviewed by: Andrew Malik, Development Services Director

Karin Schnaider, Finance Director

Approved by: Jenny Haruyama, City Manager

## **ATTACHMENTS**

Attachment A – Tracy Gateway Project Area

Attachment B – Land Use Alternative with More Residential Attachment C – Land Use Alternative with More Industrial

# **Tracy Gateway Project Site**



# Land Use Alternative with more Residential



# Land Use Alternative with more Industrial



#### AGENDA ITEM 3.B

# **REQUEST**

REQUEST FOR COUNCIL CLARIFICATION REGARDING RENEGOTIATING PARAMETERS OF THE SURLAND DEVELOPMENT AGREEMENT (DA) AND PROVIDE UPDATE REGARDING DEVELOPER'S INTEREST TO BEGIN DA NEGOTIATIONS

# **EXECUTIVE SUMMARY**

On February 16, 2021, Council Member Eleassia Davis, supported by Mayor Pro Tem Veronica Vargas, requested staff bring back an agenda item authorizing staff to negotiate an amendment to the existing Amended and Restated Development Agreement between the City and Surland Communities, LLC (Surland).

On March 16, 2021, Council authorized staff to begin negotiations with Surland on an Amendment to the 2013 Amended and Restated Development Agreement (2013 DA) with the City. The 2013 DA was amended in 2014 and 2018. This agenda items seeks further clarification on negotiating parameters and provides an update on Surland's interest in negotiating an amendment to the DA.

Staff met with Surland on March 17, 2021 to discuss its interest to proceed with renegotiating the DA. Surland expressed interest in proceeding with renegotiations; however, the developer indicated that additional clarity is needed around specific negotiating parameters in order to move forward. A copy of Surland's letter to the City regarding renegotiating is attached. It should be noted that because a Development Agreement is a contract between two parties, the City and Surland must both agree to negotiate an amendment if the DA is to be amended.

# **DISCUSSION**

# History of DA and Summary of Key Terms

On March 5, 2013, the City adopted an Ordinance approving the DA, which provided for, among other things, Surland to dedicated 16 acres of real property in Ellis to be used as a Swim Center and to pay \$10 million to the City to help fund the design and construction of the Swim Center.

The DA was amended on May 20, 2014 via Ordinance 1194, which provided that the Swim Center funding be provided in two installments. On September 15, 2014, Surland made the first installment payment of \$2 million dollars. Pursuant to the amended DA, the second payment of \$8 million was due on September 15, 2015.

In March of 2014, the City and Surland explored the possibility of forming a public private partnership with Wild Rivers Waterpark, which ultimately was not pursued.

In August of 2016, the City Council approved Surland's request to authorize staff to negotiate a second amendment to the DA, to extend the time for the City to accept the

Land Dedication Offer so that Surland would have additional time to prepare the revised land dedication offer. In exchange for these extensions of time, Surland offered to (a) construct certain infrastructure improvements intended to serve the proposed Swim Center, (b) construct a monument sign for the proposed Swim Center, and (c) provide \$100 thousand of funding for the design of the Swim Center. To give the parties time to prepare and process this proposed Second Amendment, the City and Surland executed a tolling agreement extending the deadlines for Surland's \$8 million payment and the City's acceptance of the Land Dedication Offer.

In December of 2016, the City and Surland agreed to expand the scope of negotiations for the second amendment to the DA to address the potential for Surland to construct the Swim Center in lieu of making its outstanding \$8 million payment. To give the parties time to conduct and complete these expanded negotiations, the City and Surland executed a Second Tolling Agreement to further extend Surland's \$8 million payment deadline and the City's deadline for accepting the Land Dedication Offer, moving both of these deadlines to December 2017. Because the parties were not able to complete their negotiations and processing of the proposed Second Amendment, the parties executed a Third Tolling Agreement in December of 2017, extending these deadlines to April 4, 2018. On May 3, 2018 Council approved the Second Amendment to the DA. Surland offered and the City received the Irrevocable Land Dedication Offer for the 16-acre swim center site. The Irrevocable Land Dedication Offer was recorded on the 16-acre property, and can be accepted, at the sole discretion of the City, at any time in accordance with the Second Amendment.

Over the last several years, Surland has worked with its team of consultants, the community, City staff and direction from City Council on the Aquatics Center conceptual plan. Per the DA, Surland is to be reimbursed for their work with the \$2 million that the City has in the Center budget, to date the City has paid Surland \$1.2 million. On August 18, 2020, Resolution No. 2020-154 approved final conceptual plan with a not-to-exceed of \$65 million including contingency and soft costs.

On August 18, 2020, the City Council directed staff to work with the developer to explore phasing options for the aquatic center project. However, as discussed below, the phasing discussions were subsequently put on hold as a result of litigation.

In October 2020, the City was served with the Superior Court's ruling in *Mitracos v. City of Tracy, et al,* which held that the Second Amendment was invalid and ordered the City to cease implementing the Second Amendment. On January 15, 2021, the City filed a Notice of Appeal to appeal the Superior Court's ruling. Upon filing of the Notice, the Superior Court's ruling was stayed, meaning it is no longer in effect. The City Attorney and outside counsel have advised Council on the legal issues relating the filing of the Notice of Appeal and have further advised that the Superior Court's judgement does not address the City's right to negotiate an amendment to the Surland DA. Thus, the City retains the right to proceed with negotiating an amendment to the Surland DA.

It is important to note that at its March 23, 2021 Special Council Meeting, Council discussed planned Measure V amenities and took action to finance the completion of Phase 1 (Phase 1E) of Legacy Fields, continue to move forward with the development of

a phasing plan for the Swim Center, and develop a Request for Proposal for design consultant services for the multi-generational gym, including a policy discussion to identify location and project scope.

To assist the City Council in clarifying its renegotiation parameters, a summary of public and developer benefits has been outlined below:

#### **Public Benefits:**

- Surland to pay \$10 million for a Swim Center. First payment of \$2 million was received. (To date, Surland has received \$1.2 million to complete the conceptual design, which has been reimbursed back to Surland from the \$2 million funds received.)
- The outstanding \$8 million payment shall be satisfied in full by Surland by providing \$8 million of design and construction costs for the Swim Center. The DA does not specify a time frame nor the manner under which the City shall receive this payment.
- Surland to dedicate 16 acres of land for a Swim Center within the Ellis Specific Plan area. Surland has provided the City with an Irrevocable Offer of Dedication (IOD), which has been recorded on the property. The City has complete discretion to accept the 16 acres of land at any time.
- Surland shall design and construct an entrance sign for the Swim Center at the corner of Summit Drive and Corral Hollow in an amount not to exceed \$150,000.
- Surland shall fund up to \$100,000 in costs for Surland's consultant's to work with the City to design a Swim Center.
- Surland shall construct the frontage improvements and the stubbed utilities for the Swim Center on Summit Drive. (Surland will not be reimbursed for these improvements from the project budget.)
- Surland shall expand and improve the Summit Drive paved travel section to the northeast along the frontage of the Swim Center to a five-foot wider section to accommodate potential future Swim Center turn lanes. (Surland will not be reimbursed for these improvements from the project budget.)

# **Developer Benefits in 2018 Second Amendment to DA:**

- Vesting project approval for the Ellis Specific Plan for the term of the DA (25 years).
- Up to 2,250 RGAs for use at Ellis Specific Plan, with more than 225 per year potentially available.
- Surland has a right of first refusal for any RGAs not claimed by Tracy Hills, up to the GMO limit of 600 per year or 750 per year.

- Residents from each residential dwelling unit (no limit on family size) shall receive from the City an annual all-access family pass administered by the EPOA. The Ellis Commercial Association shall receive one annual all-access family pass for each legally created lot designated village center or commercial land in the designated Ellis Property Owners Association boundary to the swim center at no additional cost. The annual contribution of \$110 per lot via the Ellis Community Facilities District (CFD) is designated for Swim Center maintenance. The residents of the Ellis CFD Member of the EPOA, property owners, shall receive an annual all-access pass at no additional cost to the Swim Center for each member's household. Commercial lots shall also receive annual passes at no cost.
- If the City elects to construct or authorize the Owner to construct the Swim Center at the Ellis Swim Center Site, the site shall only be used for a public swim center with only those uses as formally agreed upon by the City and Owner or Owner's designee. In making the dedication of the real property for the Swim Center it was the intent of the parties that the real property shall only be used for an aquatic park and no other use and the City shall not sell the real property. This term shall survive the term of this Development Agreement. Upon acceptance of the conceptual plan (August 18, 2020), the City is responsible for the costs related to any modifications to the conceptual plan.
- Owner's contribution of land for the Swim Center shall be equal to and be treated as the dedication of sixteen (16) acres of community park land under the City's parkland dedication ordinance and this credit of sixteen (16) acres of park land and shall be available by Owner and shall be applied at the option of Owner to the Property and/ or to such other real property which is subsequently subject to the Development Agreement (DA Property). Based on approved maps within the Ellis DA Property, the total residential unit count is likely to be near 1,100 units. Based on 1,100 units, Surland could be eligible to receive credits up to approximately 3.6 acres of the 16 acre Community Park offer to the City as part of the DA.
- Validity of Building Permits issued to Owner shall be extended to 24 months, and plans approved at issuance of Building Permits may be modified without payment of normal plan inspection fees.
- Owner shall have the right to execute an agreement with the City to provide for payment of certain development impact fees at close of escrow for each residential unit and at final inspection for commercial projects, rather than at issuance of building permit. Surland executed this right in the second phase of the Ellis development.
- Modifications to park approval process to approve all parks as part of the Specific Plan Approval, where only major modifications would come back to the Parks Commission for approval.

- Owner eligible for fee credits and reimbursements of infrastructure costs beyond that which exists in Title 13 of the Tracy Municipal Code.
- Expansion of existing naming rights for Swim Center to included additional naming options for Surland, (Serpa Aquatic Park) rights to approve types and placement of signs and advertising, and other marketing related restrictions on the City's use of the name.
- All owners of property within the coverage of the DA and the Ellis CFD will be exempted from all future fees and assessments adopted by City to fund police service, public works services, storm basin maintenance, and all other public services.
- Surland and its assigns shall have priority access to purchase, from the City or any
  other event promoter, at the standard ticket price, tickets to all events held at the
  Swim Center, and Surland to have a reserved cabana at the Swim Center, in a
  location selected by Surland, for Surland's exclusive use.
- Water Supply for 2,250 residential units (estimated value \$2.7 million).
- Naming rights to the Swim Center.
- No wastewater treatment cost for 800 residential units (estimated value \$5.4 million).
- No cost for 550 units of Corral Hollow wastewater conveyance (estimated value \$.9 million).

# March 16, 2021 Council Direction

At the March 16, 2021 regular Council meeting, Council authorized staff to begin negotiations with Surland on an amendment to the DA with the City. During that meeting, Council provided general direction to staff to renegotiate an amendment to the DA in its entirety.

Staff is requesting Council provide further clarification on the renegotiating parameters in order to move this item forward in an expeditious manner.

#### Renegotiating Parameters

Per Council discussions at the March 16<sup>th</sup> Council meeting and subsequent feedback from Council members who supported this request, Council may want to consider the following renegotiation topics to help inform its recommended renegotiation parameters:

- Swim Center
  - Project Management

- DA stipulates that the design and construction of the Swim Center project is to be managed by Surland, including hiring of design consultants with Council approval of the Final Conceptual Plan
- Does Council want City staff to oversee and manage all aspects of the Swim Center project, including design, bidding and construction (required by law), and the development of a phasing plan with input from Surland?
- Transparency and Accountability of Public Funds
  - Swim Center is a public project that will be funded through Measure V, a ½ cent sales tax paid by taxpayers
  - Does Council want to ensure that the City has control over all aspects of project budget and financing, including but not limited to the retention and oversight of consultants and contractors, and contract change orders?
- Surland Swim Center Contribution of \$8M
  - The current DA states Surland is obligated to provide design and construction services for the swim center
    - Developer retains, manages, and compensates consultants with input, City staff
    - All expenses paid by Surland are credited against its \$8M obligation
  - Does Council wish to renegotiate when Surland's \$8M obligation due to the City?
- Ellis Resident All Access Annual Pass
  - Residents from each residential dwelling unit (no limit on family size) shall receive from the City an annual all-access family pass administered by the EPOA. The Ellis Commercial Association shall receive one annual all-access family pass for each legally created lot designated village center or commercial land in the designated Ellis Property Owners Association boundary to the swim center at no additional cost.
  - Does the Council want to clearly define and limit the \$110 per year all access annual pass given to Ellis residents?
- Use of 16-acres of Dedicated Land by Surland
  - Current DA only allows for swim center uses
  - Does Council want the flexibility to pursue or add other recreational uses in addition to the swim center?
- Naming Rights and Sponsorships
  - Naming rights and sponsorships are currently under the control of the developer
  - Should renegotiation parameters include naming rights and sponsorship?

# Developer Interest in Renegotiation of the Development Agreement

Staff met with Surland on March 17, 2021 to discuss their interest in proceeding with renegotiating the Development Agreement. Surland is interested in proceeding with renegotiations; however, they also have indicated that additional clarity is needed as to

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the specific parameter in order to move forward. A copy of Surland's letter to the City regarding renegotiating is attached (Attachment C). It should be noted that because a Development Agreement is a contract between two parties, Surland must also agree to negotiate an amendment to the DA in order for the Surland DA to be amended.

# Next Steps in the DA Amendment Process

Upon on receiving additional clarification around renegotiation parameters from Council, staff will assemble the City's renegotiating team and develop a meeting schedule with Surland. The meeting schedule will also include tentative check-ins with Council regarding renegotiation progress, and direction, as needed.

# 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

Upon completing a draft DA amendment, City staff would return with an expanded fiscal impact discussion of what, if any, fiscal impacts may result from the amendment to the DA.

#### RECOMMENDATION

Staff recommends that the City Council further clarify, by motion, its renegotiating parameters with Surland Communities, LLC and provide preliminary negotiating parameters, as desired.

Prepared by: Andrew Malik, Assistant City Manager

Brian MacDonald, Parks and Recreation Director

Reviewed by: Karin Schnaider, Finance Director

Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

# ATTACHMENTS:

Attachment A – City Council Resolution No. 2016-115: City of Tracy DA Procedures

Attachment B – Second Amendment to the Amended & Restated DA with Surland Communities

Attachment C – Surland Letter to City Re DA Amendment

# **RESOLUTION 2016-115**

# REPEALING RESOLUTION 2004-368 AND ESTABLISHING REVISED PROCEDURES AND REQUIREMENTS FOR THE CONSIDERATION OF DEVELOPMENT AGREEMENTS

WHEREAS, On November 16, 2004, pursuant to authorization granted in Government Code sections 65864 et seq., the City Council adopted Resolution 2004-368, establishing procedures and requirements for consideration of development agreements, and

WHEREAS, On June 16, 2015, the City Council discussed the development agreement procedures at a regular meeting and directed staff to prepare amendments to the existing procedures and requirements, including provisions related to required public benefits, and

WHEREAS, The City Council wishes to revise the procedures and requirements for future applications;

NOW, THEREFORE, the City Council of the City of Tracy resolves as follows:

- 1. Resolution 2004-368 is repealed in its entirety.
- 2. The Procedures and Requirements for Consideration of Development Agreements, set forth in the attached Exhibit "A", are adopted.

\* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \*

This Resolution 2016-115 was passed and adopted by the Tracy City Council on June 7, 2016, by the following vote:

AYES: COUNCIL MEMBERS: MITRACOS, VARGAS, YOUNG, RICKMAN, MACIEL

NOES: COUNCIL MEMBERS: NONE ABSTAIN: COUNCIL MEMBERS: NONE COUNCIL MEMBERS: NONE

MAYOR

ATTEST:

CITY CLERK

#### **FXHIBIT** "A"

# REGULATIONS AND REQUIREMENTS FOR CONSIDERATION OF DEVELOPMENT AGREEMENTS

#### PART I. APPLICATION

- A. Authority for Adoption; Purpose; consistency with State Law
- B. Application
- C. Public Benefit
- D. Qualified Applicants
- E. Qualified Property
- F. Staff Review of Application

# PART II, CONTENTS, HEARINGS, AND OFFICIAL ACTIONS

- G. Contents
- H. Notice of Hearings; Environmental Review
- I. Planning Commission
- J. City Council
- K. Ordinance Approving the Development Agreement

# PART III, DEVELOPMENT RIGHTS; PERIODIC REVIEW

- L. Development Rights
- M. Periodic Review

#### PART I - APPLICATION

# A. Authority for Adoption; Purpose; Consistency with State Law

These regulations are adopted under the authority of Government Code Sections 65864 <u>et seq.</u> The City's consideration and approval of a development agreement is discretionary; there is no requirement to approve such an agreement. The purpose of a development agreement is to assure the developer certain vested rights to proceed with a development over time. In exchange, the developer proposes and the City accepts certain public benefits that would not otherwise be required for the project. In any conflict or interpretation issue between these provisions and requirements of state law, state law will control.

#### B. Application

- 1. An application for a development agreement must be submitted to the Development Services ("DS") Department. The minimum requirements for the application and the information and data are set forth in Section B.2 below.
- 2. The application shall include, for each development agreement requested:

- a. signatures of all property owner(s);
- b. the proposed duration of the agreement (Gov't. Code §65865.2.);
- c. the proposed permitted uses, density or intensity of use, the maximum height and size of proposed buildings (Gov't. Code §65865.2.);
- d. proposed public benefit offered to the city as an incentive for consideration of the application, based on the examples set forth in Section C below:
- e. a map drawn to scale showing the property and the property lines for the properties within 300 feet of the exterior boundary lines of the subject property. This includes the names of all the streets and of the assessor's parcel numbers (APNs) of each parcel shown on the map;
- f. the names and mailing addresses as listed on the latest assessment roll of the owners of the property shown on the map;
- g. the legal description, the assessor's parcel number(s), and the street address(es) of the subject property;
- h. a list of other applications filed concurrently with the development agreement application;
- i. a signed City cost recovery agreement, under which the developer agrees to pay for staff and City consultant time in reviewing and processing the application(s) (Gov't. Code §; and
- j. other information the DS Director considers necessary to process the application..

#### C. Additional Public Benefit

A development agreement shall obligate the developer to provide additional public benefits, beyond what is already required under existing codes and master plans, as the City may deem necessary or appropriate. The additional public benefits are in addition to any fees, exactions or conditions which the City otherwise requires of the applicant as a condition of project approval, (and may include those which otherwise would require compliance with the Mitigation Fee Act (Government code Section 66000 and following), if there were no development agreement. The additional public benefits may include, but are not limited to, the following (including monetary contributions to the City for these purposes):

1. Construction, installation, and/or ongoing maintenance of public facilities and/or public improvements (other than those required as a condition of approval of a project);

- 2. Construction or installation of a public facility or improvement on the CIP project list that:
  - (a) benefits other property in addition to the subject property;
  - (b) is in accordance with a schedule that requires completion of the infrastructure before it is needed for the project; and
  - (c) is a condition of final map approval or the issuance of building permits for some or all components of the project.

The developer's cost may be subject to partial reimbursement over time as other properties develop;

- 3. Acquisition and/or transfer or dedication of land to the City (or other public agency) for public uses (other than as required as a condition of approval of a project); and
- 4. Other similar public benefits not specifically designated in this Policy.

#### D. Qualified Applicants

Only a qualified applicant may file an application to enter into a development agreement. A qualified applicant is a person who has legal or equitable interest in the real property which is the subject of the development agreement. The DS Director shall require an applicant to submit proof of his or her interest in the real property. The City may require an applicant or agent to submit a title report or other evidence to verify the applicant's legal or equitable interests in the subject property.

# E. Qualified Property

- 1. <u>Within City limits.</u> The property to be the subject of the development agreement shall be situated within the City limits and shall represent an appropriate parcel or parcels, as to ownership and parcel configuration, size and location, as determined by the DS Director, to assure the development of the property consistent with the policies, goals, standards and objectives of City's General Plan, applicable specific plan, and City ordinances and policies pertaining to the property.
- 2. <u>Outside City limits.</u> Property not within the City limits but within the City's sphere of influence may be the subject of a development agreement conditioned upon the annexation of the property to the City within a specified time.

For property not within the City limits and subject to an existing development agreement with the county, Government Code section 65863.5 will apply.

# F. Preliminary Review of Application

1. The Staff will review the application and accept it for filing if it is complete and accurate.

2. For a completed application, Staff will prepare a report and recommendation to the City Council. The Council will consider the application and determine whether the proposed public benefits (beyond what is otherwise required for the project) warrant undertaking negotiations with the applicant. The Council shall either reject the request or authorize staff to negotiate and process the development agreement application.

# PART II - HEARINGS AND OFFICIAL ACTIONS

#### G. Contents

- 1. <u>General.</u> In addition to the mandatory requirements of Government Code Section 65865.2, the development agreement must include the following:
  - a. the additional public benefit, as described in subsection C above.
  - b. a requirement that the applicant hold harmless, indemnify and defend the City from suits and actions arising in connection with the development agreement, to the satisfaction of the City Attorney.
  - c. that the City may impose a later condition if: (a) the condition is required to comply with state or federal law, or (b) a failure to do so would place the residents or the immediate community, or both, in a condition dangerous to their health or safety, or both. (Gov't. Code §66498.1.)
  - d. The development agreement may be amended, or canceled in whole or in part, by mutual consent of the parties or their successors. Notice of intention to amend or cancel any portion of the agreement shall be given in the manner provided by Government Code section 65867. An amendment is subject to Section 65867.5, Findings of consistency. (Gov't. Code §65868.)
- 2. <u>Subdivision</u>. If the development agreement includes a subdivision of 500 dwelling units or more, it may not be approved unless the agreement provides that any tentative map prepared for the subdivision comply with Government Code section 66473.7 regarding sufficient water supply. (Gov't. Code §65867.5.)

# H. Notice of Hearings; Environmental Review

- 1. Notice of hearings before the Planning Commission and the City Council to consider a development agreement shall be given in the manner provided in Government Code Section 65864 et seg.
- 2. The notice and public hearing on the development agreement may be combined with the notice and public hearing for an application for rezoning, development

review permit, subdivision map or other land use entitlement pertaining to the same property.

3. If a development agreement qualifies as a project under the California Environmental Quality Act and implementing regulations, it is subject to environmental review as required by applicable law.

# I. Planning Commission

The Staff will submit the proposed development agreement to the Planning Commission for a public hearing when all of the necessary reports and recommendations are complete. The development agreement may be considered concurrently with other discretionary permits or approvals for the project.

The Planning Commission shall serve as the planning agency on applications as required by Government Code Section 65867, including determining its consistency with the General Plan, any applicable specific plan, city ordinances and regulations.

After the public hearing, the Planning Commission shall render its decision in the form of a resolution with written recommendation to the City Council. The report and recommendation shall include proposed findings as required by Section J (4) below.

# J. City Council

- 1. After its public hearing, the City Council in the exercise of its legislative discretion shall determine whether or not to approve, modify or disapprove the development agreement.
- 2. Approval of a development agreement is a legislative act. Even if the findings set forth in subsection (4) below can be made, the City Council, in its sole discretion, may deny approval of the development agreement on the grounds that the development agreement is not in the public interest.
- 3. After the Planning Commission has made a recommendation to the City Council, the City Council's action to modify the proposal may, but need not be, referred back to the Planning Commission for its review and recommendation, without the necessity for a further public hearing before the Planning Commission.
- 4. The Council shall not approve the development agreement unless it (a) includes all of the mandatory requirements of Government Code section 65865.2 and (b) the Council finds the agreement is consistent with the General Plan and any applicable specific plan (Gov't. Code §65867.5.).

# K. Ordinance Approving the Development Agreement

- 1. If the City Council approves the development agreement, it shall do so by the adoption of an ordinance setting forth the required findings and authorizing the Mayor to execute the development agreement.
- 2. After the ordinance approving the development agreement takes effect (30 days after adoption), the Mayor shall execute the development agreement on behalf of the City. The effective date of the development agreement is the effective date of the ordinance approving the agreement.
- 3. Within ten days after the City enters into a development agreement, the City Clerk shall record a copy with the County Recorder. (Gov't. Code §65868.5.)

#### PART III- DEVELOPMENT RIGHTS; PERIODIC REVIEW

# L. Development Rights.

The City's regulations and official policies governing the permitted uses of land, density, design, improvement and constructions standards and specifications applicable to development of the property shall be those regulations and official policies in effect at the time of the agreement, unless otherwise provided in the development agreement. However:

- 1. the development agreement may not authorize regulations not permitted under the City's zoning ordinance.
- 2. the City may impose a later condition if: (a) the condition is required to comply with state or federal law, or (b) a failure to do so would place the residents or the immediate community, or both, in a condition dangerous to their health or safety, or both. (Gov't. Code §66498.1.)
- 3. in subsequent actions applicable to the property, a development agreement does not prevent the City from applying new regulations and policies which do not conflict with those in effect at the time of the agreement. (Gov't. Code §65866.)
- 4. if state or federal laws or regulations enacted after a development agreement has been entered into prevent or preclude compliance with one or more provisions of the development agreement, those provisions shall be modified or suspended as may be necessary to comply with the state or federal laws or regulations. (Gov't. Code §65869.5.)

#### M. Periodic Review

The DS Director shall on an annual basis and at any other time that the he or she determines to be appropriate, review the extent of good faith substantial compliance by the developer with the terms and conditions of the development agreement. The periodic review shall be limited in scope to compliance with the terms and conditions of the development agreement. The costs of

Exhibit "A" to Resolution 2016-115 Consideration of Development Agreement Applications Page 8 of 6

notice and related costs incurred by the City for the annual review shall be borne by the developer. Failure of the City to conduct a periodic review shall not constitute a waiver by the City of its rights to enforce the provisions of a development agreement, nor shall a developer have or assert any defense to such enforcement by reason of such failure to conduct a periodic review.

# **Attachment B**

**Recording Requested By:** 

Adrianne Richardson City Clerk

Return To:

City Hall City Clerk's Office 333 Civic Center Plaza Tracy, CA 95376 Doc #: 2018-055247 05/18/2018 09:22:47 AM Page: 1 of 59 Fee: \$0 Steve J. Bestolarides San Joaquin County Recorders Paid By: SHOWN ON DOCUMENT

# **Document Title**

SECOND AMENDMENT TO AMENDED AND RESTATED DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF TRACY AND SURLAND COMMUNITIES, LLC

# SECOND AMENDMENT TO AMENDED AND RESTATED DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF TRACY AND SURLAND COMMUNITIES, LLC

This SECOND AMENDMENT TO AMENDED RESTATED AND DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF TRACY and SURLAND COMMUNITIES, LLC (the "Second Amendment") is made and entered into as of this 3rd day of May, 2018 (the "Effective Date") by and between the CITY OF TRACY, a municipal corporation ("City"), and SURLAND COMMUNITIES, LLC, a California limited liability company ("Owner"), pursuant to Government Code sections 65864 et seq. and City Resolution No. 2004-368 which establishes the rules, regulations and procedures for the approval, operation and modification of development agreements and the provisions of that certain Amended and Restated Development Agreements By and Between The City of Tracy and Surland Communities, LLC dated April 18, 2013 and recorded on September 17, 2013 under Recorder's Serial No. 2013-119548, Official Records of San Joaquin County, California (the "Development Agreement). Exhibits A, B, C, D are attached.

# **RECITALS**

A. The City and Owner entered into the Development Agreement in order to strengthen the public planning process and encourage private participation and the funding of community benefits and amenities that could not otherwise be required under controlling law. Among other things, the Development Agreement provides for Owner to (i) provide \$10,000,000 (the "Owner Swim Center Contribution") to be used to design and fund the construction of a public swim center (the "Swim Center"), and (ii) offer to dedicate approximately 16 acres of land to the City, which will be used for the proposed Swim Center (the "Land Dedication Offer"). The Development Agreement also provides that, in exchange for the Owner Swim Center Contribution and Land

Dedication Offer, the City shall reserve and Owner shall be eligible for the allocation of up to 2,250 Residential Grown Allocations ("Subsection F.3. RGAs") to be used exclusively on the Property.

B. On October 14, 2014 (Recorders Serial # 2014-097799), Owner timely made Owner's Land Dedication Offer. Under the Agreement to Extend (Recorder's Serial # 2015-073934), the City had until September 15, 2016, to accept the Land Dedication Offer or the City would be deemed to have rejected the Land Dedication Offer and the land would be available for development by Owner consistent with the Ellis Specific Plan. Following Owner's submittal of the Land Dedication Offer, the City and Owner agreed that there is an alternate location in the Ellis Specific Plan area that may be preferable as the location for the proposed Swim Center, and Owner agreed to prepare and submit to the City a revised land dedication offer (the "Revised Land Dedication Offer") to replace the original Land Dedication Offer.

C. Under the Development Agreement, the Owner Swim Center Contribution was due in two (2) installment payments. Owner timely made Owner's First Swim Center Payment on September 5, 2014. Owner's second installment payment of \$8,000,000 ("Owner's Second Swim Center Payment") is a subject of this amendment.

D. On August 16, 2016, the City Council approved Owner's request to negotiate a second amendment to the Development Agreement to extend the deadline for Owner's Second Swim Center Payment and the deadline for the City's acceptance of the Land Dedication Offer, in exchange for Owner's providing to the City certain infrastructure improvements relating to the proposed Swim Center.

E. To give the Parties time to prepare and process Owner's requested Development Agreement amendment, the City and Owner executed that certain Agreement To Toll And Extend

The Dedication Acceptance Period And The 60-Day Cure Period Respecting The Second Swim Center Payment Under Amended And Restated Development Agreement By And Between The City Of Tracy And Surland Communities, LLC (the "First Tolling Agreement"), by which the City and Owner agreed to: (i) extend the sixty-day cure period for Owner's Second Swim Center Payment to September 5, 2017; (ii) extend the time period for the City's acceptance of the Land Dedication Offer to November 24, 2017; and (iii) require Owner to deliver the Revised Land Dedication Offer not later than September 15, 2017.

F. In December of 2016, the City and Owner began discussions to expand the scope of the proposed Development Agreement amendment to provide for Owner to assume the obligation to design and construct the proposed Swim Center, and to describe a process by which other real property could become subject to the Development Agreement, subject to future Owner applications and future City approvals. The City and Owner agreed that such expanded negotiations would require additional time to prepare and process the expanded second amendment to the Development Agreement, and on August 15, 2017, the City Council approved that certain Second Agreement To Toll And Extend The Dedication Acceptance Period And The 60-Day Cure Period For The Second Swim Center Payment Under The Amended And Restated Development Agreement By And Between The City Of Tracy And Surland Communities, LLC (the "Second Tolling Agreement"), by which the City and Owner agreed to: (i) extend the sixty-day cure period for Owner's Second Swim Center Payment to December 5, 2017; (ii) extend the time period for the City's acceptance of the Land Dedication Offer to December 5, 2017, provided that the City shall not accept the Land Dedication Offer before November 15, 2017; and (iii) require Owner to deliver the Revised Land Dedication Offer not later than December 5, 2017. Subsequently in

November 2017 the parties entered into a third tolling agreement that extends the time for the parties to perform their obligations until April 4, 2018.

- G. On February 14, 2018, the City Planning Commission, following a duly noticed public hearing, recommended approval of the Second Amendment. On April 3, 2018, the City Council following a duly noticed public hearing, adopted Ordinance No. 1253 approving this Second Amendment and authorizing its execution. That Ordinance took effect on May 3, 2018 the Effective Date of the Second Amendment.
- H. Pursuant to the provisions of the Development Agreement Enabling Resolution, Government Code section 65868 and Section 1.09 of the Development Agreement, Owner has filed with the City an application for an amendment to the Development Agreement. The City found that the Owner was not in default under the Development Agreement, has considered the application and reviewed the substance of the proposed changes, modifications, and amendments contained in this Second Amendment. By entering into and executing this Second Amendment, the parties hereto agree that the Development Agreement shall hence forward be modified and amended as contained herein.
- I. This Agreement is consistent with the General Plan and the 2013 Ellis Specific Plan as further amended in 2014. Owner has filed further amendments to the Ellis Specific Plan which are scheduled to be considered by the City Council in March 2018. As required by the General Plan, this Agreement envisions proper environmental analysis and a proper planning process in compliance with controlling law before any approval allowing development can take place.

# J. The parties understand and agree that:

(i) In order to achieve area wide consistency in planning and design achieve General Plan goals, policies objectives to efficiently use land and public infrastructure,

and for community consistency Owner intends to annex to the Ellis Property Owners Association all real property which is subsequently subject to the Development Agreement; and, (ii) such other real property may adopt the Ellis Specific Plan design and planning standards for all infrastructure and site improvements.

K. This Development Agreement for all purposes in naming and otherwise shall be referred to as the "Surland Development Agreement".

NOW, THEREFORE, the parties hereto agree as follows:

- 1. Incorporation of Recitals: The recitals set forth above are incorporated into this Second Amendment as though set forth in full herein.
- Section 1.01(j). The Swim Center Obligations, is added as follows. Section
   1.01 The Swim Center Obligations.
- (j) (i) Owner agrees to retain and compensate consultants to design the Swim Center with input from the community and City staff and with direction from the City Council. All true and correct expenses paid by Owner concerning the design and construction of the Swim Center shall be a credit against the Owner's contribution identified in Recital A. In anticipation of this Development Agreement amendment and at the request of City, Owner retained consultants prior to the approval and execution of this Development Agreement amendment, and funds expended by Owner during the period before the Second Amendment is executed shall be eligible for credits. The parties acknowledge that the studies, reports and designs prepared by Owner's consultants shall be the property of Owner and shall not without prior written consent of Owner be used by City in any manner. The studies, reports and designs shall be jointly owned by

Owner and City after Owner is fully reimbursed for Owner's costs of obtaining the studies, reports and designs through reimbursements and/or credits unless City is subsequently in default under this Agreement in which case City shall not longer be treated as a co-owner. All studies, reports and designs shall be assigned to City upon Owner's transfer of ownership of the Swim Center to City.

- shall approve a final conceptual plan. City and Owner shall agree upon a list of design, construction and/or improvements that Owner shall design and/or construct. If, after the City Council approves a final conceptual plan, it decides to modify the plan or add additional features or amenities then the cost of changing the conceptual plan or any design or construction plans relying on the original conceptual plan shall be additive funding provided by the City above the initial Swim Center funding.
- (iii) Previously Owner has provided Two Million Dollars of a Ten Million Dollar contribution to the City for the Swim Center. City, in a manner consistent with the performance, funding and construction agreement mentioned subsequently, shall cause the Two Million Dollars initial contribution to be applied to the Swim Center's design and construction activities. If the Swim Center is relocated to a location other than a location within the Ellis Specific Plan area then Owner shall pay the remaining Eight Million Dollar future contribution to the City. However, if the Swim Center continues to be sited within the Ellis Specific Plan area then, since the Two Million Dollar initial contribution has previously been paid by Owner to City, the remaining Eight Million future contribution shall be satisfied in full by Owner providing Swim Center design and construction of improvements equal to Eight Million Dollars in costs incurred by Owner. The initial contribution of Two Million Dollars shall be used to pay for Swim Center

design and construction. The parties shall enter into a design, funding and construction agreement contemporaneously with the approval of this Second Amendment. The City Council has requested Owner facilitate additional design, construction, operations, and improvements beyond the Owner contribution. Owner has agreed and shall facilitate completion of additional design improvements and construction of approved plans beyond Eight Million Dollars with funding provided by City in an amount equal to Thirty Five Million Dollars with a supplementary contingency amount of twenty percent of the total estimated costs of Forty Five Million Dollars (Swim Center Funding). The City shall have the right to review and approve the design and improvement plans and City shall not unreasonably withhold approval. This additional construction of approved plans shall represent Owner's entire obligation to facilitate design and construction improvements for the Swim Center improvements and once the additional agreed upon improvements are constructed Owner's obligation to facilitate design and construction improvements for the Swim Center under this Agreement shall terminate. If the parties agree that Owner shall construct Swim Center improvements in addition to the final conceptual plan approved by City Council and the list of design, construction and/or improvements then the parties shall meet in good faith to negotiate and execute agreements concerning the method of City paying for additional constructed improvements. All subsequent costs shall be paid by the City and not the Owner, and Owner shall have no further financial obligation toward the design, construction, development, operation or maintenance of the Swim Center.

(iv) As required by and according to the manner established by the CFD, each residential lot and Commercial parcel (as defined in subsection v) within the Ellis Property Owners Association (which is defined to mean for purposes of this Agreement a property owners association established by Owner) shall pay an annual fee of \$110 per lot/parcel toward Swim

Center maintenance, which fee shall be adjusted annually according to the applicable community facility district formula.

- (v) The residents of each residential dwelling shall receive from the City an annual all access family pass administered by the EPOA, and the Ellis Commercial Association shall receive one all access family pass for each legally created lot designated village center or commercial (Commercial) located within the Ellis Property Owners Association boundary to the Swim Center at no additional cost.
- (vi) Owner has made an irrevocable offer to dedicate approximately sixteen acres for a swim center and subsequently the City Council has determined that the Swim Center shall be located at the property offered for dedication, therefore, Owner's contribution of land for the Swim Center shall be equal to and be treated as the dedication of sixteen (16) acres of community park land under the City's parkland dedication ordinance and this credit of sixteen (16) acres of park land and shall be available by Owner and shall be applied at the option of Owner to the Property and/or to such other real property which is subsequently subject to the Development Agreement (DA Property). (The criteria for Owner applying this Agreement to DA Property is explained in subsection 1.07(h) of this Agreement.) After Owner's irrevocable offer of dedication and the City's determination that this land shall be used for the swim center then there shall be no more dedications and/or community park fees collected or paid by any residential or commercial real property within the Property, and any land offered for dedication or community park fees previously collected shall be reimbursed to Owner within thirty (30) days of approval of this agreement which is date of the decision to locate the Swim Center at Ellis. However, the decision of when to accept the dedication of land may be made at any time until the City accepts the Swim Center improvements constructed by Owner.

(vii) If the City elects to construct or authorize Owner to construct the Swim Center using the Owner Swim Center Contribution then the Swim Center shall be named the "Serpa Aquatic Park" for all naming and identification purposes, as further described in Exhibit A, including but not limited to digital, print and signage, the designation of "Les and Carol Serpa Aquatic Park" may also be used. If the City elects to construct or authorize the Owner to construct the Swim Center at the Ellis Swim Center Site, the site shall only be used for a public swim center with only those uses as formally agreed upon by the City and Owner or Owner's designee. In making the dedication of the real property for the Swim Center it was the intent of the parties that the real property shall only be used for an aquatic park and no other use and the City shall not sell the real property. This term shall survive the term of this Development Agreement.

(viii) City shall promptly and immediately take reasonable actions necessary to expeditiously process all required plans, City Council approval of improvement plans, acquire all land necessary, (including by not limited to easements, real property, entitlements, project approval(s), San Joaquin County approval (s), railroad easements, any other agency approvals), and completion of all actions necessary shall be perfected without unreasonable delay whatsoever, for the approval and start of construction of Storm Basin 3A by Owner or Owner's designee as soon as practical. Owner or Owner's designee shall promptly and immediately take reasonable actions necessary to finalize an off-site improvement agreement with City Council approval, and following those actions expeditiously to prepare all required plans, process improvement plans for City Council approval, and commence construction once all permits, easements and other approvals have been provided by the City. The parties agree that in performing this obligation time is of the essence. Unless expressly prohibited by law or expressly required by a condition of a grant, City shall not charge any development, planning or construction fees or charge (including

overhead, plan checking, building permit, project management, or any other fee) for the Swim Center. Any and all regulatory agency fees, or actual special outside plan review costs, including but not limited to the SJCOG conservations easement costs, shall be paid by the City. If improvements are funded by a CFD and funds are available to the City of Tracy from the CFD, no bonding shall be required as part of an improvement agreement or any public improvements.

3. Section 1.07, Residential Growth Allotments, shall be deleted from the Development Agreement and the following inserted in its place:

# 1.07 Residential Growth Allotments; Building Permits.

- (a) Treatment of Development Agreement Residential Growth Allocations.
- (i) Through this Development Agreement City shall reserve and vest in favor of Owner, and Owner shall be eligible for, the allocation of 2,250 Development Agreement Residential Growth Allotments and building permits (Subsection F.3 RGAs) for residential development on the Property as may be revised from time to time, minus any Subsection F.3 RGAs already issued by City to Owner. As explained subsequently Owner is eligible to receive Subsection F.4 RGAs (Subsection F.4. RGAs or RGAs) and building permits from any available source of allocating RGAs or building permits other than through this Development Agreement. This amendment to the Development Agreement does not exempt building permits from being subject to plan check, building code requirements, and other permit related requirements in effect as of the Effective Date of the amendment to the Development Agreement.
- (ii) At Owner's option, Subsection F.3 RGAs may be applied to a project as defined in the GMO on the Development Agreement Effective Date (Project) within the Property's

boundary and all Subsection F.3 RGAs perfected (a RGA is perfected when a residential building permit is issued according to the allocated RGA) for which a building permit is issued shall be deducted from the 2,250 DA RGAs allocated by this Agreement and to DA Property which become part of the Property in accordance with section 1.07(f)(i) through and including (iv), below. For a calendar year where Owner applies Subsection F.3 RGAs to a Project, or more than one Project in that calendar year the Project(s) may not receive more than 225 Subsection F.3 RGAs and building permits. At the end of the calendar year this limitation of receiving no more than 225 Subsection F.3 RGAs and being unable to receive RGAs from other sources for those Projects shall automatically lapse. The Subsection F.3 RGAs applied to the Project(s) and for which building permits are issued shall be deducted from the 2,250 Subsection F.3 RGA allocation derived from and vested by this Development Agreement.

- (iii) Except as otherwise provided herein, in no event shall Owner be allocated more than 2,250 Subsection F.3 RGAs from this Development Agreement over the Term of this Agreement ("Overall RGA Maximum") (the 2,250 Subsection F.3 RGAs includes any Subsection F.3 RGAs allocated by the City to Owner and perfected prior to the Effective Date of this Amendment) which may be applied to the Property.
- (b) Treatment of RHNA or unused RGAs that may become available for re-issuance from subsequent rounds of RGA allocations under the GMO or other sources other than this Development Agreement.
- (i) This Development Agreement vests Owner with the absolute right to obtain Subsection F.4 RGAs and building permits from any and all other sources. Thus each year Owner

shall be eligible for Subsection F.4 RGAs as provided in the GMO and the GMO Guidelines in effect on the Effective Date ("Annual RGA Eligibility").

(ii) This amendment is designed to permit additional property to be added to and incorporated in to the Development Agreement and therefore become Property of the Development Agreement, and Owner may apply for RGAs for Projects and home builders within the Property (whether or not annexed to the ESP) area. Owner shall not apply RGAs subject to this Agreement to other real property unless this property has been added to the Development Agreement as Property pursuant to subsection 1.07(h). Owner may allocate RGAs, building permit or both, derived from any source, including the Growth Management ordinance, this Development Agreement, the RHNA or any other sources not specifically identified herein to Projects or homebuilders within the property subject to this Agreement and building permits in certain circumstances may be acquired without an RGA such as through RHNA, and as subsequently provided by this section.

(iii) RGAs secured by Owner by means of any provision of the GMO Guidelines other than subsection F.3, RHNA, subsequent rounds of the allocation of RGAs under the GMO or from any other source other than from Section F.3 RGAs through this Development Agreement shall not be deducted from the Overall RGA Maximum and shall not be subject to a limitation of 225 subsection F.3 RGAs in a single calendar year. The parties acknowledge and agree that Owner has a vested right to receive no more than 2,250 RGAs and building permits through this Development Agreement; however, this limitation of receiving 2,250 RGAs and building permits at a rate of no more than 225 Subsection F.3 RGAs and building permits during a calendar year does not operate in any manner to prevent or frustrate Owner's efforts to obtain RGAs and building permits from all other sources and applying those RGAs and building permits

to Projects within the Property that do not receive Section F.3 RGAs and building permits during the applicable calendar year.

- (c) Owner shall apply to City for Subsection F.3.RGAs and/or Subsection F.4 RGAs ("RGA Application(s)") according to the Development Agreement and the requisite applicable requirements of the GMO Guidelines in effect on the Development Agreement Effective Date using the Application form attached hereto as Exhibit B or the form then stipulated in the GMO Guidelines then in effect, at the option of the Owner. The form shall designate the Project receiving the Subsection F.3 RGAs/Subsection F.4 RGAs and shall identify whether the application is for Subsection F.3 RGAs or Subsection F.4 RGAs.
- (d) Owner shall provide a separate Application for each calendar year in which Owner seeks Subsection F.3 RGAs/Subsection F.4 RGAs. There shall be a separate application for each type of RGA applied for. Pursuant to Section F.4(c) of the GMO Guidelines, Owner shall have the first right and shall be entitled to apply for at any time during the year and obtain for the Property any RGAs not applied for, applied for but not granted, unclaimed, or unassigned to the Tracy Hills project, or granted RGAs which have been rescinded from the Tracy Hills project, according to the maximum amount of RGAs available or prioritized for Tracy Hills through the GMO in any calendar year, during any calendar year during the term of this Agreement and all RGAs obtained through this process and applied to the Project shall not be deducted from the annual Overall RGA Maximum. Owner shall have the right to apply RGAs obtained under this subsection (d) to any DA Properties and these RGAs shall not be subject to the total or annual limitation of Subsection F.3 RGA allocations or be a deduction against the Overall Subsection F.3 RGA Total.

Only Owner may apply for Subsection F.3 RGAs/Subsection F.4 RGAs for property subject to this Agreement, unless Owner notifies City in writing of an exception and designates another entity to apply for RGAs. Pursuant to Section F.4(c) of the GMO Guidelines, City shall notify Owner within ten (10) days of any RGAs not applied for, applied for but not granted, unclaimed, or unassigned to the Tracy Hills project, or granted RGAs which have been rescinded from the Tracy Hills project according to the maximum amount of RGAs available or prioritized for Tracy Hills through the GMO in any calendar year. City agrees to make RGAs available to Owner pursuant to Section F.4(c) of the GMO Guidelines at the earliest possible date such RGAs become available after the time for Tracy Hills to request a RGA has passed or at the earliest possible time to acquire an allocated RGA after the time for Tracy Hills to perfect the allocated RGA has lapsed without Tracy Hills perfecting the allocated RGA pursuant to GMO rules. If RGAs are available Owner shall have the right to apply for Tracy Hills RGAs and the Growth Management Board shall allocate Tracy Hills RGAs to the Project(s) identified by Owner within fifteen (15) days of the date the Growth Management Board received the Owner's application(s).

(e) (i) With the expressed exception of subsection F.1 "Vested Projects", in instances where all RGAs are not claimed or claimed but are not perfected (collectively unclaimed RGAs) such unclaimed RGAs shall be allocated using the following procedure, priority and percentages. RGAs shall be allocated according to each category's percentage of the total number of eligible RGAs until all RGAs are claimed or the City conducts an entire round of RGA allocations and no RGAs are claimed by any category. The priority of categories shall follow the order the subcategories are listed in subsection F of the GMO Guidelines. Hence the priority shall be Primary Growth Areas, Development Agreements, Tracy Hills and Ellis Specific Plan Projects, and then Other Projects. Since subsection F.1, Vested Projects, is not assigned a total number of

RGAs by the GMO Guidelines it does not participate in subsequent rounds of RGA allocations. Vested Project as defined in Subsection F.1 of the GMO at the time of this amendment approval shall retain all rights as provided by the GMO immediately prior to this amendment being effective.

- (ii) Notwithstanding any other provision of this Amendment, Owner's right to seek RGAs allocated by the GMO Guidelines to subsections F.2, F.3, and F.5 does not extend to instances where eligible property owners within the designated subsection claim the GMO Guideline allocated RGAs. Rather Owner's right to seek RGAs allocated by the GMO Guidelines to subsections F.2, F.3, and F.5 only extends to instances where these eligible property owners within the designated subsection do not claim the GMO Guideline allocated RGAs. In addition. the parties do not intend this Amendment to the Development Agreement to change the current City practice of issuing RHNA permits on a "first come/first serve" basis nor do the parties intend for this Agreement to grant to Owner a priority to receive RHNA permits over any other applicant for RHNA permits.
- (f)(1) However, after first excluding RHNA or other similar sources of building permits, Owner agrees it will not apply for Tracy Hills RGAs or other Available RGAs in a manner that is responsible for the City allocating more than the maximum possible RGAs in a given calendar year.
- (f)(2) This Agreement does not intend to prohibit or prevent the City from granting RGAs in the future to any other person or entity in a manner consistent with the GMO and GMO Guidelines, so long as a future city decision does not impair Owner's right and ability to obtain RGAs as provided by this Agreement.

- (g) Owner shall be eligible for building permits according this Development Agreement and to the applicable requirements of the GMO and the GMO Guidelines in effect on the Development Agreement Effective Date and the building permits issued hereunder shall be in accordance with the following:
- (i) Building permits issued hereunder shall be deemed to have been secured by Owner upon the meeting of applicable plan check review requirements to issue a building permit and payment to the City of the building permit plan check inspection fee, due under the Municipal Code;
- (ii) Despite any provision of the Municipal Code to the contrary, building permits issued hereunder shall continue in existence for a period of not less than twenty-four (24) months or until a certificate of occupancy for the structure is issued, whichever first occurs, and plot plans approved at the time of building permits may be adjusted or resubmitted during this period without further fees for minor modifications
- (iii) If noticed by Owner to City for a Project, all development impact fees and other fees and contributions identified in the EFIP, or agreed upon by the City and Owner in other finance plans such as the City Master Plans, or any other Fee Programs, or other impact fee, agreed to by the City and Owner and attributable to a structure shall be due and payable through close of escrow for a home builder to a home buyer for a residential structure, and upon a final inspection approval for a commercial structure for the noticed Project. The process for such payment is attached hereto and incorporated herein by this reference as Exhibit C. However, if a type of fee to be collected is immediately necessary to fund infrastructure construction that is directly needed by the building being constructed by the building permit for a commercial building then a fee for

that relevant category shall be collected at the time the building permit is issued by the City, if prior to issuing the building permit City sends Owner a written justification for accelerating collection of the fee based upon the reason stated in this sentence and second meets and confers with Owner in good faith at the earliest possible time before accelerating collection of the specific category of fee for the specific building permit. However, if a type of fee to be collected is immediately necessary to fund infrastructure construction that is directly needed by the building being constructed for a residential building then the fee for that related category shall be collected at the time the building permit is issued by the City, if the determination for the need to accelerate payment is made prior to approving the final map that including the relevant building lot(s). City shall send Owner a written detailed and comprehensive justification for accelerating collection of the fee based upon the reason stated in this sentence and shall meet and confer with Owner in good faith at the earliest possible time before accelerating collection of the specific category of fee for the specific final map buildings. In no event shall the time to pay the applicable fees exceed twenty four (24) months from approval of the final inspection for a residential lot.

However, if during the twenty-four months City determines that some or all of the deferred fees are immediately needed to fund infrastructure construction that is directly needed for the future occupants of the residential unit then the City has the right to deliver written notice to the real property owner demanding payment of the applicable fee and the real property owner shall pay the demand within thirty (30) days of receipt of City's written notice.

(iv) The Ellis Specific Plan Finance and Implementation Plan ("EFIP") shall be the finance plan for ESP Property, and the amount of fees as documented is a vested element, and no other fees shall be charged without the mutually written consent of the parties. Owner may request that the ESP or a portion of the ESP join another finance district and upon approval by Owner and City

the ESP or a portion of the ESP may be included in a different finance district, including updating the EFIP as needed.

- (v) For any finance district, district fee, or community facility districts to be effective Owner's prior written consent, which may be withheld for any reason, is required for any property subject to this development agreement and, the Ellis Community Facilities District (ECFD) has been approved by Owner and is in effect. The obligation to make ECFD payments to City for maintaining the Swim Center shall be considered a community wide benefit and shall take the place of, be the equivalent of participating in and shall constitute full satisfaction for any future community wide facilities district or fees, including any facility district or other funding mechanism to fund public services, public landscape, park maintenance, basin maintenance, project-specific maintenance, police, fire and/or public works. Owner agrees to include Property into the ECFD and therefore, City shall not delay, deny, or condition any application filed, or processing for any Property because any or all of the Property is not joined into a CFD, Mello Roos District, or other Financing District.
- (h) Subject to Section 1.02, Owner shall have the right but not the obligation to file a request with the City to approve and if approved thereafter have recorded this development agreement against DA Property subject to the following conditions being satisfied:
  - (i) The DA Property has been annexed to the City of Tracy;
- (ii) The Owner owns or has an enforceable right, within the meaning of "legal and equitable interest in real property" as used in current Government Code Section 65865(a) and (b), to purchase DA Property;

- (iii) The Owner agrees to annex the DA Property into the Ellis Property Owners Association, the ECFD or equivalent community finance district, the Ellis Finance Plan, or other requisite finance districts; and,
- (iv) The development agreement, either in the form of this Development Agreement or as may be modified by the parties, proposed for DA Property contains an amended property description that includes a property description of the DA Property.
- (v) The City Council adopts a finding that amending the property description into this Development Agreement is not inconsistent with the GMO in its form as of the Effective Date of this Agreement.

For purposes of this subsection 1.07(h) the parties acknowledge and agree the term "annexed to the City of Tracy" as used in subsection 1.07(h)(i) means the City of Tracy has complied with the California Environmental Quality Act for purposes of adopting a general plan designation, a zoning or pre-zoning classification, an application to the San Joaquin Local Agency Formation Commission (LAFCo) and, at Owner's option, a specific plan and one or more tentative parcel or subdivision maps, and LAFCo has approved the City's annexation request and, if required a sphere of influence amendment for real property not currently subject to the Development Agreement

(i) Notwithstanding any other provision of this Agreement or any other City ordinance, rule, regulation or custom: (1) except for a tentative map receiving DA RGAs in a calendar year, the Property shall not be subject to any limitation or condition concerning the total number of RGAs or building permits from all potential sources in any year or during any RGA and/or building permit cycle; and, (2) approved plot plans and building permits shall have a term of at least two

- (2) years and shall be eligible for extensions as provided by the City ordinance, rules and regulations or other applicable laws.
  - 5. Section 1.15(c) is added as follows.
- The concept plan for neighborhood parks shall be first presented to the City (c) Parks Commission, the concept plan shall then be updated in coordination with City staff, and if City Council approves the neighborhood parks as part of the Specific Plan or relevant planning and approval documents (Project Plan) then the neighborhood park concept and design shall be in accordance with the then existing Project Plan and may including approximate size, name, location site plans, structures, equipment, uses, plants, trees, signage, color palette and features. Neighborhood parks may be one acre or more, and parks of two acres or more are allowed to have adjacent mail boxes with a roof structure, lighting and other features for mail service to the neighborhood residents, adjacent mail boxes with a roof structure shall not be a credit towards neighborhood park acreage, and maintenance for such neighborhood parks shall be funded by the Ellis community facility district or similar district. The neighborhood parks shall be bonded through a park improvement agreement or other acceptable agreement, at a bonding amount determined by the applicable finance plan or Project Plan, the developer shall be responsible for building the parks and there shall be no impact fee or other fees collected for neighborhood parks. The Project Plan shall provide developed neighborhood park land of three (3) acres per thousand residents. The Project Plan shall provide regulations on the character and amenities for each park. As the park system is implemented detailed designs will be developed for the construction of each park and the final location of parks shall be identified by Owner on tentative maps(s). Modifications and refinements of individual park designs including park location will be considered a minor variation as per the approved Project Plans. The elimination of a major

amenity, or comprehensive change of a major amenity to another use shall be considered a major variation and require review by the City parks commission.

- 6. Section 1.15 Ellis Specific Plan Parks (b) is deleted and replaced with the following:
- (b) The timing of constructing Property neighborhood park improvements shall be according to the applicable Project Plan.
  - 7. Section 1.15(d) is added as follows.
- (d) Except for neighborhood park land which shall be maintained by City with funding from the ECFD, all landscape improvements shall be maintained by the Ellis Property Owners Association (EPOA), with funding from the ECFD. The City and EPOA have or shall enter into a maintenance agreement to set forth and facilitate among other things the required maintenance obligations, standards for maintenance, and other associated obligations(s) as well as compliance with the Ellis operations and maintenance manual, to ensure the long-term maintenance of all public park and landscape areas, and other public improvements within the ECFD boundaries. The City and EPOA may amend and make changes agreed upon to the maintenance agreement and Ellis operations and maintenances manual upon mutual consent. The maintenance manual will be updated by Owner periodically to include improvements which have been installed in public parks, landscape areas, and other public improvements within the ECFD boundaries, and updated versions shall be provided to the City and EPOA. The City and EPOA may then amend and make changes to existing improvement standards or guidelines which are part of the manual upon mutual agreement.

- 8. A new section 1.16(e) is added as follows:
- e. On August 16, 2016 the parties agreed to defer the performance of certain acts. As consideration for this deference Owner agreed to:
- (i) design and construct the Swim Center monument sign at the corner of Summit Drive and Corral Hollow Road at Owner's sole expense in an amount not to exceed One Hundred and Fifty Thousand Dollars (\$150,000); and,
- (ii) expand and improve the Summit Drive paved travel section to the northeast along the frontage of the Swim Center to a five-foot wider section to accommodate potential future Swim Center turn lanes; and,
- (iii) construct the frontage improvements for the Swim Center on Summit Drive; and,
  - (iv) construct the stubbed utilities to the Swim Center site from Summit Drive; and,
- (v) fund up to One Hundred Thousand Dollars (\$100,000) for the resources of Surland planners and architects to work with the City to complete a design for the Swim Center.
  - 9. A new section 1.17 is added as follows:

#### Section 1.17 Community Facilities District.

The City and Owner shall cooperate to annex property into the ECFD and the ECFD shall authorize bond indebtedness, and authorize the special taxes, and bond proceeds from the ECFD. Property identified as a Future Annexation Area may annex into a then existing improvement area, or a new improvement area using the unanimous approval process.

Any fees paid from Property or Owner which are determined to be subject to reimbursement with ECFD proceeds or other proceeds shall be deemed "deposits" which may be returned to Owner upon payment of an equivalent amount to the City from ECFD proceeds. City and Owner shall agree on all Property which shall be subject to any other community facility district.

10. A new section 1.18 is added as follows:

#### Section 1.18 Program/Public Improvements/Infrastructure

Except for the process to fund, design, and/or construct the Aquatic Center which A. is described at section 1.01(j) of this Second Amendment, Owner or Owner's designee may fund, design, and/or construct any program/public infrastructure upon the execution of the requisite improvement agreement, as approved by the City which approval shall not be unreasonably withheld. Owner shall notify the City in writing of the intent to design and/or construct improvements, and at the time of such notice there shall not be a construction or improvement contract in effect that provides for the construction of the specific improvement. Owner shall insure that improvement agreements have been executed and security is posted for the work of the improvement. Owner shall be eligible for credits and/or reimbursements for the work in amounts equal to the full amount of the capital improvement program plan identified in the applicable fee program, or other public improvements, in such instances City shall not charge cost recovery for the related component of the plans and improvements, plans check fees shall be fully reimbursable. For site improvements which Owner or Owner's designee will fund, design, and/or construct public infrastructure, and a plan check fee is collected by City, Owner shall be eligible to receive reimbursements of plan check fees paid, after acceptance of the improvement by the City, the City shall then reconcile actual costs against the plan check fee paid and shall only charge based on the actual costs, for any project work over five million dollars which is allowed by City code. City shall keep all EFIP funds in discrete accounts, including program management, and provide Owner with an annual accounting of all accounts.

- B. After the parties execute a written agreement to fund, design, and/or construct program infrastructure improvements all credits and reimbursements available to Owner, including without limitation credits and reimbursements available as a result of Owner's election,, shall apply to any program expenditure. Owner shall be eligible for both a credit against fees paid, and/or against future fees to be paid, and reimbursement. Owner and City shall enter into a master reimbursement agreement to identify credits and reimbursements, which shall become part of the reimbursement agreement prior to, concurrent with, or subsequent to the improvement(s).
- C. Reimbursement Agreement credits and reimbursements, approved by the City through a Reimbursement Agreement shall be allocated in such a manner determined, and in the sole discretion of Owner as Owner deems appropriate, with credits being allocated to "like-kind" fees, like-kind fees shall be fees which are in the same fund type of infrastructure, such as water, wastewater, storm, transportation/roads, public facilities, parks, etc. Owner may have balances of credits before impact fee payments are due, in such event Owner may allocate such credits to specific lots by written direction to the City indicating available credits being applied to specific lots.
- D. All program infrastructure/public improvement capacity funded or constructed by Owner shall be available to accommodate the fair share capacity for Owner's Property as approved by City in the relevant agreement (for purposes of this subsection D and section 1.18. F) The City has discretion on the use of the capacity prior to when Owner needs occur, so long as the capacity is available without delay or restriction to Owner or any partial use of this capacity is required or

needed. Owner may construct on-site and off-site infrastructure necessary to provide recycled water service. Recycled Water Fees will be paid in an amount equal to the requisite finance plan, and in accordance Project Plans but no other current or future fee. All recycled water infrastructure improvements within entry, collector and community streets, and other public streets as approved by the City, and as defined by the requisite Project Plan will be recommended by staff to be program costs as part of the water master plan update. Once adopted these costs will be subject to credit and reimbursement according to the reimbursement agreement designee. Concurrent with approval of a final map for any part of Property subject to the Agreement City shall review, and if capacity not currently being used exists, shall reserve wastewater services capacity for treatment and conveyance for residential and commercial wastewater uses included in the approved final map. Through this Agreement City shall allocate and vest in favor of Owner and City shall supply Owner water supply for 2,250 residential units, including all commercial areas and uses (Including Ellis Village Center and Limited Use Area) in the Ellis Specific Plan, including the Swim Center in accordance with the Ellis FIP. Owner shall have the right to use all fair share infrastructure capacity described in the Ellis FIP, including but not limited to storm, water, wastewater, transportation (traffic), community park and public buildings. The applicable Project Plan shall identify the financial plan(s) such as the Ellis FIP, the City Master Plans, or any other Fee Programs, or other impact fee, development impact fees and other fees and contributions identified and agreed upon by the City and Owner and attributable to a structure.

E. The Reimbursement Agreement shall be approved prior to the City Council second reading of with this Agreement, and within thirty (30) days after approval of the Reimbursement Agreement for the funding and/or constructing infrastructure, the City shall immediately establish separate Reimbursement accounts for the work identified in the Reimbursement Agreement, and

the work identified in future additional work to the Reimbursement Agreement for depositing reimbursements funds due per the Reimbursement Agreement. City shall provide Owner with a written accounting of funds available for reimbursement to the party identified in the Reimbursement Agreement for the Work within sixty (60) days after executing the Reimbursement Agreement or additional work to the Reimbursement Agreement, City shall transfer to the appropriate reimbursement account all available funding necessary to reimburse Developer for any of the Work Components identified in the Reimbursement Agreement which are subject to an executed Improvement Agreement, Off-Site Improvement Agreement, or other agreement to construct the Work Components. In accordance with the Reimbursement Agreement Fee Credits, as this term is defined in the Reimbursement Agreement, credits may be applied toward impact fees due or paid, on any property with like kind infrastructure fees, by notice to the City from Reimbursement Agreement identified party, after the City Council accepts the Work component identified in the Reimbursement Agreement. The City and Owner shall cooperate to amend the Reimbursement Agreement to add additional Work components as necessary. Reimbursements and credits will be based on infrastructure category funds such as water, wastewater, roadways, parks, and storm, etc.

Sources for the Reimbursements may include monies from the South ISP, Plan C, RSP, Infill, I-205, Ellis FIP, Master Plans, benefitting properties, and/or other City Impact Fee Funds, Finance Plans, or other funding sources, as identified by the City. Credits shall apply against Impact Fees, which otherwise would be payable by properties to City, and applied as directed in writing to the City by the party identified in the Reimbursement Agreement. Payment of reimbursements by City shall be by check or by wire and payable as per the Reimbursement

Agreement. City shall provide Owner a quarterly report indicating the balance of said reimbursement accounts. Administrative costs may apply for enhanced reporting and accounting.

All reimbursements shall be made in full in accordance with the Reimbursement Agreement from funds available at least as often as each City fiscal quarter the City shall release and immediately disburse all funds in any accounts in accordance with the Reimbursement Agreement. The reimbursement agreement will not substantially impair existing reimbursement agreements, or written commitments in effect, as of the date of this amendment. The City represents, warrants and covenants that the funds deposited in infrastructure fund account(s) available for reimbursement shall not be used for any intra-fund transfer without the prior written consent in accordance with the Reimbursement Agreement. Funds in the account shall be deposited in an interest-bearing account and all interest shall be paid in accordance with the Reimbursement Agreement as additional consideration for entering into this Agreement. City shall make all reasonable efforts to provide the "Total Credit and Reimbursement" as of approval of an agreement for the improvement(s) or work, or as soon thereafter as possible. The right to Reimbursement for the improvement(s) or work shall have priority over other improvement projects, or reimbursements. The reimbursement agreement will not substantially impair existing reimbursement agreements, or written commitments in effect as of the date of this amendment.

F. Wastewater treatment capacity needed by Owner which have not yet been provided shall be made available from existing available capacity of the Tracy Waste Water Treatment Plant by determining the capacity requirements of a final map for use of available capacity during the processing of the final map. Owner may participate in additional expansions above for Owner needs by request to the City. The Ellis Initial Capacity shall be applied to the Property according to written directions from Owner to City. In addition to the Ellis Initial Capacity, all property

depicted on final maps which are approved by the City shall be served by the existing wastewater treatment capacity. The Ellis Initial Capacity credits shall be applied to the Property according to written directions from Owner to City. Owner wastewater conveyance needs which have not been met shall be included in the Corral Hollow Conveyance Expansion, or other requisite conveyance system(s) as approved by City, which approval shall not be unreasonably withheld. City shall make available a minimum capacity from the Corral Hollow Conveyance Capacity Phase 1 Expansion (referred to as a choke point at times) for five hundred and fifty (550) residential units whenever needed by Owner for project improvements and/or development until the ultimate Corral Hollow Conveyance Expansion is complete. Owner may use the Eastside sewer conveyance system via a connection through Peony on an interim basis for the first 550 residential units until the ultimate Corral Hollow Conveyance Expansion upgrades are constructed and operational, including the Corral Hollow conveyance system connection to Ellis Town Drive to serve conveyance required by Owner in the Corral Hollow Conveyance System for property subject to this Agreement.

- 11. Section 3.01(b).4 is deleted.
- 12. Section 3.01(b).9 shall be deleted from the Development Agreement and the following inserted in its place.
- (9) "Certificate of Occupancy" shall mean a certificate issued by the City authorizing occupancy of a residential unit.

#### [SIGNATURES ON THE FOLLOWING PAGE]

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

"City" CITY OF TRACY, a municipal corporation	"Owner" SURLAND COMMUNITIES, LLC, a California limited liability company
By: Robert Rickman Title: Mayor Date:	By:  Les Serpa Title:  Date:  May 3, 2018
APPROVED AS TO FORM:  By: Thomas Watson Title: CITY ATTORNEY Date:	

# **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.

validity of that documents	
State of California County of	
On May 3, 2018 before me, Kirstie L. McKenzie, Notary Public (insert name and title of the officer)	
personally appeared Les Serpa who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same 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.	, in
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.	g
WITNESS my hand and official seal.  KIRSTIE L. MCKENZIE Commission # 2123132 Notary Public - California San Joaquin County My Comm. Expires Sep 8, 2019	A A A MUNA A A A

(Seal)

#### CIVIL CODE § 1189

### CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

	officer completing this certificate verificate serificate verificate verifica		e individual who signed the document nat document.
State of California	1		
San S	Joaquin }		
County of			
On 5/10/18	before me, 5h	aron K. Davie	s Notary Public,
Date	2	Here Insert Nam	ể and Title of the Officer
nerconally anneared	Robert R	ickman	
personally appeared		Name(s) of Signer(s)	
to the within instrumer authorized capacity(18	the basis of satisfactory evidence and acknowledged to me that so, and that by his/her/ther signathe person(s) acted, executed the	t he/she/they execute ature(s) on the instrur	) whose name(s) is/are subscribeded the same in his/frec/their nent the person(s), or the entity
Comm Notary San	ARON K. DAVIS nission # 2115329 y Public - California n Joaquin County		LTY OF PERJURY under the California that the foregoing nd correct.
My Comm. Expires Jul 11, 2019		WITNESS my hand a	and official seal.
		Signature Sh	Signature of Notary Public
Place Notary S	eal and/or Stamp Above	9	Signature of Notary Public
-		ONAL -	
1	ompleting this information can of this		
-	tached Document		
Title or Type of Do	ocument:		
Document Date:			Number of Pages:
Signer(s) Other Th	an Named Above:		
Capacity(ies) Clai	med by Signer(s)		
		Signer's Name:	
☐ Corporate Officer – Title(s):			er – Title(s):
□ Partner – □ Limited □ General		□ Partner – □ Lir	
□ Individual	☐ Attorney in Fact	□ Individual	Attorney in Fact
☐ Trustee	☐ Guardian of Conservator	□ Trustee	☐ Guardian of Conservator
□ Other:			
Signer is Representing:		Signer is Representing:	

#### **EXHIBIT A**

When Recorded return to:

For Recorder's Use Only

#### **AQUATIC PARK TERMS**

- 1.1. Aquatic Park Annual Pass. Members of the EPOA, as property owners within the boundaries of the ECFD, shall receive a pass (pass for annual all access and use at no charge for utilization of all facilities and amenities located within the Aquatic Park 16-acre site for residents of a household at any time (the "Aquatic Center Pass")) for each member's household to the Aquatic Park at Ellis which is within the boundaries of the ECFD. The Commercial Property Owners Association ("CPOA") shall receive a number of Aquatic Center Passes equal to the number of commercial lots, parcels, and condominium units, within the Ellis Storage/Limited Use and Ellis Village Center area which are within the boundaries of the ECFD. The EPOA and CPOA shall, for the benefit of the City, administer the process of annually providing the Aquatic Center Pass and shall keep accurate records of property ownership, lots/parcels/units, and determine eligibility.
- Naming Rights. Serpa Aquatic Park shall be the official and the sole and exclusive name for aquatic 1.2. park at Ellis. The exclusive imaging elements and permanent signage connected to the aquatic park shall come from the design of the aquatic park which shall have the locations and dimensions generally set forth in the Surland aquatic park design which shall then become Exhibit "A" to this Document shall not change without written agreement of Rights Holder. Permanent signage is defined as any fixed signage that is present for all events, including any digital signage. The cost of the design, installation, implementation and maintenance of such signage shall be paid as a cost of the aquatic park project. Serpa Aquatic Park shall be the exclusive Aquatic Park name for the park, and shall be included in all signage, digital signage, marketing, promotion, websites, apparel, and printed material, and shall have prominence and dominance over any naming or sponsors having a presence inside or outside of the Aquatic Park. Prominence must be present in the embodiment of the park structures and each and every event at the facility. No other signage, or naming shall be placed on any structures, buildings, offsite or onsite signage, or used in digital, or fixed signage without written consent of Rights Holder. The style manual which includes approved artwork for park logos and stylized form of the park name shall be used for all signage, websites, advertising, paper products, tickets, passes, apparel, marketing, print, merchandise inventory, and other items. The Les and Carol Serpa Aquatic Park may also be prominently used throughout the Aquatic Park as generally set forth in Exhibit "A" to this Document and shall not change without written consent of Rights Holder. The Aquatic Park signage locations, size, and style as depicted

in Exhibit "A" to this Document shall not change without the consent of Rights Holder. Any signs prepared for gyms, party rooms, event areas, archways and entry gates, or any other signs for the Aquatic Park shall include the official name or logo either in or adjacent to the name of the respective arch or entry. Any apparel, wrist bands, tickets, or other items prepared, given away, used, or sold for the gym, party rooms, events, passes, or any other productions for the Aquatic Park shall include the official name or logo prominently. Aquatic Park official name or logo shall be prominently displayed in and on all design materials, images, illustrations, renderings, site plans, blueprints, animation, video or other depictions that are developed for the Aquatic Park.

- 1.3. Exclusivity. Other than using the official name, unless approved in writing by Rights Holder, the City will not permit any exterior signage, advertising, or promotion on the aquatic park or, on the grounds surrounding the aquatic park (including the entry, gym, parking lots, driveways and roads approaching and surrounding the aquatic park), either temporary or permanent. The City agrees to provide that any party entering into an agreement with the City to use the aquatic park for any event cannot remove, cover or otherwise obscure the view of any signage, or naming without the written consent of Rights Holder.
- 1.4. Advertising, Marketing, Events. All advertising, marketing, website, and any other locational information, including event advertising, and promotion by any party shall use the following for identification and naming purposes of the event "Serpa Aquatic Park at Ellis". The name shall be of the same font size as the largest font size in the print, and shall be a minimum of 10% of the total area, or 10% of the total time as applicable.
- 1.5. Indemnification Against Claims by Third Parties. The City shall defend, indemnify and hold harmless, to the extent permitted by law, Rights Holder from and against any and all claims, damages, causes of action, judgments, liens, losses and costs and liabilities including, without limitation, attorneys, fees and other litigation expenses arising from the City's acts, omissions or breach of this Document and/or from any litigation, arbitration, hearing, investigation or other proceeding commenced by any third party alleging or arising from claims of wrongful conduct or omission by the City, including, but not limited to, negligence, breach of warranty, and unsafe, hazardous, or defective product or service, except to the extent that such damages, claims, losses and judgments and costs incident thereto are caused by the negligence or intentional misconduct of any party seeking indemnification hereunder. The City shall at all times be insured with liability insurance and such insurance as will provide against claims which may arise from the City's operations of the aquatic park and under this Document.
- 1.6. Copyrights. Trademarks. Service Marks. Logos and Similar Rights of Serpa Aquatic Park. Serpa Aquatic Park Marks. The parties acknowledge that Rights Holder shall own, and have the responsibility to protect, in the United States, and elsewhere in its sole discretion, the trade name "Serpa Aquatic Park"," Serpa Aquatic Park at Ellis", and all associated trademarks, logos, designs, and service marks (the "Aquatic Park Marks"). Rights Holder hereby grants the City a non-exclusive royalty-free, worldwide license to use the Aquatic Park Marks, subject to the terms provided below, for the purpose of promoting the Aquatic Park. Rights Holder further grants the City the right to sublicense the Aquatic Park Marks as approved from time to time by Rights Holder. Further, all such uses of the Aquatic Park Marks shall be subject to the prior written consent of Rights Holder as to form, copy and content. The City agrees that it will

include the name of "Serpa Aquatic Park" and any related logo or trademark for all of the following related to the Aquatic Park, on all of its letterhead, envelopes, invoices, brochures, business cards and shall include the name of the Aquatic Park in its address. The City shall use "Serpa Aquatic Park" when making reference to the aquatic park and no other name shall be used without the written consent of The City in any and all contracts, agreements, arrangements, writings and communications, entered into or amended after the date of this Document, pertaining in any manner to the Aquatic Park (such as contracts with tenants, lessors, operators, and users, suppliers, clubs, media, advertisers and others) shall refer to, and as a term of such contracts, agreements and/or arrangements shall require all other parties to such contracts, agreements and/or arrangements to refer to the Aquatic Park as, and only as, "Serpa Aquatic Park." All printed materials promulgated by the City which would normally refer to the address or site of the Aquatic Park shall refer to the Aquatic Park as " Serpa Aquatic Park at Ellis." The City agrees to use reasonable efforts to ensure that the name "Serpa Aquatic Park" is (i) used in all communications and media concerning the Aquatic Park; and (ii) used by all media and news organizations. With respect to all events that are specifically created for the Aquatic Park by the City or scheduled or hosted in the Aquatic Park by the City or its affiliates, or lessors during the Term, the City agrees that for all such events the City shall use its best efforts to require that (i) all communications and media concerning the Aquatic Park; (ii) all local media and news organizations; and (iii) all tickets issued by users of the Aquatic Park will refer to the Aquatic Park as "Serpa Aquatic Park at Ellis." In addition, the City shall use its reasonable efforts to require that all advertising by users of the Aquatic Park, including teams, leagues, business, or associations refers to the Aquatic Park as ""Serpa Aquatic Park at Ellis".

1.7. Entire Document; Amendment; Assignment. This Document constitutes the entire agreement and understanding between Rights Holder and the City and supersedes all prior agreements, understandings and representations relating to the subject matter. This Document may only be amended, modified or supplemented by a written agreement between Rights Holder and the City. This Document may not be assigned by either party except with the prior written consent of the other party; provided, however, that Rights Holder may assign this Document as part of any planning undertaken by Rights Holder for future authorizations related to this Document.

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

## **EXHIBIT B**

# APPLICATION FOR RESIDENTIAL GROWTH ALLOTMENTS - GMO Subsection F.3

# **Application**

# **Applicant Information**

Name:	Telephone No.:
Company:	
Mailing Address:	
City/State/Zip Code:	
	Owner Information
Name:	Telephone No.:
Company:	
Mailing Address:	
City/State/Zip Code:	
Ter	ntative Map / Map / RGA Information
Tentative Map or other Map:	
# of RGA's requested:	<u> </u>
	Applicant's Signature
I, the undersigned, have comrelevant to this application:	aplied with the requirements of the Development Agreement
Applicant's Signature	Date

# **Application**

# **Applicant Information**

Name:	Telephone No.:
Company:	
Mailing Address:	
City/State/Zip Code:	
Ow	ner Information
Name:	Telephone No.:
Company:	
Mailing Address:	
City/State/Zip Code:	
Tentative Ma	p / Map / RGA Information
Tentative Map or other Map:	
# of RGA's requested:	
Арр	olicant's Signature
I, the undersigned, have complied with the relevant to this application:	ne requirements of the Development Agreement
Applicant's Signature	Date

When Recorded return to:

# **EXHIBIT C**

|--|

	AGREEMENT FOR DEFFERRAL OF CERTAIN IMPACT FEES
	EEMENT is entered into by and between the City of Tracy ("City"), and to secure the payment of
	ct fees, which the City has agreed may be deferred until sometime after the filing of p for this Project and the issuance of building permits.
Recitals	
("Fin Impa	icant owns the land included on the final map entitled "" all Map"), which is to record concurrently with this Agreement for Deferral of Certain ct Fees ("Agreement") for the project known as, ("Project"). New es will be constructed on the lots created by the Final Map.
	icant has requested a deferral of certain impact fees, which are imposed under Tracy ances and resolutions for said Project.
each to the impa Impa Defe	has agreed to defer the payment of such impact fees ("Deferred Impact Fee") until new home that is constructed on a lot depicted on the Final Map is sold and conveyed e original homebuyer as evidenced by a completed close of escrow transaction. The act fees that shall be paid to the City are itemized on a per lot basis on the Deferred act Fee Schedule by Lot No. attached as Exhibit "B" ("Deferred Impact Fee"). The gred Impact Fee Schedule may be adjusted by mutual consent of the City and dicant at any time prior to payment in order to account for fee credits or fee adjustments.
who Defe	licant shall cause an escrow to be opened with an escrow holder ("Escrow Holder") is processing the escrow closings for the sale of the new homes in the Project. The erred Impact Fee shall be paid to City by the Escrow Holder through the escrow upon lose of escrow of each new home sale in the Project to the original homebuyer.
provi	n request from Applicant, City shall provide Escrow Holder with a Demand Letter that ides the Deferred Impact Fee for particular lot in the form attached as Exhibit "C" in action with the sale of a new home to a homebuyer.

F. Upon receipt of Deferred Impact Fee from Escrow Holder, City shall provide Escrow Holder with a Confirmation and Instruction Letter that confirms the Deferred Impact Fee for a particular lot has been received by City and paid in full, in the form attached as Exhibit "A".

NOW, THEREFORE, the parties hereto agree to the following:

- 1. This Agreement shall be recorded immediately after the recordation of the Final Map
- 2. Upon completion of the new home on any lot as shown on the Final Map in the Project, the City shall allow Applicant to obtain utility services, including water, sewer, gas and electricity, to the house; but, shall not allow occupancy until the Escrow has closed and the City has received the Deferred Impact Fee, as set forth below.
- 3. The Applicant shall instruct the Escrow Holder to deduct sufficient funds to pay the Deferred Impact Fee from the sale escrow of a new home to the original buyer and such Deferred Impact Fee shall be wired by the Escrow Holder to the City as a condition of the closing of such escrow and the conveyance of a lot in the Project to the original homebuyer.
- 4. Upon receipt of said Deferred Impact Fee by the City from the sale of a new home located on a lot shown on the Final Map that is conveyed to the original homebuyer, this Agreement shall be deemed irrevocably released on said lot in the Project without the necessity of a recorded release signed by the City, and Escrow Holder shall remove any and all exceptions or notices on the title or record related to Deferred Impact Fee for said lot. City agrees to promptly execute and record a release of the Agreement, upon request, if necessary to remove the Agreement from the title to a lot.

#### 5. General Provisions.

5.1 Notices. Notices to the parties shall be in writing and delivered in person, or sent by certified mail, postage prepaid, return receipt requested, to the principal offices of the City and Applicant. Notice shall be effective on the date delivered in person or the date when the postal authorities indicate the mailing was delivered to the address of the receiving party indicated below.

To Applicant:

To City:

- 5.2 California Law. This Agreement shall be governed by, and interpreted in accordance with, the laws of the State of California.
- 5.3 Severability. If any one or more of the provisions of this Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the

validity, legality and enforceability of the remaining provisions of this Agreement shall not be affected or be impaired in any way.

- 5.4 Attorneys' Fees. If any party files an action or brings any proceeding against the other party arising out of this Agreement or for the declaration of any rights under this Agreement, the prevailing party shall be entitled to recover from the other parties all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party as determined by the court.
- 5.5 Modification. This Agreement cannot be modified in any respect except by a writing signed and entered into by the Applicant and the City.
- 5.6 Captions. The captions of the paragraphs of this Agreement are inserted for convenience of reference only and do not define, describe or limit the scope of the intent of the Agreement.

IN WITNESS WHEREOF, this Agreement is executed by THE CITY OF TRACY and by APPLICANT.

By	:
Its:	
APPLICA	
Ву	:
Its:	
	as to form and legality this day of, 20
City Attor	ney

CITY OF TRACY

# Exhibit "A"

# **Confirmation and Instruction Letter**

To: (Escrow Holder)	
From: The City of Tracy	
Re: Payment of Deferred Fee	
Final Map, Lot # Address of Property:	
Address of Property:	
Your Escrow Number if applicable:	
Date:	
Regarding the above referenced escrow, Escrow Holder is directed, pursuant provisions of the Agreement of Deferral of Certain Impact Fees, record, as Document Number in Official Record San Joaquin County Recorder's Office, that the following amount has been collected the above referenced Lot either directly by the City or from Escrow the \$, representing the amount of the Deferred Impact Fee ascribe the above referenced Lot. Such Deferred Fee has been collected and received by the Tracy.	ded on a softhe of the soften
Upon the Escrow Holder receipt of this Confirmation and Instruction Letter, the Agr of Deferral of Certain Impact Fees shall be deemed irrevocably released on said to Project with this letter considered a release signed and authorized by the City, which recorded.	ot in the
City of Tracy	
By:	
Its:	

Exhibit "B"

Deferred Fee Schedule

By Lot No.



# Exhibit "C"

# **Demand Letter**

То:	(Escrow Holder)
From: The City of Tracy	
Re: Payment of Deferred Fee	
Final Map Address of Property: Your Escrow Number:	Lot #
Date:	_
Agreement of Deferral of Cer Document Number Recorder's Office, to colle \$, representations.	d escrow, you are directed, pursuant to the provisions of the tain Impact Fees, recorded on, as in Official Records of the San Joaquin County ct from the above referenced Escrow the sum of enting the amount of the Deferred Impact Fee allocated to the Deferred Fee shall be collected at the closing the escrow and ollows:
Certain Impact Fees shall be de the necessity of a recorded rele	ot of such Deferred Impact Fee, the Agreement of Deferral of eemed irrevocably released on said lot in the Project without ase signed by the City.
City of Tracy	
By:	
Its:	

# **EXHIBIT D**

# SWIM CENTER DESIGN, FUNDING, AND CONSTRUCTION AGREEMENT

By and Between the

CITY OF TRACY,

a municipal corporation and

SURLAND COMMUNITIES, LLC

#### **SWIM CENTER**

#### **AGREEMENT**

This Swim Center Acquisition Agreement ("Agreement") is made by and between the CITY OF TRACY, a municipal corporation ("City"), and SURLAND COMMUNITIES, LLC ("Owner") (City and Owner are collectively referred to as "Parties") and is effective as of May 3, 2018.

#### RECITALS

- A. The Ellis Specific Plan identifies an approximately 16 acre (the "Property") within the plan for an Swim Center.
- B. On April 3, 2018, the City Council approved and adopted a development agreement amendment which includes the Property (the "DA").
- C. The DA obligates Owner to retain and compensate consultants, and contractors for the design and construction of a Swim Center ("Swim Center") on the Property, and requires Owner and the City to execute this Agreement to provide for and memorialize the Parties' obligations with regard to site acquisition, design, and construction of the Swim Center. This Agreement intends to provide the method by which Owner will perform this obligation but does not intend to expand or change the Owner obligation as presented in the amendment to the Development Agreement. The City acknowledges that Owner is not a licensed contractor and therefore in performing the obligations of this Agreement Owner shall retain the services of license contractor as required by law.

#### **AGREEMENT**

Based upon the foregoing Recitals, which are incorporated herein as provisions of this Agreement by this reference, and in consideration of the covenants and promises of the City and Owner contained in this Agreement, the Parties agree to perform each of their respective obligations in a timely manner.

#### **SECTION 1 - Definitions**

"Affiliate" means (i) an entity that, directly or indirectly, controls, is controlled by, or is under common control with, Owner; or (ii) an entity in which Owner directly or indirectly owns at least a twenty-five percent (25%) interest.

"City" means the City of Tracy, acting through its City Council, officers, employees, and authorized representatives.

"City Engineer" means the City Engineer for the City of Tracy or authorized delegee.

"Construction Contract" means the contract between Owner and Owner's contractor(s) for all of the Work (as defined below) required to construct the Swim Center as designed, including all services required to be provided by or customarily provided by or under the direction of a licensed general contractor.

"Construction Contract Price" means the total amount of contractors Construction Contract(s).

"Construction Documents" means the design and construction documents, including the Construction Contract and all drawings, specifications, and schematic plans prepared pursuant to the RFP (as defined below), if Owner elects to follow the RFP process, and consistent with all applicable local, state, and federal laws, ordinances, policies, and regulations.

"Development Agreement" or "DA" is defined in Recital B.

"Final Acceptance" means that, following Final Completion, the City has received Owner's irrevocable offer of dedication for the Swim Center Site and all improvements thereon, and the City Council has formally accepted the Work by resolution.

"Final Completion" means that the City Engineer and City Building Official have determined that the Work has been fully completed in accordance with the Construction Documents and this Agreement, including all Punch List items, and title to the Swim Center Site is free and clear of all construction liens and encumbrances, unless otherwise assumed by City.

"Site" is defined as the real property selected by the City Council for this project.

"Swim Center" is defined in Recital C and in the Ellis Specific Plan.

"Swim Center Site" means the Site for the Swim Center that is owned by or under contract to purchase by Owner or Owner's affiliate until City's acquisition at Final Acceptance, and is further described in Section 3.

"Request for Proposal" or "RFP" means Owner's optional "Request for Proposals for Consultant Services" related to design, architectural, and other consultant services, including construction of the Swim Center.

"Total Cost" means all costs, including, but not limited to, costs of design, architectural, consultants, engineering, plan checking, land preparation, utilities installation, project management and overhead, applicable governmental fees, materials, labor, and construction.

"Work" means all of the design and construction services necessary or incidental to completing the Swim Center in conformance with the requirements of the DA, this Agreement, and the Construction Documents.

#### SECTION 2 - City Site Selection

Pursuant to the DA and Section 2 of this Agreement, the City has selected the Site for the Swim Center. The Site shall be in the location, and as described in the offer of dedication. Owner shall own or acquire the Site selected by the City, and the City shall not own the Swim Center Site until Final Acceptance.

#### SECTION 3 - City Approval of Plans and Construction Documents

Within sixty (60) days after the Development Agreement Amendment is Effective, the Specific Plan is approved and the Owner-Tracy Swim Center construction agreement is executed, then Owner and City representatives shall meet to establish joint timelines and milestones for event 3) and event 4): 1) Owner presenting a final conceptual plan for the Swim Center to the City for City review and approval on or before April 30, 2018; 2) a community groundbreaking ceremony on or before September 30, 2018; 3) After the City has approved all necessary design, plans and construction documents, Owner bid out and enter into a construction contract; and, 4) Owner completing the construction according to the construction documents and this document.

Before Owner starts preparing construction improvement plans the City Council shall approve a final conceptual plan, and a list of design, construction and/or improvements that Owner shall cause to be designed and/or constructed. If, after the City Council approves a final conceptual plan, it decides to modify the plan or add additional features or amenities then all direct and indirect costs of changing the conceptual plan or any design or construction plans relying on the original conceptual plan shall be additive funding provided by the City above the initial Swim Center funding and within the time periods specified herein. To insure the Swim Center is completed with available funds the project may be bid with a base bid, and with bid alternatives, depending on available funds bid alternates may or may not be awarded. City shall promptly approve the Construction Documents, including all design plans, drawings, and specifications. The Construction Documents must include an estimated Construction Contract Price, and must comply with the following:

- 1. California Building Code; and
- 2. Applicable Law

#### SECTION 4 - Schedule

#### A. General Surety Requirements

Each bond must be issued by a surety admitted in California. If an issuing surety cancels the bond or becomes insolvent, within seven days following written notice from City, Owner must substitute a surety reasonably acceptable to City.

#### B. Required Bonds

#### 1. Faithful Performance Bond

To secure faithful performance of this Agreement each contractor not covered by a bond for the project shall provide a faithful performance bond in the amount of the work provided, a performance bond shall be provided to the City in the amount of the Construction Contract Price prior to commencement of construction. The bond must be in the form required by Government Code sections 66499 through 66499.10.

#### 2. Warranty Bond

As a condition precedent to City's Final Acceptance of the Swim Center, a warranty bond must be provided in the amount of 10% of the final Construction Contract Price of the Swim Center, as a full guarantee for one year of Work following Final Acceptance.

Bonds and insurance shall be purchased from the Owner's Contribution funds, funds contributed by the City for the project, or paid for by the contractor.

#### SECTION 5 - Construction

#### A. Owner's Obligation to Cause to Construct

Owner shall cause to be constructed the Swim Center in conformance with the Construction Documents to Final Completion.

#### B. Owner's Swim Center Contribution

Owner's maximum financial obligation regarding the Swim Center is Ten Million Dollars (\$10,000,000.00) ("Owner's Contribution") for the Total Cost. Previously Owner has provided Two Million Dollars of a Ten Million Dollar contribution to the City for the Swim Center. City shall cause the Two Million Dollars initial contribution to be applied to the Owner's design and construction activities in accordance with Exhibit "A", including but not limited to reimbursing Owner for all of Owner's design activity expenses undertaken prior to executing this Agreement, subject to Owner providing City true and correct copies of invoices for the work performed or, at the discretion of Owner, the City shall treat the expense of all of Owner's design activities as credits against development fees. After the Two Million Dollar initial contribution is applied to the Eight Million future contribution then the remaining obligation shall be satisfied in full by Owner facilitating Swim Center design and construction of improvements equal to Ten Million Dollars in costs incurred by Owner. In anticipation of this agreement and at the City's request, the Owner retained consultants prior to approving and executing this agreement or the amendment to the Development Agreement, and funds expended by the Owner prior to this agreement or the amendment to the Development Agreement being executed shall be eligible for reimbursement or credits.

#### C. City's Obligation for Costs over Owner's Contribution

The City shall provide funding for the Swim Center in an amount equal to Thirty-Five Million Dollars with a supplementary contingency amount of twenty percent of the total

estimated costs of Forty-Five Million Dollars (Swim Center Funding). This additional construction of approved plans, which shall take into account the total Swim Center Funding, shall represent Owner's entire obligation to facilitate design and construction improvements for the Swim Center improvements and once the additional agreed upon improvements are constructed the Owner's obligation to facilitate design and construction improvements for the Swim Center under this agreement automatically terminates. Owner shall have no obligation to advance funds above the Owner's Contribution to continue or complete the Swim Center and upon reaching the amount of Owner's Contribution if City fails to fund its share, Owner shall be conclusively deemed to have satisfied its obligation under this agreement and the Development Agreement. City shall pay in full all requested invoiced payments to Owner or Contractor within thirty (30) days of the portion of the Work completion from city Swim Center funding.

#### D. Change Orders

Change orders which include costs of more than 10% of the construction contingency shall require the City Manager's or his/her designee's approval, which shall not be unreasonably withheld or delayed. Change orders which include costs 10% or less of the construction contingency shall require the Assistant City Manager's or his/her designee's approval, which shall not be unreasonably withheld or delayed.

#### E. Prevailing Wages

Each worker performing Work under this Agreement that is covered under Labor Code section 1720 or 1720.9, including cleanup of the construction site, must be paid at a rate not less than the prevailing wage as defined in sections 1771 and 1774 of the Labor Code.

#### F. Payroll Records

At all times during performance of this Agreement, Owner's contractor must comply with the provisions of Labor Code section 1776 and 1812 and all implementing regulations, which are fully incorporated by this reference, including requirements for electronic submission of payroll records.

#### G. Insurance

Prior to the commencement of construction, the Owner shall furnish or cause to be furnished evidence to the City that all of the following insurance requirements have been satisfied:

#### 1. General Requirements

The Owner shall or shall cause its agents or contractors to maintain insurance to cover Owner, its agents, representatives, contractors, subcontractors, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.

#### 2. Policies and Limits

- (a) Commercial General Liability Insurance ("CGL"): A CGL policy (with coverage at least as broad as ISO form CG 00 01 01 96) in an amount not less than \$3,000,000 general aggregate and \$1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.
- (b) Automobile Liability Insurance: An automobile policy (with coverage at least as broad as ISO form CA 00 01 07 97, for "any auto") in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
- (c) Workers' Compensation Insurance and Employer's Liability: As required by the State of California.

#### 3. Required Endorsements

The automobile and commercial general liability policies shall contain endorsements with the following provisions:

- (a) The City (including its elected and appointed officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."
- (b) For any claims related to this Agreement, the required coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Owner's (or contractor or agent, if provided by them) insurance and shall not contribute with it.

#### 4. Notice of Cancellation

All insurance policies required hereby shall contain endorsements by which each insurer is required to provide thirty (30) days prior written notice to the City should the policy be 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.

#### 5. Authorized Insurers

All insurance companies providing coverage required by this Agreement 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.

#### 6. Insurance Certificate

Owner (or its agent or contractor) shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the City Attorney.

#### 7. Substitution of Certificates

No later than thirty (30) days prior to the policy expiration date of any insurance policy required by this Agreement, Owner (or agent contractor) shall provide a substitute certificate of insurance.

#### 8. Owner's Obligation

Maintenance of insurance by the Owner as specified in this Agreement shall in no way be interpreted as relieving the Owner of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Owner may carry, at its own expense, such additional insurance as it deems necessary.

#### SECTION 6: Inspection and Final Completion

#### A. Inspection and Oversight

The City may perform daily field inspections of the construction in progress, during regular business hours, as required to assure that the construction is in accordance with the requirements of this Agreement. All inspections shall be coordinated with Owner's designee with at least 24 hours advance written notice and the City inspection team shall be accompanied by Owner's designee at all times when on Site. In order to permit the City to inspect the Work, the Owner shall, at all times, provide to the City proper and safe access to the site, and all portions of the Work, and to all shops wherein portions of the Work are in preparation. The City shall receive copies of materials quality tests required to assure that the quality meets the construction plans requirements, and may require inspection or any re-testing which may be necessary. The City will perform a final inspection of the Work and prepare an inspection report, setting forth any deficiencies from the Construction Documents that may exist (the "Punch List"). Prior to determining that Owner has achieved Final Completion, as described below, the City may re-inspect any corrective work performed by Owner and the as-built construction plans and records to insure the Punch List has been completed.

#### **B.** Final Completion

The City shall certify that Owner has achieved Final Completion when both the City Engineer and City Building Official have determined that the Work is fully completed in accordance with the Construction Documents and this Agreement. Final Completion cannot be achieved until Owner has completed all Punch List items and provided all required submittals, including any contractor warranty, and as-built drawings, to City's satisfaction. After Final Completion has occurred, the City Engineer will

recommend Final Acceptance to the City Council. Upon request by Owner City shall provide a Punch List within fifteen days, and once the work from the Punch List provided is complete City shall certify that Owner has achieved Final Completion.

#### SECTION 7: Dedication and Acceptance

Final Acceptance by the City Council will not be made unless and until a final inspection and determination of Final Completion has been made by the City Engineer and City Building Official in accordance with Section 5.B above, and Owner has submitted to the City an irrevocable offer of dedication for the Swim Center Site with improvements from Owner and evidence that the title to the Swim Center Site is free of all construction liens and encumbrances. Upon recommendation of the City Engineer, the City Council shall formally accept the Work by resolution.

#### **SECTION 8: Warranties and Fee Credits**

#### A. Correction of Defective Work During the Warranty Period

The Contractor(s) shall warrant the quality of the Work, in accordance with the terms of the plans and Construction Documents, for a period of one year after Final Acceptance of the Work by the City Council. In the event that (during the one-year warranty period) any portion of the Work is determined by the City Engineer, or if requested validated by a 3<sup>rd</sup> party agreed upon by Contractor and City to be defective, the City shall notify Owner of the defect and the Owner shall begin facilitation of the correction of the defect within ten (10) days of receiving notice of the defect from the City. If the defect cannot be corrected within 30 days, Owner shall have such time as is necessary to correct the defect, provided that Owner has timely caused the correction to begin and the contractor is diligently continuing the work necessary to correct the defect. If Owner fails to have the contractor begin the work to correct the defect within 60 days of receiving such notice, or fails to diligently have the contractor continue such work, as reasonably determined by the City, City may take actions as necessary to complete the Work using the Warranty Bond. Pursuant to Section 4.B.3 of this Agreement, Contractor's must provide City with a warranty bond as a condition precedent to Final Acceptance.

#### **SECTION 9: Indemnity**

To the fullest extent permitted by law, Owner must indemnify, defend, and hold harmless the City, its agents and consultants (individually, an "Indemnitee," and collectively the "Indemnitees") from and against any and all liability, loss, damage, claims, expenses (including, without limitation, attorney fees, expert witness fees, paralegal fees, and fees and costs of litigation or arbitration) (collectively, "Liability") of every nature arising out of or in connection with acts or omissions of Owner, its employees, subcontractors, representatives, or agents, in bidding or performing the Work or its failure to comply with any of its obligations under the Agreement, except such Liability caused by the active and sole negligence, or willful misconduct, of an Indemnitee. Owner's failure or refusal to timely accept a tender of defense pursuant to this provision will be deemed a material breach of this Agreement. Upon Final Acceptance to the fullest extent permitted by law, City must indemnify, defend, and hold harmless the Owner, its agents and consultants (individually, an "Indemnitee," and collectively the "Indemnitees") from and against any and all liability, loss, damage, claims, expenses (including, without limitation, attorney fees, expert witness fees, paralegal fees, and fees and costs of litigation or arbitration) (collectively, "Liability") of every nature arising out of or in connection with acts or omissions of City, its employees, subcontractors, representatives, or agents, in bidding or performing the Work or its failure to comply with any of its obligations under the Agreement, except such Liability caused by the active and sole negligence, or willful misconduct, of an Indemnitee. Cities failure or refusal to timely accept a tender of defense pursuant to this provision will be deemed a material breach of this Agreement.

#### SECTION 10: Miscellaneous Provisions

#### A. Integration; Severability

This Agreement, the DA, and the Construction Documents incorporated herein, including authorized amendments or change orders thereto, constitute the final, complete, and exclusive terms of the agreement between City and Owner. If any provision of this Agreement, or portion of a provision, is determined to be illegal, invalid, or unenforceable, the remaining provisions will remain in full force and effect.

#### B. Amendment

No amendment or modification of this Agreement will be binding unless it is in a writing duly authorized and signed by the parties to this Agreement, and unless any such amendment conforms to the requirements of the DA, as that document may be amended.

#### C. Governing Law and Venue

This Agreement will be governed by California law and venue will be in the Superior Court of San Joaquin County, and no other place.

#### D. Assignment and Successors

Owner may not assign its rights or obligations under this Agreement, in part or in whole, without City's written consent and without simultaneous assignment of its rights and obligations under the DA. Notwithstanding the foregoing, Owner may assign its obligations hereunder to an Affiliate, provided that any such assignment shall not release Owner from responsibility for ensuring that the assigned obligations are satisfied, and Owner shall remain liable to the City for any and all failures by any assignee to fully perform all obligations under this Agreement, such that a failure by an assignee to fully perform an obligation under this Agreement shall constitute a default by Owner.

#### E. Notice

Any notice given pursuant to this Agreement must be made in writing, and sent to the other party by personal delivery, U.S. Mail, a reliable overnight delivery service, facsimile, or by email. Notice shall be deemed to have been given and received on the first to occur of: (i) actual receipt at the address designated above, or (ii) two working days following the deposit in the United States Mail of registered or certified mail, sent to the address designated below. Notice for each party must be given as follows:

#### City:

City Manager
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
Telephone No.: (209) 831-6400

Facsimile No.: (209) 831-6439



# With copy to:

City Attorney City of Tracy 333 Civic Center Plaza Tracy, CA 95376

Telephone No.: (209) 831-6130 Facsimile No.: (209) 831-6137

#### Owner:

Surland Communities 1024 Central Avenue Tracy, CA 95376 Attention Les Serpa

Telephone No.: (209) 832-7000 Facsimile No.: (209) 833-9700

## With copy to:

Herum Crabtree 5757 Pacific Avenue, Suite 222 Stockton, California 95207 Attention: Steve Herum Telephone: (209) 472-7700

Telephone: (209) 472-7700 Facsimile: (209) 472-7986

### F. Default

#### 1. General

In the event that the Owner is in a material default of this Agreement, as defined in this section, the City Engineer shall provide written notice to the Owner in which the default is described.

# 2. Default Defined

The Owner shall be in default of this Agreement if the City Engineer determines that any one of the following conditions exist:

(a) The Owner is insolvent, bankrupt, or makes a general assignment for the benefit of its creditors.

- (b) The Owner abandons the Work for a continuous period of thirty (30) days that is not due to weather conditions, labor disputes, acts of God, lack of city funding, or other circumstances beyond the control of Owner,
  - (c) The Owner fails to perform one or more requirements of this Agreement.
  - (d) The Owner fails to remedy any loss or damage incurred by the City caused by Owner or its agents, representatives, contractors, subcontractors, or employees in connection with performance of the Work in instance where Owner does not dispute that it is responsible for the loss or damage.
  - (e) The Owner violates any legal requirement related to the Work

### 3. Cure

In the event that the Owner fails to cure the default within thirty (30) days, or provide adequate written assurance to the satisfaction of the City Engineer that the cure will be promptly commenced and diligently prosecuted to its completion, the City may, in the discretion of the City Engineer, take any or all of the following actions:

- (a) Cure the default.
- (b) Demand the Owner to complete performance of the Work.

## G. Independent Contractor Status

The Owner is an independent contractor and is solely responsible for all acts of its employees, agents, or subcontractors, including any negligent acts or omissions. Owner is not City's employee and Owner 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 whatsoever, unless the City provides prior written authorization to Owner.

# H. Attorneys' Fees

In the event any legal action is commenced to enforce this Agreement, the prevailing Party is entitled to reasonable attorney's fees, costs, and expenses incurred.

### I. Waiver

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.

# J. Signatures

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

[SIGNATURE PAGE FOLLOWS]

"City" CITY OF TRACY, a municipal corporation	"Owner" SURLAND COMMUNITIES, LLC, a California limited liability company
By: Title: Date:	By:  Les Serpa  Title: Date:
Attest:	
By: Title: CITY CLERK Date:	

100 mg

# WAIVER OF DEADLINE TO EXECUTE REIMBURSEMENT AGREEMENT REQUIRED BY SECTION 1.18 OF THE AMENDED AND RESTATED DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF TRACY AND SURLAND COMMUNITIES, LLC

On April 18, 2013, the City of Tracy (the "City") and Surland Communities, LLC ("Surland") entered into that certain Amended and Restated Development Agreement recorded in the official records of San Joaquin County on September 17, 2013 as Document Number 2013-119548 (as amended, the "Development Agreement").

On March 13, 2018, the City Council of the City conducted the first reading of, and approved subject to the second reading and City Council approval thereof, an ordinance (the "Ordinance") adopting and approving a second amendment to the Development Agreement (the "Second Amendment"). Among other things, the Second Amendment would add a new Section 1.18 to the Development Agreement providing for the City and Surland to negotiate and execute a Reimbursement Agreement. Subsection E of this new Section 1.18 states, in relevant part, "[t]he Reimbursement Agreement shall be approved prior to the City Council second reading of this [Ordinance] . . . ."

To avoid having to delay the second reading and final approval of the Ordinance, and by its signature below, Surland hereby waives the requirement of the new Section 1.18 that the Reimbursement Agreement be approved prior to the City Council second reading, provided that the Reimbursement Agreement be approved not later than thirty (30) days after the effective date of the Ordinance.

SURLAND COMMUNITIES, LLC, a California limited liability company 2

By: Les I Sorné

Date: 03-30-2018

# FOURTH AGREEMENT TO TOLL AND EXTEND THE DEDICATION ACCEPTANCE PERIOD AND THE 60-DAY CURE PERIOD FOR THE SECOND SWIM CENTER PAYMENT UNDER THE AMENDED AND RESTATED DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF TRACY AND SURLAND COMMUNITIES. LLC

This Fourth Agreement To Toll And Extend The Dedication Acceptance Period And The 60-Day Cure Period For The Second Swim Center Payment Under Amended And Restated Development Agreement By And Between The City Of Tracy And Surland Communities, LLC ("Fourth Tolling Agreement") is entered into by and between the City of Tracy, a municipal corporation ("City") and Surland Communities, LLC, a California limited liability company ("Surland").

#### **RECITALS**

- A. On April 18, 2013, the City and Surland entered into an Amended and Restated Development Agreement which was amended by that certain First Amendment dated July 3, 2014 (as amended, the "Development Agreement").
- B. Pursuant to the Development Agreement, Surland was required to pay to the City, not later than September 5, 2016, Eight Million Dollars (\$8,000,000) ("Owner's Second Swim Center Payment") for use by the City in the development, construction, operation and maintenance of a public swim center. Following September 5, 2016, the City gave written notice to Surland of its failure to timely make the Owner's Second Swim Center Payment and, under the Development Agreement, Surland was afforded a sixty-day cure period, which period may be extended by mutual agreement.
- C. Pursuant to the Development Agreement, Surland has offered to dedicate to the City sixteen (16) acres of land within the Ellis Specific Plan area (the "Original Land Dedication Offer"), which the City expected to use for the proposed public swim center. Under the Development Agreement, the City had until September 15, 2016 to accept the Original Land Dedication Offer (the "Dedication Acceptance Period").
- D. The City and Surland have agreed that there is an alternate location in the Ellis Specific Plan area that may be preferable as the location for the proposed public swim center, and Surland has agreed to prepare a revised land dedication offer (the "Revised Land Dedication Offer") to replace the Original Land Dedication Offer.
- E. Pursuant to that certain Agreement To Toll And Extend The Dedication Acceptance Period And The 60-Day Cure Period Respecting The Second Swim Center Payment Under Amended And Restated Development Agreement By And Between The City Of Tracy And Surland Communities, LLC (the "First Tolling Agreement"), the City and Surland agreed to (i) extend the sixty-day cure period to September 5, 2017, (ii) extend the Dedication Acceptance Period to November 24, 2017, and (iii) require Surland to deliver the Revised Land Dedication Offer not later than September 15, 2017.
- F. Surland has submitted an application to the City seeking a Second Amendment to the Development Agreement to, among other things, extend the time period for Owner's Second Swim Center Payment, provide for Surland to construct the proposed public swim center, expand the geographic coverage of the Development Agreement, and provide certain additional amenities for the City relating to the proposed public swim center.

- G. Following the submittal of Surland's application, the City and Surland commenced negotiating the terms of the proposed Second Amendment. Despite the parties' best efforts, the negotiation and processing of the proposed Second Amendment could not be completed before September 5, 2017, the expiration date of the cure period relating to Owner's Second Swim Center Payment under the First Tolling Agreement. To give the City and Surland additional time to negotiate and process the proposed Second Amendment, in August of 2017, the City and Surland executed a Second Agreement To Toll And Extend The Dedication Acceptance Period And The 60-Day Cure Period Respecting The Second Swim Center Payment Under Amended And Restated Development Agreement By And Between The City Of Tracy And Surland Communities, LLC (the "Second Tolling Agreement"), pursuant to which the City and Surland agreed to extend to December 5, 2017, all of the deadlines established by the First Tolling Agreement.
- H. On November 21, 2017, a Third Tolling Agreement was executed between the City and Surland to allow additional time to complete the negotiated DA amendment, the required environmental review and to schedule public hearings at both Planning Commission and City Council. The Third Tolling Agreement extended dates to April 4, 2018 for both the Owner's Second Swim Center Payment and Surland's delivery of an irrevocable Revised Land Dedication Offer.
- I. On March 13, 2018, the City Council introduced an ordinance to amend the Surland Communities, LLC ("Surland") Amended and Restated Development Agreement. A Fourth Tolling Agreement is being requested because the previous Agreement will lapse while the approved Development Agreement Amendment Ordinance becomes effective.
- J. While the amendment to the Amended and Restated Development Agreement becomes effective, both parties agree that an extension of time to May 7, 2018 is necessary as the recently approved Ordinance Amending the Amended and Restated Development Agreement becomes effective.

Staff requests that the City execute a Fourth Tolling Agreement to extend the Dedication Acceptance Period and the 60-day cure period to May 7, 2018, as described below

#### NOW, THEREFORE, the parties agree as follows:

- 1. The cure period afforded Surland to make the Owner's Second Swim Center Payment shall be extended until May 7, 2018.
- 2. Surland shall deliver an Irrevocable Revised Land Dedication Offer, in a form acceptable to the City, not later than May 7, 2018.
- 3. The Dedication Acceptance Period for the Revised Land Dedication Offer shall be extended indefinitely, or until such time as the City and Surland mutually agree in writing, to establish a new date by which the City must accept the Revised Land Dedication Offer.

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

Hofer Kulmon
Mayor 4-3-/8
Date. 7 7 7 3
Attest:
City Clerk
Date: 4 3 2018
Approved as to Form:
City Attorney 3/2.6/16
Date:

CITY OF TRACY

SURLAND COMMUNITIES, LLC, a California limited liability company	
By: Les J. Serpay -	
Date: 4/3//8	

# THIRD AGREEMENT TO TOLL AND EXTEND THE DEDICATION ACCEPTANCE PERIOD AND THE 60-DAY CURE PERIOD FOR THE SECOND SWIM CENTER PAYMENT UNDER THE AMENDED AND RESTATED DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF TRACY AND SURLAND COMMUNITIES, LLC

This Third Agreement To Toll And Extend The Dedication Acceptance
Period And The 60-Day Cure Period For The Second Swim Center Payment Under Amended
And Restated Development Agreement By And Between The City Of Tracy And Surland
Communities, LLC ("Third Tolling Agreement") is entered into by and between the City of Tracy,
a municipal corporation ("City") and Surland Communities, LLC, a California limited liability
company ("Surland").

### **RECITALS**

- A. On April 18, 2013, the City and Surland entered into an Amended and Restated Development Agreement which was amended by that certain First Amendment dated July 3, 2014 (as amended, the "Development Agreement").
- B. Pursuant to the Development Agreement, Surland was required to pay to the City, not later than September 5, 2016, Eight Million Dollars (\$8,000,000) ("Owner's Second Swim Center Payment") for use by the City in the development, construction, operation and maintenance of a public swim center. Following September 5, 2016, the City gave written notice to Surland of its failure to timely make the Owner's Second Swim Center Payment and, under the Development Agreement, Surland was afforded a sixty-day cure period, which period may be extended by mutual agreement.
- C. Pursuant to the Development Agreement, Surland has offered to dedicate to the City sixteen (16) acres of land within the Ellis Specific Plan area (the "Original Land Dedication Offer"), which the City expected to use for the proposed public swim center. Under the Development Agreement, the City had until September 15, 2016 to accept the Original Land Dedication Offer (the "Dedication Acceptance Period").
- D. The City and Surland have agreed that there is an alternate location in the Ellis Specific Plan area that may be preferable as the location for the proposed public swim center, and Surland has agreed to prepare a revised land dedication offer (the "Revised Land Dedication Offer") to replace the Original Land Dedication Offer.
- E. Pursuant to that certain Agreement To Toll And Extend The Dedication Acceptance Period And The 60-Day Cure Period Respecting The Second Swim Center Payment Under Amended And Restated Development Agreement By And Between The City Of Tracy And Surland Communities, LLC (the "First Tolling Agreement"), the City and Surland agreed to (i) extend the sixty-day cure period to September 5, 2017, (ii) extend the Dedication Acceptance Period to November 24, 2017, and (iii) require Surland to deliver the Revised Land Dedication Offer not later than September 15, 2017.
- F. Surland has submitted an application to the City seeking a Second Amendment to the Development Agreement to, among other things, extend the time period for Owner's Second Swim Center Payment, provide for Surland to construct the proposed public swim center, expand the geographic coverage of the Development Agreement, and provide certain additional amenities for the City relating to the proposed public swim center.

- G. Following the submittal of Surland's application, the City and Surland commenced negotiating the terms of the proposed Second Amendment. Despite the parties' best efforts, the negotiation and processing of the proposed Second Amendment could not be completed before September 5, 2017, the expiration date of the cure period relating to Owner's Second Swim Center Payment under the First Tolling Agreement. To give the City and Surland additional time to negotiate and process the proposed Second Amendment, in August of 2017, the City and Surland executed a Second Agreement To Toll And Extend The Dedication Acceptance Period And The 60-Day Cure Period Respecting The Second Swim Center Payment Under Amended And Restated Development Agreement By And Between The City Of Tracy And Surland Communities, LLC (the "Second Tolling Agreement"), pursuant to which the City and Surland agreed to extend to December 5, 2017, all of the deadlines established by the First Tolling Agreement.
- H. Although substantial progress has been made to negotiate the terms of the Second Amendment, both the City and Surland agree that additional time is necessary to complete the negotiated Second Amendment and the required environmental review, and to schedule the necessary Planning Commission and City Council public hearings. To give the parties the additional time necessary to complete their negotiations and prepare the documents related to the Second Amendment, and to give Surland time to prepare a revised land dedication offer, staff and Surland have agreed to execute this Third Tolling Agreement to further toll the time periods extended by the First and Second Tolling Agreements.

NOW, THEREFORE, the parties agree as follows:

- 1. The Dedication Acceptance Period for the Original Land Dedication Offer shall be extended until May 2, 2018; provided, however that the City shall not accept the Original Land Dedication Offer until on or after April 4, 2018.
- 2. The cure period afforded Surland to make the Owner's Second Swim Center Payment shall be extended until April 4, 2018.
- 3. Surland shall deliver an irrevocable Revised Land Dedication Offer, in a form acceptable to the City, not later than April 4, 2018.

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

CITY OF TRACY	SURLAND COMMUNITIES, LLC, a California limited liability company
	In 1//w
Mayor Mayor	By: Les J. Serpa
Date: 12:30-17	Date:

Attest:
Show Davis (for)
City Clerk Date: 12/29/17
Approved as to Form:
City Attorney

# SECOND AGREEMENT TO TOLL AND EXTEND THE DEDICATION ACCEPTANCE PERIOD AND THE 60-DAY CURE PERIOD FOR THE SECOND SWIM CENTER PAYMENT UNDER THE AMENDED AND RESTATED DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF TRACY AND SURLAND COMMUNITIES, LLC

This Second Agreement To Toll And Extend The Dedication Acceptance Period And The 60-Day Cure Period For The Second Swim Center Payment Under Amended And Restated Development Agreement By And Between The City Of Tracy And Surland Communities, LLC ("Second Tolling Agreement") is entered into by and between the City of Tracy, a municipal corporation ("City") and Surland Communities, LLC, a California limited liability company ("Surland").

#### **RECITALS**

- A. On April 18, 2013, the City and Surland entered into an Amended and Restated Development Agreement which was amended by that certain First Amendment dated July 3, 2014 (as amended, the "Development Agreement").
- B. Pursuant to the Development Agreement, Surland was required to pay to the City, not later than September 5, 2016, Eight Million Dollars (\$8,000,000) ("Owner's Second Swim Center Payment") for use by the City in the development, construction, operation and maintenance of a public swim center. Following September 5, 2016, the City gave written notice to Surland of its failure to timely make the Owner's Second Swim Center Payment and, under the Development Agreement, Surland was afforded a sixty-day cure period, which period may be extended by mutual agreement.
- C. Pursuant to the Development Agreement, Surland has offered to dedicate to the City sixteen (16) acres of land within the Ellis Specific Plan area (the "Original Land Dedication Offer"), which the City expected to use for the proposed public swim center. Under the Development Agreement, the City had until September 15, 2016 to accept the Original Land Dedication Offer (the "Dedication Acceptance Period").
- D. The City and Surland have agreed that there is an alternate location in the Ellis Specific Plan area that may be preferable as the location for the proposed public swim center, and Surland has agreed to prepare a revised land dedication offer (the "Revised Land Dedication Offer") to replace the Original Land Dedication Offer.
- E. Pursuant to that certain Agreement To Toll And Extend The Dedication Acceptance Period And The 60-Day Cure Period Respecting The Second Swim Center Payment Under Amended And Restated Development Agreement By And Between The City Of Tracy And Surland Communities, LLC (the "First Tolling Agreement"), the City and Surland agreed to (i) extend the sixty-day cure period to September 5, 2017, (ii) extend the Dedication Acceptance Period to November 24, 2017, and (iii) require Surland to deliver the Revised Land Dedication Offer not later than September 15, 2017.
- F. Surland has submitted an application to the City seeking a Second Amendment to the Development Agreement to, among other things, extend the time period for Owner's Second Swim Center Payment, provide for Surland to construct the proposed public swim center, expand the geographic coverage of the Development Agreement, and provide certain additional amenities for the City relating to the proposed public swim center. Processing

of this proposed Second Amendment cannot be completed before September 5, 2017, the current expiration date of the cure period relating to Owner's Second Swim Center Payment.

G. To give the City and Surland time to prepare the proposed Second Amendment, and to give Surland time to prepare the Revised Land Dedication Offer, the City and Surland have agreed to further toll time periods extended by the First Tolling Agreement.

NOW, THEREFORE, the parties agree as follows:

- 1. The Dedication Acceptance Period for the Original Land Dedication Offer shall be extended until December 5, 2017; provided, however that the City shall not accept the Original Land Dedication Offer until on or after November 15, 2017.
- 2. The cure period afforded Surland to make the Owner's Second Swim Center Payment shall be extended until December 5, 2017.
- 3. Surland shall deliver an irrevocable Revised Land Dedication Offer, in a form acceptable to the City, not later than December 5, 2017.

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

CITY OF TRACY	SURLAND COMMUNITIES, LLC, a California / limited liability company
Xober Xulman  Mayor Date: 10-2-17	By:  Les J. Serpa  Date:  8/8/11
Attest:	
City Clerk 1/)/3//7	
Date: 10/3/1/	
Approved as to Form:	
Lete	
City Attorney	
Date: 9/0// 7	

# AGREEMENT TO TOLL AND EXTEND THE DEDICATION ACCEPTANCE PERIOD AND THE 60-DAY CURE PERIOD RESPECTING THE SECOND SWIM CENTER PAYMENT UNDER AMENDED AND RESTATED DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF TRACY AND SURLAND COMMUNITIES, LLC

This Agreement is entered into by and between the City of Tracy, a municipal corporation ("City") and Surland Communities, LLC, a California limited liability company ("Surland").

#### RECITALS

- A. On April 18, 2013, the City and Surland entered into an Amended and Restated Development Agreement which was amended by that certain First Amendment dated July 3, 2014 (as amended, the "Development Agreement").
- B. Section 1.01 of the Development Agreement provides that, not later than September 15, 2014, Surland shall deposit into the Swim Center Funds Account \$2,000,000 for use by the City in the development, construction, operation and maintenance of a swim center (the "Owner's First Swim Center Payment") and not later than two years after that payment, Surland shall make Owner's Second Swim Center Payment of \$8,000,000.
- C. Surland made the Owner's First Swim Center Payment of \$2,000,000 on September 5, 2014 and has submitted an application to the City seeking a Second Amendment to the Development Agreement ("Second Amendment") to, among other things, extend the time to make the Owner's Second Swim Center Payment to no later than September 5, 2017 and the City Council has authorized the negotiation of said Second Amendment. Processing of this Second Amendment cannot be accomplished before September 5, 2016, the current due date of the Owner's Second Swim Center Payment.
- D. Section 1.01(b)(i) of the Development Agreement requires Surland to offer to dedicate 16 acres of land within the Ellis Specific Plan ("Land Dedication Offer") to the City by September 15, 2014, which the City intends to use for a public swim center, and the City shall have until September 15, 2015 to accept the Land Dedication Offer ("Dedication Acceptance Period") subject to extension of the Dedication Acceptance Period by mutual agreement.
- E. Surland has delivered a Land Dedication Offer ("Original Land Dedication Offer") to the City and by mutual agreement the City and Surland have extended the Dedication Acceptance Period to September 15, 2016. Pursuant to Section 1.01(b)(1), the parties wish to further extend the Dedication Acceptance Period until November 24, 2017, partly to allow time to prepare a revised Land Dedication Offer covering an alternate swim center site in a location agreed upon by both parties (the "Revised Land Dedication Offer") which Surland shall deliver to the City within fifteen (15) days of the effective date of the Second Amendment, or September 15, 2017, or within thirty (30) days of Surland's receipt of notice from the City that the swim center designs are complete and ready for construction, whichever date first occurs.
- F. Pursuant to Section 2.02 of the Development Agreement, the City has given written notice to Surland of its failure to make the Second Swim Center Payment

and Surland is afforded a sixty day cure period, which period may be extended by mutual agreement.

### NOW, THEREFORE, the parties agree as follows:

- 1. The Dedication Acceptance Period for the Original Land Dedication Offer shall be extended until November 24, 2017; provided, however that the City shall not accept the Original Land Dedication Offer until on or after September 15, 2017.
- 2. The cure period afforded Surland to make the Owner's Second Swim Center Payment following notice of failure to do so by the City under Section 2.02(a) of the Development Agreement shall be extended for up to twelve (12) months until September 5, 2017.
- 3. Surland shall deliver an irrevocable Revised Land Dedication Offer, in a form acceptable to the City, within fifteen (15) days of the effective date of the Second Amendment, or within thirty (30) days of Surland's receipt of notice from the City that the swim center designs are complete and ready for construction, or September 15, 2017, whichever occurs first.

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

CITY OF TRACY	SURLAND COMMUNITIES, LLC, a California limited liability company
Mayor Date: 2-14-17	By:
Attest:	•
City Clerk Date: 2/16/17	
Approved as to Form:	
Ret Son	
City Attorney 9 16 1/6	

RECORDED AT THE REQUEST OF AND WHEN RECORDED RETURN TO:

CITY OF TRACY
333 CIVIC CENTER PLAZA
TRACY, CA 95376
ATTENTION: CITY MANAGER

Doc #: 2015-073934 06/22/2015 03:32:00 PM Page: 1 of 10 Fee: \$0 Kenneth W Blakemore San Joaquin County Recorders Paid By: CITY OF TRACY

## AGREEMENT TO EXTEND TIME TO ACCEPT LAND DEDICATION OFFER

This Agreement to Extend Time to Accept Land Dedication Offer ("Extension Agreement") is made as of this <a href="19th">19th</a> day of June, 2015 (the "Effective Date") by and between SURLAND COMMUNITIES, LLC, a California limited liability company ("Surland"), STANDARD PACIFIC CORP., a Delaware Corporation ("Standard Pacific"), and the CITY OF TRACY, a municipal corporation (the "City") pursuant to the following:

## **RECITALS**

- A. Surland, Standard Pacific, and the City are parties to that certain Amended and Restated Development Agreement By And Between The City of Tracy and Surland Communities, LLC that was recorded in San Joaquin County as Document No. 2013-119548 and was later amended by that certain First Amendment that was recorded in San Joaquin County as Document No. 2014-064062 (collectively, the "Development Agreement"). The Development Agreement, which is incorporated herein by this reference, applies to the Property as described therein. Defined terms used herein are defined by this Extension Agreement or in the Development Agreement.
- B. Pursuant to Section 1.01(b) of the Development Agreement, on September 15, 2014, Surland offered to dedicate to the City approximately sixteen (16) acres of land within the Ellis Specific Plan by that certain Offer to Dedicate Land recorded in the official records of San Joaquin County as Document No. 2014-09-7799 ("Land Dedication Offer"). Surland has conveyed property subject to the Land Dedication Offer to Standard Pacific, subject to the requirements of the Land Dedication Offer.
- C. Following recordation of the Land Dedication Offer, the City and Surland determined that land described therein included certain property that Surland did not intend to dedicate to the City, and the Dedication Acceptance Period is herein extended to provide the parties time to process and substitute an amended land dedication offer for the September 15, 2014 Land Dedication Offer.
- D. Pursuant to Section 1.01(b)(1) of the Development Agreement, the City has until September 15, 2015 to accept Surland's Land Dedication Offer ("Dedication Acceptance Period"), subject to such extensions of time as may be mutually agreed upon by Surland and the City.

C. Surland and the City now desire to extend the time for the City to accept Surland's Land Dedication Offer, as provided in the Development Agreement, to allow time for Surland to prepare and submit the amended land dedication offer.

NOW, THEREFORE, the parties hereto agree as follows:

- 1. <u>Incorporation of Recitals</u>: The recitals contained herein are incorporated into the body of this Extension Agreement as though set forth in full and by this reference are made a part of the same.
- 2. <u>Extension of Time for City to Accept Land Dedication Offer.</u> The Dedication Acceptance Period shall be extended to September 15, 2016.
- 3. <u>Effective Date</u>: This Extension Agreement shall become effective upon the Effective Date and shall remain in force and effect until 5:00 p.m. on September 15, 2016.
- 4. <u>First Amendment to Land Dedication Offer.</u> Concurrent with recordation of this Extension Agreement, Surland shall record an amendment to the Land Dedication Offer, in substantially the form of Exhibit A hereto, to extend the Dedication Acceptance Period to September 15, 2016.

Executed as of the Effective Date.

By: Daniel Sodergren
Title: City Attorney

"City"	"Surland"
CITY OF TRACY, a municipal	SURLAND COMMUNITIES, LLC, a California
corporation	limited liability company
muche man	By: Ju Super
By:	Les Serpa
Title: Mayor	Title: Vresiden T
Date: b-19-15	Date: June 9, 2015
Attest:  By:	"Standard Pacific" STANDARD PACIFIC CORP., a Delaware
Title: CITY CLERK	Corporation
Approved As To Form:	By: Jhn Ban
F F	Thomas Burrill
	Title: Authorized Signatory
0 0 -	Date: June 9, 2015
Daul Sh	Jane 1

Date: 6 - 19 - 15

# **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 San Joaquin
On <u>June 19, 2015</u> before me, <u>NORA . A PIMENTEZ Notary Public</u> (insert name and title of the officer)
personally appeared <u>MICHAEZ MACIEZ</u> , who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) <u>is/are</u> subscribed to the within instrument and acknowledged to me that <u>he/she/the</u> y executed the same in his/her/their authorized capacity(jes), and that by <u>his/her/their</u> 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.  NORA A. PIMENTEL COMM. #1972037 Notary Public - California Santa Clara County My Comm. Expires Mar. 15, 2016

Signature

# NOTARY ACKNOWLEDGEMENTS TO AGREEMENT TO EXTEND TIME TO ACCEPT LAND DEDICATION OFFER

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 <u>Alameda</u>	
On June 9, 7016 before me, Survey personally appeared Thomas But me on the basis of satisfactory evidence to be the person the within instrument and acknowledged to me that his/her/their authorized capacities, and that by his/her person(s), or the entity upon behalf of which the person	son(s) whose name(s) is/are subscribed to de/she/they executed the same in dr/their signature(s) on the instrument the
I certify under PENALTY OF PERJURY under the la foregoing paragraph is true and correct.	aws of the State of California that the
WITNESS my hand and official seal.	SYDNEY MURRAY METZ Commission # 2004968 Notary Public - California

My Comm. Expires Feb 21, 2017

# NOTARY ACKNOWLEDGEMENTS TO AGREEMENT TO EXTEND TIME TO ACCEPT LAND DEDICATION OFFER

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

State of California
County of San Jaquin
On June 9th, 2015 before mer Kirstie K. McKentie Wstary Public personally appeared Les Serpa, who proved to
personally appeared <u>LesSerpa</u> , who proved to
me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to
the within instrument and acknowledged to me that he/she/they executed the same in

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

his/her/their authorized capacities, 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.

WITNESS my hand and official seal.

My C

KIRSTIE L. MCKENZIE Commission # 1947679 Notary Public - California San Joaquin County My Comm. Expires Sep 8, 2015 RECORDED AT THE REQUEST OF AND WHEN RECORDED RETURN TO:

CITY OF TRACY 333 CIVIC CENTER PLAZA TRACY, CA 95376 ATTENTION: CITY MANAGER

# FIRST AMENDMENT TO OFFER TO DEDICATE LAND

The Offer to Dedicate Land (the "Land Dedication Offer") made by SURLAND COMMUNITIES, LLC, a California limited liability company ("Surland") in favor of the CITY OF TRACY, a municipal corporation (the "City") on September 15<sup>th</sup>, 2014 and recorded on October 1, 2014 in San Joaquin County as Document No. 2014-097799 is hereby amended with the consent of STANDARD PACIFIC CORP., a Delaware corporation, successor in interest to a portion of the real property subject to the Land Dedication Offer, as follows:

- 1. Recital C of the Land Dedication Offer shall be amended to read as follows: "Under the Development Agreement, the City shall have until September 15, 2016 to accept the Land Dedication Offer."
- 2. Paragraph 2 ("Term") of the Land Dedication Offer shall be amended to read as follows: "This Offer shall become effective upon September 15, 2014, and shall remain in force and effect until 5:00 p.m. on September 15, 2016 (the "Term"). During the Term, this Land Dedication Offer shall be irrevocable by Surland and its successors. At the expiration of the Term, if the Land Dedication Offer has not been accepted by the City, the offer shall terminate and be of no further force and effect."

"Surl	and'' AND COMMUNITIES, LLC, a California
	• • •
By:	d liability company
2).	Les Serpa
Title:	President
Date:	June 9, 2015

SUDC\41502\969616.2

"Standard Pacific" STANDARD PACIFIC CORP., a Delaware

Corporation

By:

Title: Date: Thomas Burrill
Authorized Signatory
Sunt 1 2015

# NOTARY ACKNOWLEDGEMENTS TO AGREEMENT TO EXTEND TIME TO ACCEPT LAND DEDICATION OFFER

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.

County of Mameda
On June 9,2015 before me, sydney Murray Metz, Notary Public personally appeared, who proved to
me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to
the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacities, and that by his/her/their signature(s) on the instrument the

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

SYDNEY MURRAY METZ
Commission # 2004968
Notary Public - California
Alameda County
My Comm. Expires Feb 21, 2017

person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

State of (POD) (Mifornia)

# NOTARY ACKNOWLEDGEMENTS TO AGREEMENT TO EXTEND TIME TO ACCEPT LAND DEDICATION OFFER

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 <u>California</u>
County of <u>San Jaquin</u>

On June 9th, 2015 before me, Kirstie L. McKenzio Datary Public personally appeared \_\_\_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacities, 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.

KIRSTIE L. MCKENZIE Commission # 1947679 Notary Public - California San Joaquin County My Comm. Expires Sep 8, 2015

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.

RECORDED AT THE REQUEST OF AND WHEN RECORDED RETURN TO:

CITY OF TRACY
333 CIVIC CENTER PLAZA
TRACY, CA 95376
ATTENTION: CITY MANAGER

Doc #: 2014-097799 10/01/2014 09:05:36 AM Page: 1 of 7 Fee: \$0 Kenneth W Blakemore San Joaquin County Recorders Paid By: CITY OF TRACY

# OFFER TO DEDICATE LAND

This Offer to Dedicate Land (the "Land Dedication Offer") is made as of this 15<sup>th</sup> day of September, 2014 (the "Effective Date") by SURLAND COMMUNITIES, LLC, a California limited liability company ("Surland"), in favor of the CITY OF TRACY, a municipal corporation (the "City"), pursuant to the following:

## **RECITALS**

- A. Surland and the City are parties to that certain Amended and Restated Development Agreement By And Between The City of Tracy and Surland Communities, LLC that was approved by the City on March 19, 2013, and became effective on April 18, 2013, as amended by that certain First Amendment (collectively, the "**Development Agreement**").
- B. Under the Development Agreement, Surland is obligated to offer to dedicate to the City, at no cost to the City and no later than September 15, 2014, approximately sixteen (16) acres of land within the Ellis Specific Plan Area, which land is more particularly described in Exhibit A hereto and is referred to herein as the "**Dedication Land**."
- C. Under the Development Agreement, the City shall have until September 15, 2015 to accept the Land Dedication Offer.

NOW, THEREFORE, in order to implement the terms of the Development Agreement with respect to the Land Dedication Offer, it is agreed by the parties hereto as follows:

- 1. <u>Incorporation of Recitals and Exhibits</u>: The recitals contained in this Land Dedication Offer and all exhibits attached hereto are hereby incorporated into the body of the Land Dedication Offer as though set forth in full by this reference.
- 2. <u>Term</u>: This Offer shall become effective upon September 15, 2014, and shall remain in force and effect until 5:00 p.m. on September 15, 2015 (the "Term"). During the Term, this Land Dedication Offer shall be irrevocable by Surland. At the expiration of the Term, if the Land Dedication Offer has not been accepted by the City, the offer shall terminate and be of no further force and effect.
- 3. <u>Land Dedication Offer</u>: During the Term, Surland, its successors and assigns, in satisfaction of and subject to the requirements of the Development Agreement, hereby offers to dedicate to the City the Dedication Land described in <u>Exhibit A</u> hereto, at no cost and expense to the City except, as set forth herein.
- 4. Acceptance of Land Dedication Offer: During the Term of this Land Dedication Offer, the City may accept the offer by delivering written notice of acceptance to Surland, pursuant to the provisions of Section 10 of this Land Dedication Offer. Surland shall then execute and deliver to the City all necessary documents effecting a dedication of the Dedication Land. Upon acceptance of the Land Dedication Offer by the City and delivery of the documents dedicating the Dedication Land, the City shall be responsible for all necessary maintenance, repair, or reconstruction of the utilities and improvement on the Dedication Land.
- 5. <u>Consideration to Surland</u>: The consideration to Surland for the Land Dedication Offer is set forth in the Development Agreement, which provides that Surland shall have a vested right in Applicable Law, as that term is defined in the Development Agreement, with regard to its development of the Ellis Project on the Ellis Specific Plan Property, as defined in the Development Agreement, reserving a certain number of Residential Growth Allotments for Surland.
- 6. <u>Condition of the Property; Status of Title</u>: The condition of the Dedication Land when dedicated shall be whatever condition exists at the time of the Land Dedication Offer. The status of title to the Dedication Land when dedicated shall be free and clear of any and all liens, encumbrances, deeds of trust or mortgages securing monetary obligations entered into by Surland, its successors or assigns, but shall be subject to utility, irrigation, drainage and landscaping easements and other easements.
- 7. <u>Establishment of Escrow</u>: Upon the City giving to Surland notice of the acceptance of the Land Dedication Offer, the City shall designate an appropriate title insurance company as the escrow holder for the transaction contemplated herein and shall notify Surland of the escrow number established by the City with said escrow holder to accomplish this transaction. Each party shall deposit such documents, instructions and other things as may be required by the escrow holder to accomplish the Land Dedication Offer.

- 8. <u>Costs of Transaction</u>: All costs incurred in the transactions, including but not limited to the escrow fees, title insurance premiums and other closing costs, shall be borne by the City. Surland and its successors and assigns shall have no obligation to bear any expenses in connection with this transaction.
- 9. <u>Covenants Running With the Land</u>: The terms and conditions contained in this Land Dedication Offer shall be and constitute covenants running with the land constituting the Dedication Land, and shall be binding upon the parties hereto, their heirs, successors, and assigns. An appropriately executed copy of this Land Dedication Offer shall be recorded in the Official Records of San Joaquin County, California and the provisions hereof shall both bind the Dedication Land, and shall run to all successors and assigns therein and the provisions hereof shall be fully and completely enforceable as covenants running with the land.
- 10. <u>Notices</u>: All notices called for pursuant to this Agreement shall be in writing and given by (i) personal delivery; or (ii) first class U.S. mail, postage prepaid. Mail notice shall be addressed as set forth below but either party may change its address by giving written notice thereof to the other party in accordance with the provisions of this paragraph:

Surland:

Surland Communities, LLC

1024 Central Avenue Tracy, CA 95376 Attention: Les Serpa

City:

City of Tracy

City Hall

333 Civic Center Drive

Tracy, CA 95376 Attention: City Manager

- 11. <u>Applicable Law</u>: This Land Dedication Offer shall be governed by and construed in accordance with the laws of the State of California. Venue for any litigation shall be in San Joaquin County, California.
- 12. <u>Waiver</u>: No waiver by either party of any failure or refusal to comply with any obligation shall be deemed a waiver of any other or subsequent failure or refusal to so comply.
- 13. <u>Further Documents</u>: Each party shall, whenever and so often as it shall be requested by the other party, execute, acknowledge and deliver or cause to be executed, acknowledged and delivered such further instruments and documents, including escrow instructions, as may be necessary in order to complete the transactions contemplated herein.
- 14. <u>Additional Terms</u>: In the event of any conflict between the terms of this Offer to Dedicate Land and the Development Agreement, the terms of the Development Agreement shall control.

Executed as of the Effective Date.

Surland:

SURLAND COMMUNITIES LLC, a California limited liability company

By:

Its:

STATE OF CALIFORNIA )
county of San Caguin ) ss.
on opt. 16, 2014 before me, Kirstie L. McKenzio, Notary Public, personally appeared Les Serpo, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(les), 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.
Notary Public  KIRSTIE L. MCKENZIE Commission # 1947679 Notary Public - California San Joaquin County My Comm. Expires Sep 8, 2015
STATE OF CALIFORNIA )  COUNTY OF )  ss.
On, 2014 before me,, Notary Public, personally appeared,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.
I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.
Witness my hand and official seal.
Notary Public

#### EXHIBIT A

AUGUST 27, 2014 JOB NO.: 1725-000

# LEGAL DESCRIPTION SWIM CENTER PORTION OF PARCEL A (25 PM 195) TRACY, CALIFORNIA

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

BEING A PORTION OF PARCEL A, AS SAID PARCEL A IS SHOWN AND SO DESIGNATED ON THAT CERTAIN PARCEL MAP, RECORDED JUNE 12, 2014, IN BOOK 25 OF PARCEL MAPS, AT PAGE 195, IN THE OFFICE OF THE COUNTY RECORDER OF SAN JOAQUIN COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERN CORNER OF SAID PARCEL A;

THENCE, FROM SAID POINT OF COMMENCEMENT, ALONG THE EASTERN LINE OF SAID SECTION PARCEL A, SOUTH 00°23'03" WEST 389.54 FEET TO THE POINT OF BEGINNING FOR THIS DESCRIPTION;

THENCE, FROM SAID POINT OF BEGINNING, CONTINUING ALONG SAID EASTERN LINE, SOUTH 00°23'03" WEST 829.49 FEET;

THENCE, LEAVING SAID EASTERN LINE, NORTH 89°50'36" WEST 886.85 FEET TO A POINT ON THE WESTERN LINE OF SAID PARCEL A;

THENCE, ALONG SAID WESTERN LINE, NORTH 47°53'38" WEST 228.13 FEET;

THENCE, LEAVING SAID WESTERN LINE, NORTH 42°06'22" EAST 65.00 FEET;

THENCE, SOUTH 89°50'36" EAST 222.58 FEET;

THENCE, NORTH 00°23'03" EAST 631.79 FEET;

THENCE, SOUTH 89°36'57" EAST 791.27 FEET TO SAID POINT OF BEGINNING.

CONTAINING 16.00 ACRES OF LAND, MORE OR LESS.

THIS DESCRIPTION OF LAND IS NOT A LEGAL PROPERTY DESCRIPTION AS DEFINED IN THE SUBDIVISION MAP ACT AND MAY NOT BE USED AS THE BASIS FOR AN OFFER OF SALE OF THE LAND DESCRIBED.

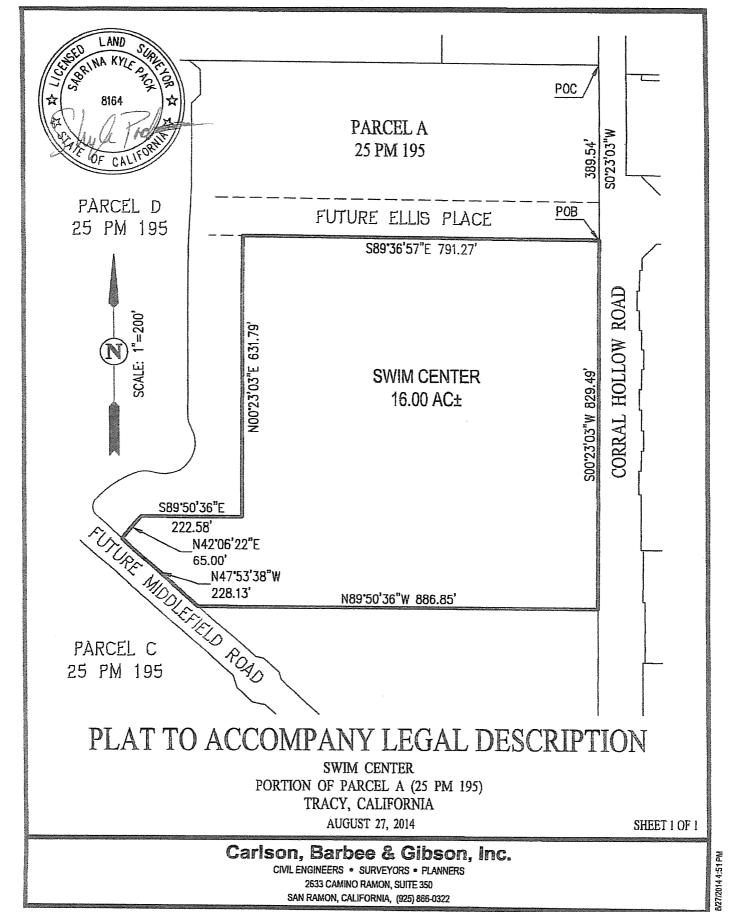
END OF DESCRIPTION

SABRINA KYLE PACK, P.L.S.

L.S. NO. 8164

OF CALED

AND SURV



# RECORDING REQUESTED BY: AND WHEN RECORDED MAIL TO:

The City of Tracy 333 Civic Center Plaza Tracy, California 95376 Doc #: 2014-064062 06/30/2014 12:03:32 PM Page: 1 of 7 Fee: \$0 Kenneth W Blakemore San Joaquin County Recorders Paid By: CITY OF TRACY

Space above this line for Recorder's use.

# FIRST AMENDMENT TO AMENDED AND RESTATED DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF TRACY AND SURLAND COMMUNITIES, LLC

This FIRST AMENDMENT TO AMENDED AND RESTATED DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF TRACY and SURLAND COMMUNITIES, LLC (the "First Amendment") is made and entered into as of this 3rd day of July \_\_\_\_\_\_, 2014 (the "Effective Date") by and between the CITY OF TRACY, a municipal corporation ("City"), and SURLAND COMMUNITIES, LLC, a California limited liability company ("Owner"), pursuant to Government Code sections 65864 et seq. and City Resolution No. 2004-368 which establishes the rules, regulations and procedures for the approval, operation and modification of development agreements and the provisions of that certain Amended and Restated Development Agreement By and Between The City of Tracy and Surland Communities, LLC dated April 18, 2013 and recorded on September 17, 2013 as Document No. 2013-119548 Official Records of San Joaquin County, California (the "Development Agreement).

### RECITALS

A. The City and Owner entered into the Development Agreement in order to strengthen the public planning process and encourage private participation and the funding of community benefits and amenities that could not otherwise be required under controlling law. Specifically, the Development Agreement provides for the offer to dedicate by Owner of sixteen (16) acres of land and the contribution of \$10,000,000 (the "Owner's Swim Center Contribution") towards the cost of construction of the swim center for the benefit of the greater Tracy community. The Owner's Swim Center Contribution is to be made in two installments. The First Payment of \$2,000,000 was due September 15, 2013 (60 days after the Annexation Effective Date) and the Second Payment of \$8,000,000 will be due July 17, 2016 (3 years after the Annexation Effective Date). The offer of dedication shall be made by Owner to the City within thirty (30) days after the Annexation Effective Date, as defined in the Development

Agreement. The parties have calculated the Annexation Effective Date to be July 17, 2013, and the date for the offer of dedication to be August 16, 2013.

- B. The parties wish to modify and amend the Development Agreement to extend the date for payment of the Owners' First Swim Center Payment of \$2,000,000 to no later than September 15, 2014, and to extend the time in which the City may accept the Land Dedication Offer to September 15, 2015.
- C. Pursuant to the provisions of the Development Agreement Enabling Resolution, Government Code section 65868 and the provisions of the Development Agreement, Owner has filed with the City an application for an amendment to the Development Agreement. The City has considered the application and reviewed the substance of the proposed changes, modifications, and amendments contained in this First Amendment. By entering into and executing this First Amendment, the parties hereto agree that the Development Agreement shall hence forward be modified and amended as contained herein.
- D. On April 23, 2014, the City Planning Commission, following a duly noticed public hearing and following appropriate notice, recommended approval of this First Amendment. On June 3, 2014, the City Council, following a noticed public hearing which was held on May 20, 2014, adopted Ordinance No. 1194 approving this First Amendment and authorizing its execution. That Ordinance took effect on July 3, 2014, the Effective Date of the First Amendment.

NOW, THEREFORE, the parties hereto agree as follows:

- 1. <u>Incorporation of Recitals</u>: The recitals set forth above are incorporated into this First Amendment as though set forth in full herein.
- 2. Subsection 1.01(a), The Swim Center Obligations, shall be amended to read as follows:

# 1.01 The Swim Center Obligations.

- (a) Owner hereby commits to provide ten million dollars (\$10,000,000.00) ("Owner Swim Center Contribution") to the City, as set forth in this Section 1.01(a), to fund the design, construction, operation and maintenance of a swim center. Owner shall deposit into a segregated and interest-bearing City account the Owner Swim Center Contribution, for use by the City for the construction and operation of a swim center as provided herein. Upon completion of the Owner Swim Center Contribution, Owner shall be deemed to have satisfied any and all fees applicable to the Property or the Ellis Project for a swim center or pool.
- (1) Not later than September 15, 2014, Owner shall deposit into a segregated and interest-bearing account designated by the City (the "Swim Center Funds Account") two million dollars (\$2,000,000.00) ("Owner's First Swim Center

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Payment") for use by the City in the development, construction, operation and maintenance of a Swim Center.

- (2) Not later than two (2) years following the date of Owner's First Swim Center Payment, Owner shall deposit into the Swim Center Funds Account eight million dollars (\$8,000,000.00) ("Owner's Second Swim Center Payment") for use by the City in the development, construction, operation and maintenance of a Swim Center.
- (3) Owner's obligations under this section are separate and independent of Owner's obligations under Subsection (b), and are binding upon Owner regardless of whether or not City accepts Owner's Dedication Offer as provided in Subsection (b).
- (4) In addition to any other remedies available to the City under this Agreement, and any and all other provisions of this Agreement or the City's Growth Management Ordinance and Guidelines to the contrary notwithstanding, Owner fails to make either or both of the two non-refundable payments as required by Sections 1.01(a)(1) and (2) above, then the City may, in its sole and exclusive discretion, withhold from Owner such Residential Growth Allotments or building permits as Owner would otherwise be entitled to receive under this Agreement or the City's Growth Management Ordinance or Guidelines, and may continue to withhold the issuance of such Residential Growth Allotments or building permits until all such overdue payment or payments due under this Agreement have been made in full.
- 3. Subsection 1.01(b)(1) shall be amended to read as follows:
- (b) Owner shall offer to dedicate to the City approximately sixteen (16) acres of land as described generally in the Revised EIR and the Ellis Specific Plan as the location of the "Potential Swim Center" (the "Ellis Swim Center Site"), subject to the following:
- (1) Not later than September 15, 2014, Owner shall offer to dedicate to the City at no cost to the City, the Ellis Swim Center Site ("Land Dedication Offer"). City shall have until September 15, 2015 to accept the Land Dedication Offer ("Dedication Acceptance Period"), subject to such extensions as may be mutually agreed by the Parties. If City does not accept the Land Dedication Offer within the Dedication Acceptance Period, then one day after the conclusion of the Dedication Acceptance Period, the Land Dedication Offer shall be considered rejected by the City and shall expire without any further action of the Parties.

Thereafter, the Ellis Swim Center Site shall be available for development by Owner pursuant to the 2013 Ellis Specific Plan. Additionally, at any time prior to the end of the Dedication Acceptance Period, City may, by resolution of the City Council, reject the Land Dedication Offer and upon such City rejection, the Ellis Swim Center Site shall be available to Owner for development pursuant to the 2013 Ellis Specific Plan.

- 4. This First Amendment shall become effective upon the Effective Date which is deemed to be thirty (30) days after the adoption of the Ordinance approving this First Amendment, which Effective Date shall then be inserted into this First Amendment.
- 5. <u>Recordation</u>: Pursuant to the provisions of Government Code section 65868.5, the duly executed and notarial acknowledged copy of this First Amendment shall be recorded in the Official Records of San Joaquin County, California, no later than ten (10) days following its Effective Date and the burdens and benefits conferred herein will constitute covenants running with the land binding on successors and assigns.
- 6. <u>Continued Effectiveness of Development Agreement</u>: Except as expressly modified herein, the Development Agreement shall remain in full force and effect. The provisions of this First Amendment are several and separate and should a legal challenge be brought challenging the First Amendment, such challenge shall in no way affect or impact the continued validity and existence of the Development Agreement.

[Signatures on following page]

#### Executed on the date indicated below.

"City"	"Owner"
CITY OF TRACY, a municipal corporation	SURLAND COMMUNITIES, LLC, a California limited liability company
Bud A. Dus	In Dergu
By: Brent Ives	Les Serpa, Managing Member
Title: Mayor 6 S 14	Title: Managing Member Date: 5/28/14
Attest:	
Barole Hesschran	
By:	
Title: CITY CLERK	
Date: June 9, 2014	
Approved As To Form:	
By: Daniel Sodergren	
Title: City Attorney	
Date: 6/4/14	

### ACKNOWLEDGMENT

State of California County of	
On June 95, 2014 before me, Larole He (insert name a personally appeared Brent H. Ives	schman, aty Clerk
personally appeared <u>Brent H. Jves</u>	
who proved to me on the basis of satisfactory evidence to be the p subscribed to the within instrument and acknowledged to me that his/ber/their authorized capacity(jes), and that by his/ber/their signature person(x), or the entity upon behalf of which the person(x) acted, expenses to the context of the person (x) acted, expenses to the person (x) acted to the per	ne/ske/they executed the same in ature(s) on the instrument the
I certify under PENALTY OF PERJURY under the laws of the State paragraph is true and correct.	e of California that the foregoing
WITNESS my hand and official seal.	
Signature barole ferschman (Seal)	Avconson San San San San San San San San San Sa

	STATE OF CALIFORNIA
	COUNTY OF San Laquin) ss.
	On May 28th, 2014 before me, Kirstick, McKentil, Notary Public, personally appeared Les Sorpa, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(les), 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.  KIRSTIE L. MCKENZIE Commission # 1947679 Notary Public - California
<u></u>	Notary Public  San Joaquin County My Comm. Expires Sep 8, 2015
	STATE OF CALIFORNIA ) ) ss.
	COUNTY OF)
	On, 2014 before me,, Notary Public, personally appeared, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.
	Witness my hand and official seal.
	Notary Public

# AGREEMENT TO EXTEND 60-DAY CURE PERIOD UNDER AMENDED AND RESTATED DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF TRACY AND SURLAND COMMUNITIES, LLC

This Agreement is entered into by and between the City of Tracy, a municipal corporation ("City") and Surland Communities, LLC, a California limited liability company ("Surland").

#### **RECITALS**

- A. On April 18, 2013, the City and Surland entered into an Amended and Restated Development Agreement ("Development Agreement").
- B. Section 1.01 of the Development Agreement provides that, not later than 60 days after the Annexation Effective Date (which is September 15, 2013), Surland shall deposit into the Swim Center Funds Account \$2,000,000 for use by the City in the development, construction, operation and maintenance of a swim center.
- C. Because Surland has failed to make this deposit, on September 17, 2013, the City gave Surland written notice to cure this failure. Under the Development Agreement, Surland has 60 days from the date of the written notice to cure this failure.
- D. Surland has also submitted an application for an amendment to the Development Agreement to extend the time to make this deposit. The City Council has directed staff to process this application. It may take longer than 60 days to process this application.
- E. Section 2.02 of the Development Agreement provides that the 60 day cure period may be extended by written mutual consent.

NOW, THEREFORE, the parties agree that the 60 day cure period contained in section 2.02 of the Development Agreement is extended until 30 days after the City Council takes final action on Surland's application for an amendment to the Development Agreement as referenced above.

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

CITY OF TRACY

Mayor 17/14/19

SURLAND COMMUNITIES, LLC

Les J. Serpa

Date: September 24, 2013

Attest:

Bandy Eduard

City Clerk
Date: 10-15-13

Approved as to Form:

#### **Recording Requested By:**

Sandra Edwards City Clerk

**Return To:** 

City Hall City Clerk's Office 333 Civic Center Plaza Tracy, CA 95376 Doc #: 2013-119548
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Page: 1 of 45 Fee: \$146.00
Kenneth W Blakemore
San Joaquin County Recorders
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AMENDED AND RESTATED
DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF TRACY
AND
SURLAND COMMUNITIES, LLC

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# AMENDED AND RESTATED DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF TRACY AND SURLAND COMMUNITIES, LLC

This "Agreement," dated this 18th day of April, 2013 ("Agreement Effective Date"), is entered into by and between the CITY OF TRACY, a municipal corporation ("City"), and SURLAND COMMUNITIES, LLC, a California limited liability company ("Owner"), pursuant to Government Code sections 65864 et seq. ("Development Agreement Statute"), City Resolution No. 2004-368 (establishing rules, regulations, procedures and requirements, including fees, for the processing and approval of a development agreement ("Enabling Resolution")), and Article XI, section 7 of the California Constitution ("Police Powers"). From time to time, City and Owner are individually referred to in this Agreement as a "Party," and are collectively referred to as the "Parties."

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and other considerations, the value and adequacy of which is hereby acknowledged, the Parties hereby agree as follows:

#### **RECITALS**

- A. The preceding Preamble, and the following Recitals, are true and correct, are a part of this Agreement, and the terms defined in both are used throughout this Agreement.
- B. To strengthen the public planning process, to encourage private participation in the provision, dedication and funding of community benefits and amenities that could not otherwise be required under controlling law (such as the below-described swim center), to set forth the procedures and processes to be employed in the processing of subsequent development requests, to ensure compliance with all state and federal procedural and substantive laws prior to action on such development requests, and to ensure compliance with all City laws, including without limitation the City's Growth Management Ordinance (except as provided to the contrary herein), City and Owner enter into this Agreement. This Agreement has been drafted and processed pursuant to the Development Agreement Statute, Enabling Resolution and the City's Police Powers.
- C. The establishment of a family-oriented swim center is one of the City's priorities, has been contemplated for years, and is overwhelmingly supported by the Tracy community. Yet City funding for such an effort is lacking. Owner, a local developer with a long track record of award-winning development in the City, made a proposal to City whereby Owner would offer to dedicate to City (at no cost to City) 16 acres of land, would conceptually design, would assist City with project oversight, and would fund \$10 million toward the construction of a swim center, as described in this Agreement, for the Tracy community; and provide certain other benefits to the City, in return for being eligible for a set number of "Residential Growth Allotments" (also referred to in this Agreement as "RGAs") This Owner proposal has secured

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remarkable community support. All of these swim center-related Owner commitments are specifically described in this Agreement and its exhibits and are collectively referred to in this Agreement as the "Swim Center Obligations."

- Owner first filed land use applications in 2007 to entitle the Ellis Project. Those D. applications included applications for the Ellis Specific Plan, General Plan Amendment and an annexation and prezoning of the Ellis Property. In addition, Owner filed an application for negotiation and approval of the original Development Agreement by and between the City of Tracy and Surland Communities LLC (the "Original Development Agreement"). The City processed the various applications and commissioned the preparation of an environmental impact report for the Original Development Agreement and the 2007 land use applications (the "Original EIR"). On December 16, 2008, the City certified the Original EIR and approved the various applications for the entitlements for the Ellis Project, including the 2008 Ellis Specific Plan, 2008 General Plan amendment, approval of prezoning and annexation, and the Original Development Agreement (collectively the "Original Ellis Entitlements"). Following the approval of the Original Ellis Entitlements, opponents to the Ellis Project filed litigation challenging the sufficiency of the Original EIR and the legality of the Original Ellis Entitlements in a mandamus action filed in San Joaquin County Superior Court, Tracy Regional Alliance for a Quality Community v. City of Tracy, et al. On October 31, 2011, the trial court issued its Statement of Decision and Judgment finding the Original EIR and the Original Ellis Entitlements to be inadequate and ordering that they be set aside. The Statement of Decision and Judgment specifically found certain defects in the Original Development Agreement that the trial court believed needed to be amended and modified in order to comply with the law. In November 2011, the Original Owner and the City each filed appeals from the trial court's judgment; as a result of which appeals, the trial court's judgment ordering that the certification of the Original EIR and adoption of the Original Development Agreement be set aside is stayed pending the outcome of the appeals.
- E. In February, 2011 the Tracy City Council approved and adopted an updated General Plan (the "2011 General Plan"). The General Plan now acknowledges the Ellis Specific Plan area and establishes a land use category of Traditional Residential-Ellis (TR-Ellis) which, on page 2-20, is designated as the majority of former Urban Reserve 10. In order for development of the property designated as TR-Ellis to go forward, the General Plan requires the adoption of a specific plan implementing certain designated criteria.
- F. In December, 2011, Owner filed applications with the City for an amendment and restatement of the Original Development Agreement as well as amendments and modifications to the other Original Ellis Entitlements (collectively, the "Revised Ellis Entitlements"). The City has commissioned a revised Environmental Impact Report for the project proposed by the December 2011 applications (the "Revised EIR") which was prepared in response to the trial court's Statement of Decision and Judgment, addressing and remedying those things that the trial court found insufficient. This Agreement has been negotiated and shall be implemented so as to address, revise and remedy those portions of the Original Development Agreement found by the trial court's Statement of Decision and Judgment to be legally deficient by amending and restating the Original Development Agreement, while at the same time the parties continue to pursue their judicial remedies by prosecution of their appeals of the trial court's Judgment.

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- G. The 2011 General Plan envisions that development within TR-Ellis shall be done by Specific Plan. The revised Ellis Specific Plan ("2013 Ellis Specific Plan") which is a part of the Revised Ellis Entitlements, contemplates a unique community of distinct character, with well-planned homes, small-scale businesses, major public amenities, including a proposed swim center, and an integrated, multi-use village center that promotes businesses that are small, local, and neighborhood-serving. The swim center is proposed to be located adjacent to the village center. The character of development within the 2013 Ellis Specific Plan evokes the wonderful historic neighborhoods of Tracy. Traditional planning techniques and architecture true to the local vernacular capture the essence of Tracy and are intended to create timeless neighborhoods that fit seamlessly into the City. All these planning goals and ideals have been considered and acted upon by City (in its sole and exclusive discretion) after a lengthy public process.
- H. Over time, the City has completed environmental review of the potential direct and indirect environmental impacts of development in the area subject to the 2013 Ellis Specific Plan and this Agreement pursuant to the California Environmental Quality Act and its implementing regulations, known as the CEQA Guidelines (collectively, "CEQA") as follows:
  - (1) As a part of its General Plan efforts, and prior to adopting the General Plan, City undertook environmental review of the potential direct and indirect environmental impacts of the General Plan pursuant to CEQA, certified the Final Environmental Impact Report for the General Plan, State Clearinghouse #2008092006 ("General Plan EIR"), and adopted findings, mitigation measures and a statement of overriding considerations in connection therewith. As set forth in greater detail herein, this Agreement is consistent with the General Plan EIR.
  - As a part of the original South Schulte Specific Plan efforts, City prepared and certified an EIR ("South Schulte EIR"). The South Schulte EIR was challenged in court and a settlement was arrived at ("South Schulte EIR Settlement") that required City to conduct additional studies and analysis. Initially, the City began to process a Supplemental EIR to address the South Schulte EIR Settlement. However, with the General Plan Update and its new approach to the area formerly known as the South Schulte Community Area, and with the City desire to conduct a thorough analysis of the new Urban Reserve 10, City decided to cause to be prepared an entirely new Environmental Impact Report.
  - (3) As part of the General Plan Amendment of 2011, the City Council certified as adequate a Final Supplemental Environmental Impact Report to address and mitigate the impacts of the General Plan, including without limitation the creation of the TR-Ellis land use designation.
  - (4) As part of its review of Owner's December 2011 development applications, City caused to be prepared the Revised EIR, analyzing both the 2013 Ellis Specific Plan (including a swim center) and this Agreement. This Agreement does not impede, impair or otherwise seek to truncate or limit future CEQA review. Future CEQA review shall take place as required by applicable law.

- I. As of the execution of this Agreement by the Parties, various land use regulations, entitlements, grants, permits and other approvals have been adopted, issued, and/or granted by City relating to the 2013 Ellis Specific Plan, including, without limitation, all of the following:
  - (1) Revised EIR (City Council Resol. No. 2013-011)
  - (2) 2013 Ellis General Plan Amendment (City Council Resol. No. 2013-012)
  - (3) 2013 Ellis Specific Plan (City Resol. No. 2013-012)
  - (4) This Agreement (City Ordinance No. 1182)

The above-listed approvals are collectively referred to herein as the "Ellis Project Approvals" and are more particularly described in the Revised EIR and the resolutions adopting those approvals. The development of the Property described in and permitted by the Revised EIR, the 2013 Ellis Specific Plan, the 2013 General Plan Amendment and this Agreement, is referred to herein as the "Ellis Project." Except as provided to the contrary herein, the 2011 General Plan as amended by the 2013 Ellis General Plan Amendment (hereafter, the "General Plan", and the 2013 Ellis Specific Plan are hereby incorporated by reference in to this Agreement.

- J. Given the community character and quality of the 2013 Ellis Specific Plan, its compliance with CEQA and applicable planning and zoning laws, and its approval by the City, and given Owner's significant land dedication, financial obligations and personnel commitment to a swim center (as set forth in this Agreement), the City wishes to allow Owner to be eligible to apply for and potentially receive up to 2,250 RGAs and Building Permits, as more specifically provided in this Agreement. Owner shall record this Agreement against the property comprising and subject to the 2013 Ellis Specific Plan (the "Property") (shown on Exhibit A to this Agreement).
- K. City's issuance of RGAs under this Agreement complies with City's Growth Management Ordinance and the City's Growth Management Ordinance Guidelines (collectively, "GMO") except as specifically provided herein, and the maximums they set for annual RGA and building permit issuance for development agreements (referred to in this Agreement as the "GMO Maximums" and further defined below in this Agreement).
- L. Owner represents and warrants to the City that Owner either owns, or holds legally enforceable contracts to purchase, all of the Property (as defined in Exhibit A). In preparing this Development Agreement, the City and Owner are guided by and follow the legal authority of *National Parks and Conservation Association v. County of Riverside* (1996) 42 Cal. App.4<sup>th</sup> 1505, 1520-1523. Further, Owner represents and warrants to City that Owner has a legal or equitable interest in the Property for the development contemplated by the Ellis Project Approvals sufficient to satisfy the requirements of the Development Agreement Statute.
- M. The Property that is the subject of this Agreement is all of the property comprising and subject to the Ellis Specific Plan, which is depicted and legally described on Exhibit A to this Agreement (the "Property"). The covenants and/or servitudes contained in this Development Agreement are intended to run with the land.

- It is in this unique setting - a strong community desire to construct a swim center N. and Owner's willingness to provide such an extraordinary commitment in return for future eligibility to apply for RGAs - - that the Parties have drafted this Agreement, ensuring that all of the requirements of controlling law are satisfied. This Agreement meets all of the requirements of law: it meets the contents requirements of the Development Agreement Statute and applicable law, and it establishes a protocol for the processing of future approvals. City and Owner are entering into this Agreement now in this fashion because of the unique community interest in a swim center and the benefits it will bring to Tracy and the unique opportunity the City presently has with the Owner's willingness to make substantial land dedication, design creation and financial contribution commitments to make a swim center a reality. The consideration by City of a swim center, the offer by Owner and this Agreement have been underway for more than ten years. In 2001, a survey of the Tracy community and public workshops were held that identified the need for community aquatic facilities. In 2003, NTD Architects completed the Tracy Aquatic Center Feasibility Study. In July 2005, the City Council directed Tracy Tomorrow and Beyond to make recommendations for a swim center. In the summer of 2005, Tracy Tomorrow and Beyond conducted additional public workshops. In October of that year, the City Council received the recommendations of Tracy Tomorrow and Beyond. Also in October 2005, Owner proposed Ellis as a location to be considered for a swim center. Between October 2005 and January 2006, the City studied a number of possible sites for a swim center including the existing Tracy ballpark. In January 2006, the City Council selected the Ellis Specific Plan as a potential In April 2006, the City Council authorized City Staff to begin site for a swim center. negotiations with Owner for a Development Agreement with provisions for the granting of funds and land by Owner for a swim center. In August 2006, the City Council, Planning Commission, and Parks Commission approved a conceptual design for a swim center at Ellis. In May 2007, the City Council directed City Staff to prioritize the Original Development Agreement for Ellis, including a swim center. In January 2008, a joint Planning Commission/City Council workshop was held to discuss the Original Development Agreement, the 2008 Ellis Specific Plan, and the swim center. Between April and December of 2008, the Planning Commission held a series of public meetings to discuss the Original EIR, the 2008 General Plan Amendment, the 2008 Ellis Specific Plan and the Original Development Agreement. The City Council and the Planning Commission provided direction and the public provided comment throughout this process.
- For all of the reasons stated above, this Agreement is consistent with the General Plan and the 2013 Ellis Specific Plan. For example, as required by the General Plan, this Agreement envisions proper environmental analysis and a proper planning process in compliance with controlling law before any approval allowing development can take place. No additionally required Owner Approvals, as defined herein, are granted through, nor guaranteed by, this Agreement, and this Agreement ensures that the City's future consideration and decision on such approvals shall be in the sole and exclusive discretion of the City. (General Plan Goal LU-1 and Objective LU-1.1 (and its Policy P1); Objective LU-1.2 (and its Policy P3); Goal LU-6; and Further, this Agreement requires that any distribution of RGAs under this Goal LU-7.) Agreement comply with all applicable City regulations, including the General Plan (Objective LU-1.4, Policies P1-P5 and Action A1). While this Agreement preserves the City's full and unfettered discretion with respect to whether or not it will approve the development of a swim center, it is nonetheless intended to help bring to fruition a swim center as envisioned by the General Plan (Objective OSC-4.1, Policy P3), should the City exercise its discretion accordingly. In fact, the General Plan recognizes this Agreement as a potential vehicle by which the City and

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Owner could reach agreement relative to such a swim center in a manner that City could not otherwise require Owner to do, that Owner may receive RGAs only if and after all requirements of controlling law have been satisfied, and that such risk shall be placed on Owner alone. Finally, this Agreement is not contrary to nor contradictory of any General Plan text or diagrams.

P. On December 19, 2012, following duly noticed and conducted public hearings, the Planning Commission, a hearing body for purposes of the Development Agreement Statute, took appropriate action under CEQA, the Planning and Zoning Law, and the Tracy Municipal Code, and made recommendations regarding this Agreement to the City Council. On January 22, 2013, following duly noticed and conducted public hearings, the City Council certified the Revised EIR, took appropriate action under the Planning and Zoning Law, and introduced and conducted the first reading of Ordinance No. 1182, an ordinance approving this Agreement, and directing this Agreement's execution by City ("Approving Ordinance"). On March 19, 2013, the City Council conducted the second reading and adopted the Approving Ordinance.

## ARTICLE 1 APPLICABLE DEVELOPMENT TERMS

#### 1.01 The Swim Center Obligations.

- (a) Owner hereby commits to make two non-refundable payments totaling ten million dollars (\$10,000,000.00) ("Owner Swim Center Contribution") to the City, as set forth in this Section 1.01(a), to fund the design, construction, operation and maintenance of a swim center. Owner shall deposit into a segregated and interest-bearing City account the Owner Swim Center Contribution, for use by the City for the construction and operation of a swim center as provided herein. Upon completion of the Owner Swim Center Contribution, Owner shall be deemed to have satisfied any and all fees applicable to the Property or the Ellis Project for a swim center or pool.
- (1) Not later than sixty (60) days after the "Annexation Effective Date", as defined herein, Owner shall deposit into a segregated and interest-bearing account designated by the City (the "Swim Center Funds Account") two million dollars (\$2,000,000.00) ("Owner's First Swim Center Payment") for use by the City in the development, construction, operation and maintenance of a swim center.
- (2) Not later than three (3) years following the date of Owner's First Swim Center Payment, Owner shall deposit into the Swim Center Funds Account eight million dollars (\$8,000,000.00) for use by the City in the development, construction, operation and maintenance of a swim center.
- (3) Owner's obligations under this section are separate and independent of Owner's obligations under Subsection (b), and are binding upon Owner regardless of whether or not City accepts Owner's Dedication Offer as provided in Subsection (b).
- (4) In addition to any other remedies available to the City under this Agreement, and any and all other provisions of this Agreement or the City's Growth

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Management Ordinance and Guidelines to the contrary notwithstanding, if Owner fails to make either or both of the two non-refundable payments as required by Sections 1.01(a)(1) and (2) above, then the City may, in its sole and exclusive discretion, withhold from Owner such Residential Growth Allotments or building permits as Owner would otherwise be entitled to receive under this Agreement or the City's Growth Management Ordinance or Guidelines, and may continue to withhold the issuance of such Residential Growth Allotments or building permits until all such overdue payment or payments due under this Agreement have been made in full.

- (b) Owner shall offer to dedicate to the City approximately sixteen (16) acres of land as described generally in the Revised EIR and the Ellis Specific Plan as the location of the "Potential Swim Center" (the "Ellis Swim Center Site"), subject to the following:
- shall offer to dedicate to the City, at no cost to the City, the Ellis Swim Center Site ("Land Dedication Offer"). City shall have one (1) year from the Annexation Effective Date to accept the Land Dedication Offer ("Dedication Acceptance Period"), subject to such extensions as may be mutually agreed by the Parties. If City does not accept the Land Dedication Offer within the Dedication Acceptance Period, then one day after the conclusion of the Dedication Acceptance Period, the Land Dedication Offer shall be considered rejected by the City and shall expire without any further action of the Parties. Thereafter, the Ellis Swim Center Site shall be available for development by Owner pursuant to the 2013 Ellis Specific Plan. Additionally, at any time prior to the end of the Dedication Acceptance Period, City may, by resolution of the City Council, reject the Land Dedication Offer and upon such City rejection, the Ellis Swim Center Site shall be available to Owner for development pursuant to the 2013 Ellis Specific Plan.
- (2) The minimum on-site park requirements of the Ellis Specific Plan are addressed in Section 1.15 of this Agreement. If the City accepts the Land Dedication Offer, the swim center constructed on the Ellis Swim Center Site shall be considered a City "Community Park", as defined in the General Plan and other City laws. Upon City acceptance of the Land Dedication Offer, Owner shall be deemed to have satisfied its applicable community park obligation for the 2013 Ellis Specific Plan maximum entitlement of up to 2,250 residential units.
- (c) If the City elects to construct a publicly-operated swim center anywhere in the City, City shall contribute toward the swim center that amount of money (plus interest earned) that City has already collected (and will continue to collect) from the Plan C FIP designated for an aquatic center ("City Swim Center Contribution"). The Owner Swim Center Contribution and the City Swim Center Contribution are collectively referred to in this Agreement as the "Swim Center Funds." Additionally, City shall consider establishing and imposing against new development a fee, charge, assessment or other financial obligation to be used toward the costs of the design, construction, operation and maintenance of a swim center ("New Development Swim Center Contribution"). Any and all New Development Swim Center Contributions collected by City prior to the construction of a swim center should be added to the Swim Center Funds.

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- conducted an outreach program that led to the completion of the "Conceptual Design" of a swim center. The Conceptual Design provides detail for a swim center project description contemplated by this Agreement. Owner has also funded various studies and analyses relating to the required infrastructure for, and potential environmental impacts from, a swim center on the Ellis Swim Center Site, including but not limited to the Revised EIR for the 2013 Ellis Specific Plan. Owner hereby agrees that all costs associated with conducting the outreach program and developing the Conceptual Design, all costs associated with preparation of the Revised EIR and the various infrastructure studies, and all other costs incurred by Owner and paid to City in connection with City's consideration of Owner's proposal to develop a swim center at the Ellis Swim Center Site, shall constitute an additional contribution by Owner to the City's development of a swim center, which contribution is independent of and in addition to the Swim Center Payments and Swim Center Land Dedication described in Sections 1.01(a) and (b) above, and Owner shall not seek credit for or reimbursement of any such costs.
- (e) If the City elects to construct a publicly-operated swim center using the Owner Swim Center Contribution anywhere in the City, the swim center shall be named the "Serpa Swim Center." After acceptance of such publicly-operated swim center by the City, but prior to the opening of such swim center to the public, City shall allow Owner to use and occupy such swim center for one (1) day without charge. Owner shall provide adequate insurance coverage for such use and occupancy.
- (f) The amenities included in the Conceptual Design for a publicly-operated swim center have been selected through a public outreach program, are subject to the constraints of the City's swim centerbudget and compliance with controlling law, and may include the following:
  - (1) 50 Meter (approximately) Competition Pool
  - (2) Recreation Pool (separate from Competition Pool)
  - (3) Spray ground
  - (4) Water Slide
  - (5) Wet Play Structure
  - (6) Lazy River
  - (7) Flow Rider
  - (8) Showers and Locker Rooms
  - (9) Ticket Facilities
  - (10) Pool Equipment Room and Storage

- (11) On Site Development (parking, ancillary structures, landscaping, etc.).
- (g) If a funding shortfall should exist, the work for each phase of the swim center may be prioritized for that particular phase at the time that City seeks bids for the particular phase, so that work receiving a higher priority could be completed first so as to ensure its completion. As a result, if work cannot be completed due to a budget shortfall, that work receiving a lower priority could potentially be deferred.
- (h) This Agreement provides a framework for City and Owner to work cooperatively to develop a swim center, as described herein. However, all provisions and language herein to the contrary notwithstanding, including but not limited to Sections 1.01 and 1.02, nothing in this Agreement is intended to or shall be construed to require City to construct a swim center on the Ellis Swim Center Site or anywhere else.
- (i) If a publicly-operated swim center is approved and constructed on the Ellis Swim Center Site, then during the design and construction phases, Owner representatives shall be invited to participate and provide input to City regarding the design and construction processes for such swim center, which participation may include attending design and construction meetings with City's design consultants, construction managers and contractors; provided, however, that the Parties hereby acknowledge and agree that Owner's input on such swim center project shall be provided to City and City staff, Owner shall not be entitled or permitted to direct City's consultants, construction managers, contractors or other employees or agents, and City retains it full discretion to accept or not to accept Owner's input regarding the design and construction of such swim center.
- (j) Monies withdrawn from the Swim Center Funds Accounts shall be for the sole purpose of funding the design, construction, operation, and/or maintenance costs of a swim center. City shall make withdrawals from the Swim Center Fund Account in the amounts and at the times it deems necessary in order to pay those costs authorized hereunder.

#### 1.02 Other Processing.

- (a) Nothing in this Agreement shall be construed to limit the authority or obligation of City to hold necessary public hearings, nor to limit the discretion of City or any of its officers or officials with regard to those "Owner Approvals" (defined below) that require the exercise of discretion by City, provided that such discretion shall be exercised consistent with the laws contained with the Applicable Law.
- (b) At its approval and execution, this Agreement does not provide Owner with any right to develop or construct any project or to secure any Owner Approval; instead, it simply provides certain rights and responsibilities regarding approvals already given for the Ellis Specific Plan, provides certain vested rights to laws and approvals already in place, provides a protocol by which later Owner Approvals may be processed by Owner and later included into this Agreement, if and only if such Owner Approvals are compliant with all controlling California law (including proper Planning and Zoning Law and CEQA compliance), have secured approval of the Parties, and are adopted/approved by the City (who shall retain all

discretion in this regard) – and provides the process by which this Agreement will be recorded against the Property. The public review process envisioned by this Agreement is ongoing, and following City's adoption of this Agreement, that public review process shall continue.

- City shall inform Owner, upon request, of the necessary submission requirements for a complete application for each Owner Approval. Owner Approval shall include, without limitation, a City resolution of application to the San Joaquin County Local Agency Formation Commission ("LAFCO") seeking all LAFCO approvals relative to the annexation of the Property into the City. Provided Owner has paid all appropriate Processing Fees, City shall accept, process, review and act upon all applications for Owner Approvals pursuant to this Agreement and the Applicable Law it describes with "Good Faith and Fair and Expeditious Dealing." Likewise, City shall commence, continue and diligently process any and all initial studies, assessments, EIRs and other relevant CEOA compliance documents regarding the Owner Approvals with Good Faith and Fair and Expeditious Dealing. For the purposes of this Agreement, "Good Faith and Fair and Expeditious Dealing" shall mean that that the Parties shall act toward each other and the tasks necessary or desirous to the processing contemplated by this Agreement pursuant to the Applicable Law and in a fair, diligent, expeditious and reasonable manner (except in those cases where a Party is given sole discretion under this Agreement), and that no Party or Parties shall take any action that will prohibit, impair or impede any other Party's or Parties' exercise or enjoyment of its rights and obligations secured through this Agreement.
- If Owner requests, City shall meet with Owner prior to Owner's submission of applications for Owner Approvals for the purpose of ensuring all requested information is understood by Owner so that Owner's applications, when submitted, will be accurate and complete. Upon submission by Owner of an application for an Owner Approval, together with appropriate Processing Fees, City shall process such application for Owner Approval with Good Faith and Fair and Expeditious Dealing. If City is unable to so process any such application, or upon request by Owner, City shall engage mutually acceptable outside consultants to aid in such processing. Owner shall be required to pay all of City's actual costs related to such outside consultants. Owner, in a timely manner, shall provide City with all documents, applications, plans and other information necessary for City to carry out its obligations hereunder, and Owner shall cause the Owner's planners, engineers and all other consultants to submit in a timely manner all required materials and documents. If City denies an application for an Owner Approval, City shall specify in detail the modifications, changes, or improvements that are required to obtain approval. City and Owner shall cooperate, with the goal being to obtain and issue Owner Approvals that are consistent with the modifications, changes, or improvements that are required by City. City shall with Good Faith and Fair and Expeditious Dealing consider any subsequently submitted Owner Approval application that complies with the City-specified modifications.

#### 1.03 Applicable Law.

- (a) As used in this Agreement, "Applicable Law" shall exclusively mean all of the following:
- (1) As relates to the development of any or all of the Property, the terms and conditions of this Agreement.

- (2) The Revised EIR, the General Plan, the Ellis Specific Plan and its zoning regulations, Finance Implementation Plan adopted for the Ellis Project (the "Ellis FIP") and all other land use regulations, entitlements, grants, permits, plans and other approvals (collectively, the "Owner Approvals") that City has already or will in the future specifically approve, adopt, issue, and/or grant relative to Owner requests relating to the use and development of the Property, provided such Owner Approvals are:
  - (A) Compliant with all controlling California law (e.g., Planning and Zoning Law, CEQA, etc.);
    - (B) Mutually agreed to by the Parties;
    - (C) Adopted by the City; and
    - (D) Take "Legal Effect."
- (3) As relates to the development of any or all of the Property, the City rules, regulations, ordinances, policies, standards, specifications, practices and standard operating procedures of City (whether adopted by the City Council, the Planning Commission, the City staff or the voters of the City) in force and effect on the Effective Date ("Existing City Laws"), including, without limitation the GMO and GMO Guidelines.
- (4) As relates to the development of any or all of the Property, the City "Processing Fees" for land use approvals, including without limitation, fees for processing zoning, subdivision maps, building permits and other similar permits and entitlements which are charged for processing applications and which are in force and effect on a Citywide basis at the time the application for the Owner Approval is presented to the City.
- California Building Code (as modified by City), and those other State-adopted construction, fire and other codes, including "Green Codes" (as all may be modified by City) applicable to improvements, structures and development, and the applicable version or revision of said codes by local City action (collectively referred to as "Construction Codes") in place at that time (date) that building plans subject to such Construction Codes are submitted by Owner to City for an Owner Approval, provided that such Construction Codes have been adopted by City and are in effect on a Citywide basis.
- (6) As relates to the development of any or all of the Property, the "Mandated New City Law(s)," pursuant to Section 1.05(e) of this Agreement.
- (7) As relates to the development of any or all of the Property, the "New City Law(s)" that Owner elects to be subject to pursuant to Section 1.05(d).
- (b) This Agreement complies with laws regarding the Development Agreement Statute (including without limitation section 65865.2), which require this Agreement to specify the duration (Term) of the Agreement, the permitted uses of the Real Property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The duration of this Agreement is set

forth in Section 1.06 of this Agreement, and this Agreement sets forth provisions for the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes in the Applicable Law provisions of this Agreement, either by its terms or through its incorporation of the General Plan and the 2013 Ellis Specific Plan. For example, the 2013 Ellis Specific Plan is part of the Applicable Law for the Property, and the 2013 Ellis Specific Plan sets forth the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes for the Property.

(c) The Parties acknowledge that Owner Approvals likely will be processed in stages and, therefore, one or more Owner Approvals may take Legal Effect before other Owner Approvals. Provided Owner submits applications as provided herein, the City shall process such applications and applications for other entitlements as are necessary to allow development of 2,250 residential units as part of the 2013 Ellis Specific Plan in implementation of the TR Ellis land use designation in the General Plan.

#### 1.04 Vested Right to Applicable Law.

- (a) By this Agreement, the Property shall have a vested right to the Applicable Law.
- (b) During the Term of this Agreement, any development of the Property and any discretion exercised by City on an Owner Approval shall occur pursuant to only the law that comprises the Applicable Law. During the Term of this Agreement, City regulation of the development of the Property shall occur pursuant to only the Applicable Law.

#### 1.05 New City Law(s).

- (a) Any City ordinance, resolution, minute order, rule, motion, policy, standard, specification, or a practice adopted or enacted by City, its staff or its electorate (through their powers of initiative, referendum, recall or otherwise) that is not part of the Applicable Law and that takes effect on or after the Agreement Effective Date is hereby referred to as a "New City Law(s)." The parties recognize the City may, from time to time, modify its GMO Ordinance and Guidelines and none of these modifications shall apply to the development of the Property, which shall be governed by the GMO Ordinance and Guidelines in effect on the Effective Date, except as otherwise provided herein. Except as otherwise provided in this Agreement, a New City Law shall be deemed to be in conflict with this Agreement or the Applicable Law or to reduce the development rights provided hereby if the application to the Ellis Project would accomplish any of the following results, either by specific reference to the Ellis Project or as part of a general enactment which affects or applies to the Ellis Project:
- (1) Change any land use designation or permitted use of the Property allowed by the Applicable Law or limit or reduce the density or intensity of the Property or any part thereof, or otherwise require any reduction in the total number of residential dwelling units, square footage, floor area ratio, height of buildings, or number of proposed non-residential buildings, or other improvements;

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- (2) Limit or control the availability of public utilities, services, or facilities otherwise allowed by the Applicable Law;
- (3) Limit or control the rate, timing, phasing or sequencing of the approval, development, or construction of all or any part of the Property and/or Owner Approvals in any manner, or take any action or refrain from taking any action that results in Owner's having to substantially delay construction on the Property or require the acquisition of additional permits or approvals by the City other than those required by the Applicable Law;
- (4) Limit or control the location of buildings, structures, grading, or other improvements of the Property in a manner that is inconsistent with or more restrictive than the limitations in the Ellis Approvals and Applicable Law;
  - (5) Limit the processing of Owner Approvals.
- (6) Except for uniform adjustments formulated according to an inflation or cost of construction index, City changes in development, infrastructure or building standards, policies or ordinances that increase the cost of or impose new costs to develop and construct the project according to the Ellis Project Approvals.
- City shall not apply any New City Law(s) to the Property that is in conflict with this Agreement or that is excessive under controlling law (collectively, "in conflict with" or "inconsistent with"). If City believes that it has the right under this Agreement to impose/apply a New City Law on the Property/project, it shall send written notice to Owner of that City position ("Notice of New Law(s)"). Upon receipt of the Notice of New City Law, if Owner believes that such New City Law is in conflict with this Agreement, Owner may send written notice to City within thirty (30) days of Owner's receipt of City's Notice of New Law ("Objection to New City Law(s)"). Owner's notice to City of its Objection to New City Law(s) shall set forth the factual and legal reasons why Owner believes City cannot apply the New City Law(s) to the Property. City shall respond to Owner's Objection to New City Law(s) ("City Response") within thirty (30) days of receipt of said Owner Objection to New City Law(s). Thereafter, the Parties shall meet and confer within thirty (30) days of the date of Owner's receipt of the City Response and shall continue to meet over the next sixty (60) days ("Meet and Confer Period") with the objective of arriving at a mutually acceptable solution to this disagreement. The New City Law(s) shall not be applied to the Property until the dispute over the applicability of the New City Law(s) is resolved. Within fifteen (15) days of the conclusion of the Meet and Confer Period, City shall make its determination, and shall send written notice to Owner of that City determination. If City determines to impose/apply the New City Law(s) to the Property in question, then Owner shall have a period of ninety (90) days from the date of receipt of such City determination within which to file legal action challenging such City action. In other words, a 90-day statute of limitations regarding Owner's right to judicial review of the New City Law(s) shall commence upon the conclusion of the Meet and Confer Period. If upon conclusion of judicial review of the New City Law(s) (at the highest judicial level sought and granted), the reviewing court determines that Owner is not subject to the New City Law(s), such New City Law(s) shall cease to be a part of the Applicable Law, and City shall return Owner to the position Owner was in prior to City's application of such New City Law(s) (e.g., City return fees, return dedications, etc.). Notwithstanding any of the preceding language in this Section 1.05(b) to the

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contrary, upon the City's issuance to Owner of a Notice of New Law(s), any Party may opt out of the subsequent objection and resolution process described in this Section 1.05(b) provided that the opting out Party notifies the other Party(ies) that the opting out Party agrees to meet and confer regarding any disputes over New City Laws.

- (c) The above-described procedure shall not be construed to interfere with City's right to adopt or apply any New City Law(s) with regard to all other areas of City (excluding the Property and Owner Approvals).
- (d) Owner, in its sole and absolute discretion, may elect to be subject to a New City Law(s) that is/are not otherwise a part of the Applicable Law. In the event Owner so elects, Owner shall provide notice to City of that election and thereafter such New City Law(s) shall be part of the Applicable Law.
- City shall not be precluded from applying any New City Law(s) to the extent that such New City Law(s) are specifically mandated to be applied to developments such as the development of the Property by changes in State or Federal laws or regulations (and implemented through the Federal, State, regional and/or local level) ("Mandated New City Law(s)"). In the event such Mandated New City Law(s) prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps or permits approved by City for the Property, this Agreement shall be modified, extended or suspended as may be necessary to comply with such Mandated New City Law(s). Immediately after enactment of any such Mandated New City Law(s) that will materially affect the terms and conditions of this Agreement, the Parties shall meet and confer in good faith to determine the feasibility of any such modification, extension or suspension based on the effect such modification, extension or suspension would have on the purposes and intent of this Agreement. In the event that an administrative challenge and/or legal challenge (as appropriate) to such Mandated New City Law(s) preventing compliance with this Agreement is brought and is successful in having such Mandated New City Law(s) determined to not apply to this Agreement, this Agreement shall remain unmodified and in full force and effect.

#### 1.06 Term.

- (a) The term of this Agreement shall commence thirty (30) days after the adoption of the Approving Ordinance ("Agreement Effective Date"), and shall continue twenty five (25) years plus one day ("Term"), unless said Term is otherwise terminated, modified or extended as provided in this Agreement or any amendment thereto.
- (b) If any administrative, legal and/or equitable action and/or other proceeding instituted by any person, entity or organization (that is not a Party to this Agreement) challenging the validity of this Agreement, the Ellis Project, the Ellis Project Approvals, the Owner Approvals and their respective projects, or the sufficiency of any environmental review under CEQA ("Third Party Challenge") is filed, then the Term of this Agreement shall be tolled for the period of time from the date of the filing of such Third Party Challenge until the conclusion of such litigation by dismissal or entry of a final judgment, provided such tolling period does not exceed five (5) years. The filing of any such Third Party Challenge(s) against City and/or Owner shall not delay or stop the development, processing or construction of the Ellis Project or

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issuance of any Owner Approvals, unless enjoined or otherwise controlled by a court of competent jurisdiction. The Parties shall not stipulate to the issuance of any such order unless mutually agreed to.

- (c) Notwithstanding any other part of this Section 1.06, as it relates to a residential unit, this Agreement shall terminate and be of no further force and effect for each individual residential unit on the Property on that date a "Certificate of Occupancy" is issued by City for such residential unit if such residential unit is transferred and conveyed to a third party intending to use the unit for residential purposes.
- (d) Pursuant to Government Code section 66452.6(a) (or its successor section in substantially the same form) and this Agreement, and subject to the provisions of subdivision (f) of this Section 1.06, the term of any tentative map, vesting tentative map, parcel map, vesting parcel map or final map, or any re-subdivision or any amendment to any such map (collectively referred to as "Subdivision Document") relating to the Property shall automatically be extended to and until the later of the following: (1) the end of the term of this Agreement; or (2) the end of the term or life of any such Subdivision Document otherwise given pursuant to the Subdivision Map Act or local regulation not in conflict with the Subdivision Map Act. Any improvement agreement entered into pursuant to the Subdivision Map Act or other State or local regulation shall have a term no shorter than 365 days from execution of the improvement agreement and no longer than that term decided by City.
- (e) If this Agreement terminates for any reason prior to the expiration of vested rights otherwise given under the Subdivision Map Act to any vesting tentative map, vesting parcel map, vesting final map or any other type of vesting map on the Property (or any portion of the Property) (collectively, "Vesting Map"), such termination of this Agreement shall not affect Owner's right to proceed with development under such Vesting Map in accordance with the ordinances, policies and standards so vested under the Vesting Map. Notwithstanding the foregoing or any other provision of this Agreement or the Applicable Law it describes, no Vesting Map shall extend the Applicable Law beyond the stated Term of this Agreement (and the rules, regulations and official policies of City applicable to that portion of the Property covered by such Vesting Map shall become those in effect as of the expiration of such Term), except as otherwise agreed to by City and Owner; provided, however, that City and Owner may agree to an extension of the Term of this Agreement with respect to the area covered by any such Vesting Map.
- (f) The term of any Owner Approvals, including without limitation, all development plans, development permits, design review approvals, or other permit, grant, agreement, approval or entitlement for the general development of all or any part of their respective projects and properties, shall automatically be extended to and until the later of the following: (1) the end of the Term of this Agreement; or (2) the end of the term or life of the Owner Approval otherwise given pursuant to controlling law.
- (g) The Parties hereby agree that, as of the Effective Date, this Agreement supersedes the effectiveness of the Original Development Agreement and all of the Parties' respective rights and obligations thereunder while this Agreement remains in effect; provided, however, that if the validity of this Agreement is overturned or set aside by a decision of a court

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of competent jurisdiction, then the suspension of the Original Development Agreement and superseding effect of this Agreement set out in this section shall, likewise, be overturned and of no further force and effect, and the Original Development Agreement and all of the parties' respective rights and obligations thereunder shall be restored.

#### 1.07 Residential Growth Allotments.

- (a) City shall reserve, and Owner shall be eligible for, the allocation of up to 2,250 Residential Growth Allotments ("RGAs") for residential development on the Property, as provided in this Agreement. City and Owner agree that the RGAs allocated under this Agreement apply only to the Property and may not be applied or transferred to any other property.
- (b) In no event shall Owner be eligible for more than 2,250 RGAs over the Term of this Agreement ("Overall RGA Maximum"). Further, each year Owner shall be eligible for RGAs as provided in the GMO and the GMO Guidelines in effect on the Effective Date, but in no event more than 225 RGAs per year ("Annual RGA Eligibility").
- (c) Owner shall make application to City for RGAs ("RGA Application(s)") according to the requirements of the GMO Guidelines in effect on the Effective Date using the RGA Application form attached hereto as Exhibit B or the form then stipulated in the GMO Guidelines then in effect, at the option of the Owner.
- (d) Owner shall provide a separate RGA Application for each calendar year in which Owner seeks RGAs. The total RGAs sought by Owner in any calendar year shall not exceed the total Annual RGA Eligibility for that calendar year set by this Agreement.
- (e) Owner shall be eligible for building permits according to the requirements of the GMO and the GMO Guidelines in effect on the Agreement Effective Date.

#### 1.08 Significant Actions by Third Parties.

- (a) Owner shall be responsible for the acquisition of permits, approvals, easements and services required to serve the Property from all non-City providers of utilities at Owner's cost. Owner shall also be responsible for coordinating with any non-City providers of utilities to ensure the proper installation and construction of non-City utilities in accordance with the Applicable Law. The provision of all such services shall be subject to City approval, which City approval shall be subject to Good Faith and Fair and Expeditious Dealing.
- (b) At Owner's sole discretion and in accordance with Owner's construction schedule, Owner shall apply for such other permits and approvals as may be required by other private and public and quasi-public entities in connection with the development of, or the provision of services to, the Property. City shall cooperate with Owner in Good Faith and Fair and Expeditious Dealing, at no cost to City, in Owner's efforts to obtain such permits and approvals and City shall, from time to time (at the request of Owner), use its Good Faith and Fair and Expeditious Dealing to enter into binding agreements with any such other entity as may be necessary to ensure the timely availability of such permits and approvals to Owner, provided such permits and approvals are mutually determined by City and Owner to be reasonably

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necessary or desirable and are consistent with Applicable Law. In the event that any such permit or approval as set forth above is not obtained within three (3) months from the date application is deemed complete by the appropriate entity, and such circumstance materially deprives Owner of the ability to proceed with development of the Property or any portion thereof, or materially deprives City of a bargained-for public benefit of this Agreement, then, in such case, and at the election of Owner, Owner and City shall meet and confer with the objective of attempting to mutually agree on alternatives, Owner Approvals, and/or an amendment to this Agreement to allow the development of the Property to proceed with each Party substantially realizing its bargained-for benefit there from.

(c) City and Owner acknowledge and agree that City may from time to time enter into (with Good Faith and Fair and Expeditious Dealing) joint exercise of power agreements or memoranda of understanding with other governmental agencies consistent with and to further the purposes of this Agreement.

## 1.09 Amendment of this Agreement; Inclusion of Owner Approvals into this Agreement.

- (a) This Agreement may be amended from time to time in accordance with California Government Code section 65868 and the Enabling Resolution, and upon the mutual written consent of City and Owner, with City costs payable by the Owner. Owner may seek City interpretation regarding one or more of the terms and conditions of this Agreement to determine whether or not an amendment is needed.
- (b) This Agreement anticipates and provides the process and rules governing subsequent Owner Approvals. No amendment of this Agreement shall be required in connection with City processing and/or approval of any such Owner Approval for the Property. Any such Owner Approval that is approved by City and becomes part of the Applicable Law pursuant to the requirements of this Agreement shall be vested into by Owner and City, and shall become a part of this Agreement as if set forth herein in full. City shall not process or approve any Owner Approval unless Owner requests such process and approval.

#### 1.10 Annexation.

- (a) Within ninety (90) days after the Effective Date, or as soon thereafter as a "Plan for the Provision of Services" (as that phrase is defined by the law controlling the San Joaquin County Local Agency Formation Commission ("LAFCO") and all other materials required by controlling law and/or requested by LAFCO can be prepared and completed relating to the Property, City shall consider a "Resolution of Application" to LAFCO requesting annexation of the Property. City shall submit such Resolution of Application, Plan for the Provision of Services and other material required by controlling law and/or requested by LAFCO. City may process any such annexation of the Property concurrently with other Owner Approvals.
- (1) City shall use Good Faith and Fair and Expeditious Dealing to cause the completion of such annexation of the Property subject to all applicable requirements of law. If such annexation of the Property cannot be accomplished without conditions that are

unacceptable to Owner then, at Owner's request, City shall terminate or request termination of the proceedings, as appropriate.

- (2) Owner shall pay City's reasonable costs relating to all City actions taken pursuant to this Section 1.11, including reasonable consultant costs, and including such LAFCO fees, costs and charges relating to such annexation(s) that LAFCO charges to City.
- annexation of the Property is denied by LAFCO, then the Parties shall continue to work together to secure such annexation in such a manner as they may mutually agree, including annexing only portions of the Property at different times until such time as all of the Property is annexed to City. To the extent that the law requires a date to be set forth within this Agreement by which annexation of Annexation Property must be accomplished, that date shall be two (2) days prior to the termination of the Term of this Agreement.
- (b) Owner shall be responsible for the City's processing costs regarding actions taken by City pursuant to this Section.

#### 1.11 Adequate Water Supply.

- (a) Pursuant to the water supply assessment ("WSA") by City relating to the potential development this Agreement addresses, adequate water supplies are known and will be available during the Term of this Agreement for the potential maximum development that may occur pursuant to this Agreement. Therefore, City shall make such water supplies available to Owner for such potential development during the Term of this Agreement. Except as provided herein, there shall be no cost to Owner for such water supply. Neither City nor Owner shall take any actions, including without limitation, approval by City of any new development after the Effective Date, that would impair or impede the City's ability to make such water supplies available to Owner during the Term of this Agreement for the potential maximum development that may occur pursuant to this Agreement. Water supply verifications shall take place at the subdivision map approval stage for all development of the Property as required by such law. If for any reason, despite the City's best efforts, such water supplies are not available from surface water supplies for Owner's use on such development when needed, then the following shall apply:
- (1) City shall pursue interim measures to satisfy such water supply requirements, including without limitation, City's use of groundwater.
- are either not available, or are available but not in quantities necessary to fully satisfy such water supply requirements, then Owner may, at Owner's sole and exclusive discretion, advance to City such funds as are necessary to design, construct, operate and maintain one (1) ground water well, and such ancillary facilities as are necessary to provide potable water service to the Property until such time as City-provided permanent surface water supplies are available. Such ground water well and ancillary facilities, including without limitation water treatment facilities, as are necessary, as determined by City, to provide potable water service to the Property, shall collectively be referred to herein as the "Additional Well." Such Additional Well shall not be

implemented unless and until Owner, in Owner's sole and exclusive discretion, elects to advance to City all costs associated with its design, construction, operation and maintenance, and Owner's development will not be served from the Additional Well until construction of the Additional Well is completed and accepted by the City. After sufficient City-provided, permanent surface water supplies are made available to serve the Property, such that the Additional Well is no longer necessary, as determined by City, to serve the Property, City may use the Additional Well for emergency water supply purposes in accordance with the City's water Master plan, provided City reimburses Owner for all costs to Owner of the design, construction, operation and maintenance of the Additional Well that exceed Owner's fair share of such costs. Such reimbursement to Owner shall be made from appropriate development impact fees subsequently collected by City from other properties determined by City to benefit from the Additional Well, in the normal course of development of such properties. If any ancillary improvements to the Additional Well are required for the benefit of Ellis Project or are the part of the Ellis FIP, the cost of such facilities will not qualify for reimbursements from other developments.

The costs related to the transmission of the water supplies provided to the Property shall be paid by those impact fees that are established in the Ellis FIP.

#### 1.12 Recycled Water Program.

All other provisions in this Agreement to the contrary notwithstanding, Owner hereby agrees that the Property and the Ellis Project shall be subject to such City recycled water fee requirements as may be set forth in the Ellis FIP. In addition to complying with such requirements, Owner hereby agrees that, as a condition of approval for any subdivision map for the Property or the Ellis Project, the subdivider shall design and construct, in conformance with applicable City standards, such recycled water infrastructure and facilities on collector streets as are sufficient to provide recycled water for irrigation of Ellis parks, and as are sufficient to provide recycled water for irrigation of such other landscaped public spaces on the Property and within the Ellis Specific Plan area as are mutually agreed on by the Parties.

#### 1.13 Wastewater Treatment and Conveyance Capacity.

#### (a) Wastewater Treatment Capacity.

(1) Upon the Effective Date, City shall make available capacity from the existing City wastewater treatment plant sufficient to provide the Ellis Project with adequate wastewater treatment capacity for eight hundred (800) single-family detached residential units, a swim center and Storage Uses ("Ellis Initial Capacity"). There shall be no cost to Owner for the Ellis Initial Capacity

Project shall receive that wastewater treatment capacity ("Additional Capacity") needed to adequately service the Property, with said Additional Capacity coming from the City's existing capacity at the existing wastewater treatment plant or "Expansion" of the existing wastewater treatment plant. For the purposes of this Agreement, "Expansion" shall mean that expansion of the existing treatment capacity of the existing wastewater treatment plant, which Expansion will increase the treatment capacity of the plant from the existing approximately 9.0 million gallons

per day of treatment capacity to approximately 20 million gallons per day of treatment capacity. Such Expansion may be done in incremental phases. Owner shall pay in accordance with the Ellis FIP, the costs of the Expansion (taking into account all users that will use the Expansion) through a form of municipal financing or other mechanism acceptable and agreeable to the Parties. City shall take such measures as needed to ensure that other public and private development projects proposing to utilize the Expansion shall pay their fair share of the funding needed to construct, maintain and operate the Expansion. Owner's above-described funding obligations shall be coordinated with the other public and private development projects to ensure that such monies are collected from Owner and other public and private development projects at approximately the same time. If the required funding from other users or development projects is not available for the phase of Expansion needed to provide the Additional Capacity Owner needs when Owner needs it, or if some funding from others is available but is not adequate to fund the phase of Expansion needed to provide said Additional Capacity Owner needs when Owner needs it, then, at Owner's sole and exclusive discretion, Owner may pay the balance of the cost of such phase of Expansion needed to provide such Additional Capacity ("Owner Funded Phase"). In such a case, Owner shall be reimbursed for that portion of the Owner Funded Phase that exceeds Owner's Additional Capacity needs. Except for responsibilities provided for in applicable FIPs, CIPs and/or other developments to pay their fair share, City shall not be obligated to advance funds for Additional Capacity Expansion.

#### (b) Conveyance Capacity.

- (1) <u>Initial Capacity in Corral Hollow System</u>: Owner is afforded the right to use 330 residential units of existing capacity in the Corral Hollow Sewer Conveyance System on a permanent basis. There shall be no cost to Owner for transmission for up to 550 units. Conveyance capacity shall be increased in accordance with any City-adopted Wastewater Master Plan and the Ellis FIP.
- Additional Capacity in Corral Hollow System: In addition to the (2) 330 units of capacity mentioned above, there is an additional two hundred twenty (220) units of permanent sewer conveyance capacity in the existing Corral Hollow conveyance system. Commencing on January 31, 2016, Owner may secure for its use such additional existing capacity as has not been reserved and secured by other developers or land owners by paying or otherwise securing payment to the City of their "fair share" portion (as determined by the City) of the Corral Hollow Sewer Conveyance System expansion cost by paying or otherwise securing payment of its "fair share" portion of said cost. Provided that Owner has complied with all of its obligations under this Agreement and is not otherwise in default under this Agreement, then between January 31, 2016 and April 30, 2016, City shall reserve exclusively for Owner all such remaining additional capacity in the existing Corral Hollow conveyance system, which Owner may secure by paying or otherwise securing payment to the City of Owner's "fair share" portion (as determined by the City) of the Corral Hollow Sewer Conveyance System expansion cost. Commencing on May 1, 2016, to the extent that Owner has not secured such remaining additional capacity in the existing Corral Hollow Conveyance System as provided in this Section 1.13(b)(2), the City's obligation to reserve such remaining additional capacity for Owner shall terminate.
- (3) Interim Capacity in Eastside Sewer Conveyance System: In addition to the permanent sewer conveyance capacity mentioned above, the Property shall be

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allocated an additional two hundred fifty (250) units of sewer conveyance capacity currently existing in the Eastside Sewer Conveyance System on an interim basis until phase one of the Corral Hollow Sewer Conveyance System upgrade is completed. There shall be no charge to Owner for said interim capacity.

City shall take such measures as needed to ensure that other public (4) or private development projects proposing to use the Conveyance Expansion shall pay their fair share (proportional) of the costs of such Conveyance Expansion. If additional funding from such other development projects is not available prior to Owner's need for the Conveyance Expansion, Owner, in its sole and exclusive discretion, may request City to construct all or a portion of the Conveyance Expansion using funds to be provided by Owner. On the date that the City determines that the Conveyance Expansion funded by Owner becomes available, Owner shall be entitled to such capacity as is necessary to meet Owner's needs, which needs shall be equal to the conveyance capacity for which owner has funded. To the extent that such Owner-funded capacity exceeds Owner's needs, such excess capacity shall be available on a first-come, first-served basis to property owners within the service area of the capacity, and Owner shall be entitled to reimbursement for funding provided by Owner in excess of Owner's fair share of the costs of the Owner-funded Conveyance Expansion, and such reimbursement shall occur prior to use by other property owners. All wastewater conveyance connections will be available to Owner only after the required improvements are completed and accepted by City. Wastewater conveyance capacity expansion to serve the Project shall be provided from the Corral Hollow sewer line and other western sewer lines as set forth in the Ellis FIP for the maximum development authorized by this Except for responsibilities provided for in applicable CIPs and/or other developments to pay their fair share, City shall not be obligated to advance funds for conveyance improvements.

#### 1.14 Schools.

- (a) Owner has entered into Memorandums of Understanding with the Tracy Unified School District and with the Jefferson School District.
- (b) Prior to the first residential building permit issuance, Owner shall execute a school facilities mitigation agreement with the Jefferson School District to mitigate the impact of the Ellis Specific Plan on Jefferson School District facilities.

#### 1.15 Ellis Specific Plan Parks.

(a) Owner shall provide and dedicate to City neighborhood and community parks pursuant to the four (4) acres per thousand formula required by the Ellis Specific Plan and Applicable Law ("Park Requirements"). Owner shall construct all improvements for neighborhood parks, consistent with the description of such parks in the Ellis Specific Plan, prior to dedication to City. Owner's compliance with community park obligations shall be subject to and consistent with Section 1.01 of this Agreement. No additional park dedications, in lieu fees or other park-related requirements shall by imposed by City on Owner or the Property beyond the Park Requirements of this Agreement.

**(b)** The timing of the dedication to City of Ellis Specific Plan parks and the construction of Ellis Specific Plan park improvements shall be determined by City at the time of City approval of subdivision maps for the Property.

#### 1.16 Future Impact Fees; Nexus.

- (a) During the Term of this Agreement, only those impact fees that are included in the Ellis FIP shall apply to the development of the Property.
- (b) Except as provided in this Agreement, this Agreement is not intended to change or affect either Parties' rights or obligations regarding the over-sizing of improvements, services and/or facilities beyond the impacts of the Property.

# ARTICLE 2 ASSIGNMENT, DEFAULT, ANNUAL REVIEW, TERMINATION, LEGAL ACTIONS

#### 2.01 Covenants Run With The Land.

- (a) This Agreement and all of its provisions, agreements, rights, powers, standards, terms, covenants, obligations, benefits and burdens shall be binding upon and inure to the Parties and their respective heirs, successors (by merger, consolidation, or otherwise), assigns, devisees, administrators, representatives, lessees, and all other persons or entities acquiring the Property, or any part thereof, whether by sale, operation of law or in any manner whatsoever, and shall inure to the benefit of the Parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns (collectively, "Assignee").
- (b) Upon assignment, in whole or in part, and the express written assumption by the Assignee of such assignment, of Owner's rights and interests under this Agreement, Owner shall be released from its obligations with respect to the Property, or any lot, parcel, or portion thereof so assigned to the extent arising subsequent to the date of such assignment. A default by any Assignee shall only affect that portion of the Property owned by such Assignee and shall not cancel or diminish in any way Owner's rights hereunder with respect to the assigned portion of the Property not owned by such Assignee. The Assignee shall be responsible for the reporting and annual review requirements relating to the portion of the Property owned by such Assignee, and any amendment to this Agreement between City and Assignee shall only affect the portion of the Property owned by such Assignee. Any and all provisions of this Agreement to the contrary notwithstanding, Owner shall not be released from any of its obligations under this Agreement, whether by assignment, conveyance, or any other means, unless and until Owner has fully satisfied its obligations under Section 1.01 of this Agreement

#### 2.02 Defaults.

(a) Any failure by City or Owner to perform any material term or provision of this Agreement, which failure continues uncured for a period of sixty (60) days following written notice of such failure from the other Party (unless such period is extended by written mutual consent), shall constitute a default under this Agreement. Any notice given pursuant to the preceding sentence shall specify the nature of the alleged failure and, where appropriate, the

manner in which such alleged failure satisfactorily may be cured. If the nature of the alleged failure is such that it cannot reasonably be cured within such 60-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such 60-day period.

- (b) No failure or delay in giving notice of default shall constitute a waiver of default; provided, however, that the provision of notice and opportunity to cure shall nevertheless be a prerequisite to the enforcement or correction of any default.
- (c) During any cure period specified under this Section and during any period prior to any delivery of notice of failure or default, the Party charged shall not be considered in default for purposes of this Agreement. If there is a dispute regarding the existence of a default, the Parties shall otherwise continue to perform their obligations hereunder, to the maximum extent practicable in light of the disputed matter and pending its resolution or formal termination of the Agreement as provided herein.
- (d) City will continue to process in good faith development applications during any cure period, but need not approve any such application if it relates to a development proposal on the Property with respect to which there is an alleged default hereunder.
- (e) In the event either Party is in default under the terms of this Agreement, the non-defaulting Party may elect, in its sole and absolute discretion, to pursue any of the following courses of action: (i) waive such default; (ii) pursue administrative remedies, and/or (iii) pursue judicial remedies. In no event shall City modify this Agreement as a result of a default by Owner except in accordance with the provisions of Section 1.14 above.
- (f) Except as otherwise specifically stated in this Agreement, either Party may, in addition to any other rights or remedies, institute legal action to cure, correct, or remedy any default by the other Party to this Agreement, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation hereunder or to seek specific performance. For purposes of instituting a legal action under this Agreement, any City Council determination under this Agreement shall be deemed a final agency action.
- (g) The Parties hereby acknowledge that the City would not have entered into this Agreement if doing so would subject it to the risk of incurring liability in money damages, either for breach of this Agreement, anticipatory breach, repudiation of the Agreement, or for any actions with respect to its negotiation, preparation, implementation or application. The Parties further acknowledge that money damages and remedies at law generally are inadequate, and specific performance is the most appropriate remedy for the enforcement of this Agreement and should be available to all Parties for the following reasons:
  - (1) Money damages are excluded as provided above;
- (2) Due to the size, nature, and scope of the Project, it may not be practical or possible to restore the Property to its original condition once implementation of this Agreement has begun. After such implementation, Owner may be foreclosed from other choices it may have had to utilize the Property or portions thereof. Owner has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the

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terms of this Agreement and will be investing even more significant time and resources in implementing the Project in reliance upon the terms of this Agreement, and it is not possible to determine the sum of money which would adequately compensate Owner for such efforts.

Therefore, the Parties hereby acknowledge and agree that it is a material part of Owner's consideration to City that City shall not be at any risk whatsoever to liability for money damages relating to or arising from this Agreement, and except for non-damages remedies, including the remedy of specific performance, Owner, on the one hand, and the City, on the other hand, for themselves, their successors and assignees, hereby release one another's officers, trustees, directors, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, including, but not limited to, any claim or liability, based or asserted, pursuant to Article I, Section 19 of the California Constitution, the Fifth and Fourteenth Amendments of the United States Constitution, or any other law or ordinance which seeks to impose any money damages, whatsoever, upon the Parties because the Parties entered into this Agreement, because of the terms of this Agreement, or because of the manner of implementation or performance of this Agreement.

#### 2.03 Annual Review.

- (a) The Enabling Resolution provides for annual review of Owner's good faith compliance with the terms of this Agreement. Each year during the term of this Agreement, City shall initiate the annual review by written notice to Owner. Upon receipt of such written notice, Owner shall comply with such requirements of the Enabling Resolution and shall furnish to City a report demonstrating good faith compliance by Owner with the terms of this Agreement.
- (b) Following any such annual review, if Owner is determined to be in good faith compliance with the terms of this Agreement, City shall furnish Owner, upon Owner's request, a certification of compliance in recordable form.
- (c) Following any such annual review, if Owner is determined to not be in good faith compliance with the terms of this Agreement, City shall furnish to Owner a notice of noncompliance, which shall be deemed a notice of default and shall commence the cure period set forth in Section 2.02 above.
- (d) In addition to the annual review provided for in this Section, City may investigate or evaluate from time to time during the course of any given year, and regardless of whether such investigation or evaluation takes place as part of the annual review, any subject matter that is properly the subject of an annual review.

#### 2.04 Force Majeure Delay, Extension of Times of Performance.

(a) In addition to specific provisions of this Agreement, performance by either Party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, governmental entities other than City, its departments, agencies, boards and commissions, enactment of conflicting State or Federal laws or regulations, or litigation (including without limitation litigation contesting the validity, or seeking the enforcement or clarification of this

Agreement whether instituted by Owner, City, or any other person or entity) (each a "Force Majeure Event").

(b) Either Party claiming a delay as a result of a Force Majeure Event shall provide the other Party with written notice of such delay and an estimated length of delay. Upon the other Party's receipt of such notice, an extension of time shall be granted in writing for the period of the Force Majeure Event, or longer as may be mutually agreed upon by the Parties, unless the other Party objects in writing within ten (10) days after receiving the notice. In the event of such objection, the Parties shall meet and confer within thirty (30) days after the date of objection to arrive at a mutually acceptable solution to the disagreement regarding the delay. If no mutually acceptable solution is reached, either Party may take action as permitted under this Agreement.

#### 2.05 Third Party Legal Actions.

- (a) If there are any third party administrative, legal or equitable actions challenging any of the Project Approvals or the Subsequent Approvals, including without limitation this Agreement and all CEQA processes and actions by City relating to the Project, Owner shall defend and indemnify the City against any and all fees and costs arising out of the defense of such actions, including the fees and costs of City's own in-house or special counsel retained to protect the City's interests. Each Party is entitled to legal counsel of its choice, at Owner's expense. The Parties and their respective counsel shall cooperate with each other in the defense of any such actions, including in any settlement negotiations. If a court in any such action awards any form of money damages to such third party, or any attorneys' fees and costs to such third party, Owner shall bear full and complete responsibility to comply with the requirements of such award, and hereby agrees to timely pay all fees and costs on behalf of the City.
- (b) If any part of this Agreement, any Project Approval or Subsequent Approval, is held by a court of competent jurisdiction to be invalid, the Parties shall cooperate to use their best efforts, to the extent permitted by law, to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express and implied intent of this Agreement.

# ARTICLE 3 GENERAL PROVISIONS

#### 3.01 <u>Definitions</u>.

- (a) To the extent that any capitalized terms contained in this Agreement or its Exhibits are not defined below, then such terms shall have the meaning otherwise ascribed to them in this Agreement and its Exhibits and/or the Applicable Law.
- (b) As used in this Agreement and its Exhibits, the following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section:
- (1) "Agreement" shall mean this Amended and Restated Development Agreement between City and Owner.

- (2) "Agreement Effective Date" shall have the meaning set forth in Section 1.06(a) of this Agreement.
- of the following have occurred: the Ellis Project Approvals have been approved by the City and the annexation of the Property has been approved by LAFCO, the Ellis Project Approvals and LAFCO's annexation approvals have taken effect under controlling law, the applicable statute of limitations has run on the Ellis Project Approvals and LAFCO annexation approvals without a lawsuit being filed within that statutory limitations period, or if a lawsuit has been filed within that statutory limitations period, that the defendant and real party have prevailed in the lawsuit, or the Ellis Project Approvals and LAFCO annexation approvals are otherwise determined legal and effective.
- (4) "Annual RGA Eligibility" shall have the meaning set forth in Section 1.07(b) of this Agreement.
- (5) "Applicable Law" shall have that meaning set forth in Section 1.03 of this Agreement.
- (6) "Approving Ordinance" shall have the meaning set forth in Recital paragraph P of this Agreement.
- (7) "Assignee" shall have the meaning set forth in Section 2.01(a) of this Agreement.
- (8) "CEQA" shall have that meaning set forth in Recital paragraph H of this Agreement.
- (9) "Certificate of Occupancy" shall mean a certificate issued or final inspection approved by the City authorizing occupancy of a residential unit.
- (10) "City" shall have that meaning set forth in the preamble of this Agreement.
- (11) "City Swim Center Contribution" shall have the meaning set forth in Section 1.01(c) of this Agreement.
- (12) "Claims" shall have the meaning set forth in Section 3.04 of this Agreement.
- "Conceptual Design" shall have the meaning set forth in Section 1.01(d) of this Agreement.
- (14) "Construction Codes" shall have the meaning set forth in Section 1.03(a) (5) of this Agreement.
- (15) "Development Agreement Statute" shall have the meaning set forth in the preamble of this Agreement.

- (16) "Ellis FIP" shall have the meaning set forth in Section 1.03(a)(2) of this Agreement.
- (17) "Ellis Initial Capacity" shall have the meaning set forth in Section 1.14(a) (1) of this Agreement.
- (18) "Ellis Project" shall have the meaning set forth in Recital paragraph I of this Agreement.
- (19) "Ellis Project Approvals" shall have the meaning set forth in Recital paragraph I of this Agreement.
- (20) "Ellis Swim Center Site" shall have the meaning set forth in Section 1.01(b) of this Agreement.
- (21) "Enabling Resolution" shall have the meaning set forth in the preamble of this Agreement.
- (22) "Existing City Laws" shall have the meaning set forth in Section 1.03(a) (3) of this Agreement.
- (23) "Force Majeure Event" shall have the meaning set forth in Section 2.04(a) of this Agreement.
- (24) "General Plan" shall mean the City of Tracy General Plan as amended by the City Council on January 22, 2013, by Resolution No. 2013-012, as described in Recital paragraph I of this Agreement.
- (25) "GMO" shall mean the City of Tracy Residential Growth Management Plan set forth in Chapter 10.12 of Title 10 of the City of Tracy Code of Ordinances, as may be amended from time to time.
- (26) "GMO Guidelines" shall mean the GMO Guidelines adopted by the City Council of the City of Tracy pursuant to Title 10, Chapter 10.12, Section 10.12.050 of the City of Tracy Code of Ordinances, that are in effect on the Agreement Effective Date.
- (27) "Good Faith and Fair and Expeditious Dealing" shall have the meaning set forth in Section 1.02(c) of this Agreement.
- (28) "LAFCO" shall have the meaning set forth in Section 1.02(c) of this Agreement.
- (29) "Land Dedication Offer" shall have the meaning set forth in Section 1.01(b) (1) of this Agreement.
- (30) "Legal Effect" shall mean that the ordinance, resolution, permit, license or other grant of approval (collectively, "permit") in question, has been adopted by City and that all applicable administrative appeal periods and statutes of limitations have run and that

the permit has not been overturned or otherwise rendered without legal and/or equitable force and effect by a court of competent jurisdiction or other tribunal with final and binding decision authority.

- (31) "Mandated New City Law(s)" shall have the meaning set forth in Section 1.05(e) of this Agreement.
- (32) "New City Law(s)" shall have the meaning set forth in Section 1.05(a) of the Agreement.
- (33) "Notice of New Law(s)" shall have the meaning set forth in Section 1.05(b) of this Agreement.
- (34) "Original Development Agreement" shall mean that development agreement by and between the City of Tracy and Surland Communities, LLC, approved by the City of Tracy on December 16, 2008, executed by the City of Tracy and Surland Communities, LLC, between January 28, 2009 and February 5, 2009, and recorded in the San Joaquin County Recorder's office on February 5, 2009 as Document Number 2009-022386.
- (35) "Original EIR" shall have the meaning set forth in Recital paragraph D of this Agreement.
- (36) "Overall RGA Maximum" shall have the meaning set forth in Section 1.07(b) of this Agreement.
- (37) "Owner" shall have that meaning set forth in the preamble of this Agreement.
- (38) "Owner Approvals" shall have the meaning set forth in Section 1.03(a)(2) of this Agreement.
- (39) "Owner Funded Phase" shall have that meaning set forth in Section 1.13(a)(2) of this Agreement.
- (40) "Owner Swim Center Contribution" shall have the meaning set forth in Section 1.01(a) of this Agreement.
- (41) "Park Requirements" shall have the meaning set forth in Section 1.15(a) of this Agreement.
- (42) "Party" and "Parties" shall have the meaning set forth in the preamble of this Agreement.
- (43) "Police Powers" shall have the meaning set forth in the preamble of this Agreement.
- (44) "Processing Fees" shall mean fees charged by the City which represent the costs to City for City staff (including consultants) time and resources spent

reviewing and processing applications for Owner Approvals, as governed by Government Code section 66014.

- (45) "Property" shall have the meaning set forth in Recital paragraph M of this Agreement.
- (46) "Residential Growth Allotments" or "RGAs" shall have the meaning set forth in the GMO.
- (47) "Revised EIR" shall have the meaning set forth in Recital paragraph F of this Agreement.
- (48) "Subdivision Document" shall have the meaning set forth in Section 1.06(d) of this Agreement.
- "Swim Center Funds" shall have the meaning set forth in Section 1.01(c) of this Agreement.
- (50) "Swim Center Funds Account" shall have the meaning set forth in Section 1.01(a) (1) of this Agreement.
- (51) "Term" shall have the meaning set forth in Section 1.06(a) of this Agreement.
- (52) "Third Party Challenge" shall have the meaning set forth in Section 1.06(b) of this Agreement.
- (53) "Vesting Map" shall have the meaning set forth in Section 1.06(e) of this Agreement.
- (54) "WSA" shall have the meaning set forth in Section 1.11(a) of this Agreement.

## 3.02 Requirements of Development Agreement Statute.

- (a) The permitted uses, density and/or intensity of use, maximum height and size of buildings and other structures, provisions for reservation or dedication of land, and other terms and conditions applicable to any development and construction on the Property shall be those set forth in the General Plan and the Ellis Specific Plan, as incorporated by reference herein, and all other provisions of the Applicable Law, as provided for and consistent with the provisions of Section 1.03(b) above.
- (b) During the Term of this Agreement, and pursuant to Government Code section 65866, the rules, regulations, official policies and all other controlling criteria shall be the Applicable Law, which Applicable Law may expand pursuant to this Agreement to include New City Law(s), Owner Approvals, and other subsequent actions that this Agreement includes in the Applicable Law.

(c) As stated above, this Agreement complies with laws regarding Development Agreement Statute (including without limitation Government Code section 65865.2), which requires this Agreement to specify the duration (Term) of the Agreement, the permitted uses of the Property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The duration of this Agreement is set forth herein, and this Agreement sets forth provisions for the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes in the Applicable Law provisions of this Agreement.

## 3.03 Development Timing.

The Parties acknowledge that the timing, sequencing, and phasing of any later-approved development is solely the responsibility of Owner. In particular, the Parties desire to avoid the result of the California Supreme Court's holding in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), where the failure of the parties therein to consider and expressly provide for the timing of the development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement.

#### 3.04 Hold Harmless and Indemnification.

Owner shall indemnify, defend, and hold harmless City (including its elected officials, officers, agents, and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) (collectively, "Claims") resulting from or arising out of the development contemplated by this Agreement, other than a liability or claim based upon City's gross negligence or willful misconduct. The indemnity obligations of this Agreement shall not extend to Claims arising from activities associated with the maintenance or repair by the City or any other public agency of improvements that have been accepted for dedication by the City or such other public agency.

#### 3.05 Miscellaneous.

- (a) Applicable Law and Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of California. Owner acknowledges and agrees that City has approved and entered into this Agreement in the sole exercise of its legislative discretion and the standard of review of the validity and meaning of this Agreement shall be that accorded legislative acts of the City. Should any legal action be brought by a Party for breach of this Agreement or to enforce any provision herein, the prevailing Party of such action shall be entitled to reasonable attorneys' fees, court costs, and such other costs as may be fixed by the court.
- (b) <u>Development Is a Private Undertaking</u>. The development contemplated by this Agreement is a separately undertaken private development. No partnership, joint venture, or other association of any kind between the Owner, on the one hand, and City on the other, is formed by this Agreement. The only relationship between City and Owner is that of a governmental entity regulating the development of private property and the owners of such private property.

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(c) <u>Construction</u>. As used in this Agreement, and as the context may require, the singular includes the plural and vice versa, and the masculine gender includes the feminine and neuter and vice versa.

## (d) Notices.

(1) 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 respective Party as follows:

## If to the City:

City Manager City of Tracy 333 Civic Center Plaza Tracy, CA 95376 Telephone: (209) 831-6000 Facsimile: (209) 831-6120

#### With a copy to:

City Attorney City of Tracy 333 Civic Center Plaza Tracy, CA 95376 Telephone: (209) 831-6130 Facsimile: (209) 831-6137

#### If to Owner:

Les Serpa Chris Long Surland Communities, LLC 1024 Central Avenue Tracy, CA 95376 Telephone: (209) 832-7000 Facsimile: (209) 833-9700

## With a copy to:

Wilson F. Wendt Miller Starr Regalia 1331 N. California Boulevard Walnut Creek, CA 94596 Telephone: (925) 935-9400 Facsimile: (925) 933-4126

- (2) Either Party may change the address stated herein by giving notice in writing to the other Party, and thereafter notices shall be addressed and transmitted to the new address. Any notice given to Owner as required by this Agreement shall also be given to all other signatory Parties hereto and any lender which requests that such notice be provided. Any signatory Party or lender requesting receipt of such notice shall furnish in writing its address to the Parties to this Agreement.
- (e) <u>Recordation</u>. No later than ten (10) days after the Effective Date, the Clerk of the City shall record a copy of this Agreement in the Official Records of the Recorder's Office of San Joaquin County. Owner shall be responsible for any recordation fees.
- (f) <u>Jurisdiction and Venue</u>. 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.
- (g) <u>Waivers</u>. 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.
- (h) <u>Execution/Entire Agreement</u>. This Agreement may be executed in two (2) duplicate originals, each of which is deemed to be an original. This Agreement, including these pages and all the exhibits inclusive, and all documents incorporated by reference herein, constitute the entire understanding and agreement of the Parties.
- (i) <u>Signatures</u>. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of Owner and City. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.
- (j) <u>Severability</u>. Should any part, term or provision of this Agreement or any document required herein to be executed or delivered be declared invalid, void or unenforceable, all remaining parts, terms and provisions hereof shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby.
- (k) <u>Exhibits</u>. The following exhibits are attached to this Agreement and are hereby incorporated herein by this reference for all purposes as if set forth herein in full:

Exhibit A Property Legal Description

Exhibit B RGA Transmittal and Application Form

[SIGNATURES ON FOLLOWING PAGE]

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

"City" CITY OF TRACY, a municipal corporation	"Owner" SURLAND COMMUNITIES, LLC, a California limited liability company
By: Richael Maciel Title: Mayor Pro Tem Date: 9-17-13	By:  Les Serpa  Title:  1
Attest:  By:  Title: CITY CLERK  Date: 4.17.13  Approved As To Form:  By: Daniel Sodergren  Title: City Attorney	
Date: 9 17 13	

## **ACKNOWLEDGMENT**

State of California County of Sun Jaquin
on March 29, 2013 before me, Kirtic L. McKenzil Notary Publ (insert name and title of the officer)
105 1 50000
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
WITNESS my hand and official seal.  KIRSTIE L. MCKENZIE Commission # 1947679 Notary Public - California San Joaquin County
Signature (Seal)  San Joaquin County My Comm. Expires Sep 8, 2015

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

On 9/17/13 before me. 3h	Here Insert Name and Title of the Officer    Macic    Name(s) of Signer(s)
Date Date	Here Insert Name and Title of the Officer
personally appeared	Name(s) of Signer(s)
SHARON K. DAVIS Commission # 1943769 Notary Public - California San Joaquin County My Comm. Expires Jul 11, 2015	who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/and subscribed to the within instrument and acknowledged to me that he/sha/they executed the same in his/ha/they authorized capacity(ibs), and that be his/ha/they signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.  I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
	WITNESS my hand and official seal.
	Signature: Show X. Navis  Signature of Notary Public
Place Notary Seal Above	Signature of Notary Public
Though the information below is not required by I	aw, it may prove valuable to persons relying on the document
	and reattachment of this form to another document.
Description of Attached Document	estated Development Agreement
Document Date:	
	Trainisor of Flagoo.
Signer(s) Other Than Named Above: Capacity(ies) Claimed by Signer(s)	
Signer's Name:	Signer's Name:
☐ Corporate Officer — Title(s):	
Individual RIGHTHUMBE	RINT   Individual RIGHT THUMBPRIN
OF SIGNER  ☐ Partner — ☐ Limited ☐ General   Top of thumb in	OFSIGNER OF SIGNER
Attorney in Fact	Attorney in Fact
☐ Trustee	☐ Trustee
Guardian or Conservator	☐ Guardian or Conservator
Other:	☐ Other:
	Signer Is Representing:
Signer Is Representing:	
Signer Is Representing:	

## Exhibit A Property Description

The land situated in the unincorporated area of the County of San Joaquin, State of California, and described as follows:

#### PARCEL NO. 1:

A portion of Section 6, Township 3, South, Range 5 East, Mount Diablo Base and Meridian according to the Official Plat thereof, more particularly described as follows: Beginning at an iron pipe in the East line of the Southwest 1/4 of said Section 6, bearing South 0° 17' East 4220.90 feet from the iron bolt at the Northeast corner of the Northwest 1/4 of said Section 6; thence along the East line of the Southwest 1/4 of said Section 6, South 0° 17' East, 964.50 feet to iron pipe in the North line of right of way the Western Pacific Railroad: thence along the North line of said right of way being 50 feet North of the center line of the main line tract of said railroad. South 89° 49' West 1796.43 feet to an iron rod at the Southeast corner of the tract of land conveyed to the United States of America by Deed recorded in Book of Official Records of San Joaquin County, Vol. 1061, Page 45, San Joaquin County Records; thence along the Northeasterly boundary line of said property conveyed to the United States of America, as follows: North 74° 58' West 550.5 feet to an iron rod; North 16° 08' West 317.4 feet to an iron rod; North 58° 09' West 1563.2 feet to an iron rod; South 89° 41' West 437.8 feet to an iron rod in the East line of the Lammers Road which is 25 feet East of the West line of said Section 6; thence along the East line of the Lammers Road, North 0° 11' West 40 feet to an iron pipe; thence 89° 41' East 449.24 feet to an iron pipe; thence South 58° 09' East 677.57 feet to an iron pipe; thence North 89° 43' 30" East 3152.53 feet to the point of beginning.

APN: 240-140-18

#### PARCEL NO. 2:

A tract of land situated in the County of San Joaquin, State of California in the Southwest 1/4 of Section 6, Township 3 South, Range 5 East, Mount Diablo Base and Meridian, more particularly described as follows:

Parcel 2 as shown upon Parcel Map recorded December 31, 1992 in Book of Parcel Maps, Vol. 18, Page 167, San Joaquin County Records.

APN: 240-140-22

## PARCEL NO. 3:

A tract of land situate in the Southwest 1/4 of Section 6 Township 3 South, Range 5 East, Mount Diablo Base and Meridian, more particularly described as follows: Beginning at an iron pipe in the East line of the Northwest 1/4 of said Section 6 bearing South 0° 17' East, 2977.36 feet from the iron bolt at the Northeast corner of the Northwest 1/4 of Section 6; thence along the East line of the Southwest 1/4 of said Section 6, South 0° 17' East 590.08 feet to an iron pipe; thence South 89° 43' 30" West, 4175.03 feet to an iron pipe in the East line of the Lammers Road which is 25 feet East of the West line of said

Section 6; thence along the East line of said Lammers Road, North 0° 11' West 590.08 feet to an iron pipe; thence North 89° 43' 30" East, 4174 feet to the point of beginning. EXCEPT THEREFROM a portion of the Southwest 1/4 of Section 6, Township 3 South, Range 5 East, Mount Diablo Base and Meridian, more particularly described as follows:

Beginning at a 1 inch iron pipe at the Northwest corner of that certain tract of land described in a Deed to Roy Tuso and Margaret Tuso, husband and wife, recorded June 8, 1949, in Book of Official Records, Vol. 1213, Page 30, San Joaquin County Records, said point of beginning being on the East line of Lammers Road (a 50 foot road); thence along the North line of said Tuso property North 89° 44' 00" East 710.00 feet to a 3/4 inch iron pipe; thence South 89° 44' 00" West, and parallel to the North line of said Tuso property, a distance of 710.00 feet to a 3/4 inch iron pipe on the East line of said Lammers Road; thence along the East line of Lammers Road North 0° 11' West, 17.00 feet to the point of beginning.

APN: 240-140-16

PARCEL NO. 4:

A portion of the Southwest Quarter of Section 6, Township 3 South, Range 5 East, Mount Diablo Base and Meridian, more particularly described as follows:

Parcel 1, as shown on that certain Parcel Map filed for record December 31, 1992, in Book 18 of Parcel Maps, at Page 167, San Joaquin County Records.

APN: 240-140-23

PARCEL NO. 5:

Parcel One, as shown on that certain Parcel Map entitled "PA-0800181, Parcel Map", filed January 27, 2009, in Book 25 of Parcel Maps, at Page 33, in the Office of the Recorder of San Joaquin County.

APN: 240-140-30

PARCEL NO. 6:

The Southeast Quarter of Section 6, Township 3 South, Range 5 East, Mount Diablo Base and Meridian.

EXCEPT THEREFROM that portion in County Road along the Easterly boundary of said Quarter Section, as said road existed on July 17, 1901.

ALSO EXCEPT THEREFROM that portion thereof conveyed to the Western Pacific Railway Company, a railroad corporation, by Deed recorded June 13, 1906 in Book "A" of Deeds, Vol. 145, Page 528, San Joaquin County Records.

ALSO EXCEPT THEREFROM that portion conveyed to Carol Joan Maridon, aka Carol J. Maridon in Deed recorded January 28, 1989 Instrument No. 89057861 and described as follows:

A portion of the Southeast one quarter of the Southeast one quarter of Section 6, Township 3 South, Range 5 East, Mount Diablo Base and Meridian, described as follows:

BEGINNING at an iron rod at the intersection of the West line of a County Road (Corral Hollow Road) and the North line of that certain parcel of real property as originally conveyed to Western Pacific Railroad Company by Deed recorded June 13, 1906 in Book A of Deeds, Vol. 145, Page 528, San Joaquin County Records; said point of beginning being North 0° 12' 00" East, along the Section line, 138.28 feet and North 89° 44' 22" West 30 feet from the Southeast corner of said Section 6, Township 3 South, Range 5 East, Mount Diablo Base and Meridian; and running thence North 89° 44' 22" West along said North line, parallel with, and 50.0 feet distant from the centerline of the existing Union Pacific Railroad tracts, 500.00 feet to an iron road; thence North 0° 12' 00" East, parallel with Corral Hollow Road and the East line of said Section 6, 174.24 feet to an iron rod; thence South 89° 44' 22" East, parallel with said North boundary conveyed to Western Pacific Railroad Company, 500.00 feet to an iron rod on the West line of Corral Hollow Road; thence South 0° 12' 00" West along said West line, 174.24 feet to the point of beginning.

EXCEPT THEREFROM that portion conveyed to the County of San Joaquin in Deed recorded January 27, 1989, Document No. 89007328, Official Records.

ALSO EXCEPT THEREFROM all of Parcel One as shown on that certain Parcel Map entitled "PA-0800181, Parcel Map", filed January 27, 2009, in Book 25 of Parcel Maps, at Page 33, in the Office of the Recorder of San Joaquin County.

Note: The above described parcel of land is also shown as the "Designated Remainder" on that certain Parcel Map entitled "PA-0800181, Parcel Map", filed January 27, 2009, in Book 25 of Parcel Maps, at Page 33, in the Office of the Recorder of San Joaquin County.

APN: 240-140-31

# Exhibit B RGA Application

## **RGA Transmittal Form**

## SURLAND DEVELOPMENT AGREEMENT RESIDENTIAL GROWTH ALLOTMENT APPLICATION

This is a Residential Growth Allotment (RGA) application as provided for in the Development Agreement between THE CITY OF TRACY and SURLAND					
COMMUNITIES, LLC dated	("Agreement").				
Submitted by:	unnermann men er er regen hann begett hannassische				
Received by:	NUMBER AND ADDRESS OF THE PROPERTY OF THE PROP				

## APPLICATION FOR RESIDENTIAL GROWTH ALLOTMENTS

## Purpose Of Application

RGA's:	Exception (	For Affordable Housing Units):
	Applicant's	Information
Name:	Tel	ephone No.:
Company:		Fax No.:
Mailing Address:		
	•	
	,	r's information
Name:	Tele	ephone No.:
Company:	**************************************	_ Fax No.:
Mailing Address:	engenen menenggapagan pada kepada	
	* *	
4		onal property owner information)
	Project Int	ormation .
Recorded Subdivision	n Name:	
*		Total Acreage:
Specify Planning Are	ea (ex: Ellis, etc.):	
Pro	ject (Ownership) Area fo	r which RGA's are applied
<sup>o</sup> roject Area name (h	f different from above):	
		ggannionna angles - s
	**	er of Project Area lots:

## Project (Ownership) Area for which RGA's are applied (continued)

Total number of RGA's previously awarded to Project Area:
Total number of building permits issued:
Total number of unused RGA's (RGA's previously awarded less the total number of RGA's use
for building permit issuance):
Total number of RGA's requested in this application:
Identify the relevant plan approval(s) that have been obtained for the Project
Area:
Applicant's Signature
I, the undersigned, have complied with all the requirements of the Agreement relevant to this application:
Applicant's Signature Date

Doc #: 2009-022386
Fri Feb 06 12:22:50 PST 2009
Page: 1 of 61 Fee: \$188.00
San Joaquin County Recorders
Paid By: SHOWN ON DOCUMENT

Recording Requested By:

City of Tracy Sandra Edwards, Tracy City Clerk

When Recorded Return To:

City Clerk's Office City of Tracy 333 Civic Center Plaza Tracy, CA 95376

DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF TRACY
AND
SURLAND COMMUNITIES

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# DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF TRACY AND SURLAND COMMUNITIES, LLC

This "Agreement," dated for the convenience of the Parties this 2009, is entered into by and between the CITY OF TRACY, a municipal corporation ("City"), and SURLAND COMMUNITIES, LLC, a California limited liability company ("Owner"), pursuant to Government Code sections 65864 et seq. ("Development Agreement Statute"), City Resolution No. 2004-368 (establishing rules, regulations, procedures and requirements, including fees, for the processing and approval of a development agreement ("Enabling Resolution")), and Article XI, section 7 of the California Constitution ("Police Powers"). From time to time, City and Owner are individually referred to in this Agreement as a "Party," and are collectively referred to as the "Parties."

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and other considerations, the value and adequacy of which is hereby acknowledged, the Parties hereby agree as follows:

## **RECITALS**

- A. The preceding Preamble, and the following Recitals, are true and correct, are a part of this Agreement, and the terms defined in both are used throughout this Agreement.
- B. To strengthen the public planning process, to encourage private participation in the provision, dedication and funding of community benefits and amenities that could not otherwise be required under controlling law (such as the below-described "Swim Center"), to set forth the procedures and processes to be employed in the processing of subsequent development requests, to ensure compliance with all state and federal procedural and substantive laws prior to action on such development requests, and to ensure compliance with all City laws, including without limitation the City's Growth Management Ordinance, City and Owner enter into this Agreement. This Agreement has been drafted and processed pursuant to the Development Agreement Statute, Enabling Resolution and the City's Police Powers.
- C. The establishment of a family-oriented swim center is one of the City's priorities, has been contemplated for years, and is overwhelmingly supported by the Tracy community. Yet City funding for such an effort is lacking. Owner, a local developer with a long track record of award-winning development in the City, made a proposal to City whereby Owner would dedicate to City (at no cost to City) up to 21 acres of land, would conceptually design, would assist City with project oversight, and would fund \$20 million toward the construction of the kind of family-oriented Swim Center described in this Agreement for the Tracy community in return for being eligible for a set number of "Residential Growth Allotments" (also referred to in this Agreement as "RGAs"). This Owner proposal has secured remarkable community support. However, City Planning Commission ("Planning Commission") and Staff expressed



reservations regarding the overall number of RGAs being proposed. City Planning Commission and Staff understood that a reduction of RGAs would lead to a reduction of Owner land dedication and money contribution. City Staff recommended a reduced land dedication and a reduced money contribution. The Parties understood that the money contribution should be shared more evenly by the rest of the development community. Therefore, the Parties negotiated a 16-acre land dedication, and a more evenly spread money contribution. All of these Swim Center-related Owner commitments are specifically described in this Agreement and its exhibits and are collectively referred to in this Agreement as the "Swim Center Commitment."

- Prior to the execution of this Agreement by the Parties, Owner submitted D. applications to the City regarding the "Ellis Specific Plan." The Ellis Specific Plan is situated on property within the earlier approved and much larger "South Schulte Specific Plan." However, several years ago, City and Owner began discussing the possibility of a smaller, more mixed-use-oriented project than that envisioned in the larger South Schulte Specific Plan. The Parties began processing the Ellis Specific Plan under the City's then existing General Plan which would create a new set of planning and design guidelines for the Ellis project to ensure pedestrian-friendly neighborhood connectivity and overall enhanced community character. That approach envisioned an amendment to the then-existing General Plan as part of the Ellis Specific Plan approval process. Then, City began its update of the then-existing General Plan, and on July 20, 2006, City adopted a General Plan. That new General Plan was further amended as part of the City's approval of the Ellis Specific Plan and project. The updated and amended General Plan as of the adoption and execution of this Agreement is referred to in this Agreement as the "General Plan." The General Plan takes the area originally encompassed by the South Schulte Specific Plan and separates it into several distinct planning areas referred to as "Urban Reserves." Urban Reserves 9, 10 and 11, and parts of Urban Reserves 8 and 16 comprise the area originally encompassed by the original South Schulte Specific Plan.
- The Ellis Specific Plan lies solely within the area designated as the Urban Reserve Ε. 10 planning area in the General Plan. The General Plan envisions that development within Urban Reserve 10 shall be done by Specific Plan, with a corresponding amendment to the General Plan as part of that Specific Plan approval process. Owner submitted applications to City regarding the Ellis Specific Plan (for example, the Ellis Specific Plan, corresponding General Plan Amendment and related zoning, and the Swim Center described in this Agreement - collectively included in any reference to the "Ellis Specific Plan") and Owner submitted an application to City for this Agreement. The General Plan Amendment, done in combination with the Ellis Specific Plan, re-designated the Ellis Specific Plan site into four (4) planning designations: Village Center, Commercial, Public Facilities, and Traditional Residential-Ellis (which includes parks). The Ellis Specific Plan also contains zoning-level regulations for the Ellis Specific Plan site, including regulations relating to the commercial uses (up to approximately 180,000 square feet), residential uses (up to 2,250 residential units of varying type and configuration) and related mixed uses, as well as the Swim Center. From a planning perspective, the goals and ideals of the Ellis Specific Plan exemplify excellence in land planning, architecture, landscape architecture, and urban design, and comply with the General Plan, including its Community Character and Land Use elements. The Ellis Specific Plan encompasses a unique community of a distinct character and type, with well-planned homes, small-scale businesses, major public amenities, including the Swim Center, and an integrated, multi-use village center that promotes businesses that are small, local, and neighborhood-serving.

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The Swim Center is to be located adjacent to, and will be complementary with, the village center. The character of development within the Ellis Specific Plan evokes the wonderful historic neighborhoods of Tracy. Traditional planning techniques and architecture true to the local vernacular capture the essence of Tracy and create timeless neighborhoods that fit seamlessly into the City. All these planning goals and ideals have been considered and acted upon by City (in its sole and exclusive discretion) after a public process.

- **F.** The City undertook environmental review of the potential direct and indirect environmental impacts of the Ellis Specific Plan and this Agreement pursuant to the California Environmental Quality Act and Guidelines promulgated there under (collectively, "**CEQA**") as follows:
  - (1) As a part of its General Plan efforts, and prior to adopting the General Plan, City undertook environmental review of the potential direct and indirect environmental impacts of the General Plan pursuant to CEQA, certified the Final Environmental Impact Report for the General Plan, State Clearinghouse #1992122069 ("General Plan EIR"), and adopted findings, mitigation measures and a statement of overriding considerations in connection therewith. As set forth in greater detail herein, this Agreement is consistent with the General Plan EIR.
  - As a part of the original South Schulte Specific Plan efforts, City prepared and certified an EIR ("South Schulte EIR"). The South Schulte EIR was challenged in court and a settlement was arrived at ("South Schulte EIR Settlement") that required City to conduct additional studies and analysis. Initially, the City began to process a Supplemental EIR to address the South Schulte EIR Settlement. However, with the General Plan Update and its new approach to the area formerly known as the South Schulte Community Area, and with the City desire to conduct a thorough analysis of the new Urban Reserve 10, City decided to cause to be prepared an entirely new Environmental Impact Report.
  - As part of its review of Owner's pending applications, City caused to be prepared an Environmental Impact Report ("EIR") analyzing both the Ellis Specific Plan (including the Swim Center) and this Agreement. An earlier version of this Agreement contained a program (sometimes referred to in the EIR as the Development Agreement Program or DAP) to allow up to 3,850 RGAs, building permits (and hence development), which 3,850 was comprised of the development with the Ellis Specific Plan (at a density within its allowed range of 1200 to 2,250) and development in other parts of the City beyond that development ultimately occurring within the Ellis Specific Plan. At the time of the preparation of the EIR, Owner proposed a \$20 million commitment of money and 21 acres of land toward the Swim Center in return for this Agreement allowing Owner the eligibility to apply for up to 3,850 of RGAs. Therefore, the Parties felt that this Agreement was potentially the first step toward other potential future projects (beyond the Ellis Specific Plan) that could become subject to this Agreement, and hence could become eligible to apply for all or a portion of the remaining RGAs allowed by this Agreement, and therefore the review of this Agreement should be included in the EIR. Therefore, the EIR studies the potential impacts of these potential future projects even though currently no specific development applications have been

submitted and therefore such potential future development (beyond the Ellis Specific Plan) arguably is too speculative at this point and beyond the abilities of the EIR. This is because no development nor physical impact different than the status quo can occur under this Agreement or the program it establishes. Only if, unless, and until full compliance with all controlling California law (including proper CEOA and Planning and Zoning Law compliance) has taken place, the City in reliance on that information (generated by such legal compliance) has taken an "action" (which action is within City's sole and exclusive discretion), and that action is a product of such legal compliance, can any development by Owner occur or an RGA be allocated by City under this Agreement. As a result, this Agreement is subject to the general rule that it can be seen with certainty that this Agreement alone cannot and will not lead to any adverse impact on the environment. See, CEQA Guidelines § 15061(b)(3). CEQA applies to a governmental action only if it is an essential step in a chain of events directly or indirectly leading to a change in the physical environment. Kaufman & Broad-South Bay Inc. v. Morgan Hill Unified School Dist., 9 Cal.App.4th 464, 474 (1992); see also Citizens to Enforce CEQA v. City of Rohnert Park, 131 Cal.App.4th 1594 (2005); Simi Valley Recreation & Park Dist. v. Local Agency Formation Com., 51 Cal.App.3d 648 (1975). Likewise, if and when City eventually considers all or any aspect of any other Owner proposed project, such consideration will be prefaced with review under CEQA and all other applicable This Agreement expressly requires such subsequent environmental review and expressly prohibits the limitation of that review by this Agreement or any other agreement.

- Nonetheless, City decided to address under CEQA, as early as **(4)** possible, the potential future projects that could become subject to this Agreement, even though currently no specific development proposals (beyond the Ellis Specific Plan approval) have been proposed by Owner. As a result of this City decision, the EIR was drafted to provide the environmental review and analysis for all of the following: (1) the Ellis Specific Plan (with the Swim Center) and its zoning ("Ellis Approvals") at the development level (sometimes referred to under controlling law as the project level, the level where enough specifics are known to be able to conduct such detailed analysis), and (2) the remaining potential development contemplated by this Agreement at the programlevel. A program EIR is appropriate for this second component of analysis because this Agreement sets forth a program by which the future properties and projects will be subject to future development approvals and future public and environmental review. Program EIRs under CEQA are intended for such situations that, like this Agreement, set forth "rules, regulations, plans, or other general criteria to govern the conduct of a continuing program" (CEQA Guidelines § 15168(a)(3)), such as a future process for the consideration of project approvals.
- Ultimately, despite the thorough environmental review set forth in the EIR, the City decided to approve the Ellis Specific Plan project, but also decided to reduce the size of the "Development Agreement Program" or "DAP" (described in the EIR as the potential development beyond Ellis) than that originally proposed by Owner and analyzed in the EIR's "Project Description." Instead, City reduced that DAP to be one equal to the maximum density allowed on the Ellis Specific Plan property (2,250 residential units). Now, this Agreement contains a program to allow up to 2,250 RGAs

and building permits (and hence development), which 2,250 is comprised of the development with the Ellis Specific Plan (at a density within its allowed range of 1200 to 2,250) and development in other parts of the City beyond that development ultimately occurring within the Ellis Specific Plan. Likewise, the City revised the project to require Owner to provide \$10 million and 16 acres toward the Swim Center, rather than \$20 million and 21 acres, with any balance of funds needed expected to be provided by fees or other assessments imposed on other future development projects. The resulting overall development scenario, consequently, is the same as that studied by the EIR except for a reduction in the potential residential units from 3,850 to 2,250. This 1600 unit reduction in potential residential development means that the approved development scenario will produce qualitatively similar but proportionally lesser environmental impacts. Because CEQA authorizes, even encourages, the adoption of an alternative to a proposed project that will result in lesser environmental impacts, the City's environmental review was more than legally adequate. (Pub. Res. Code §§ 21002, 21002.1; CEQA Guidelines § 15002.)

- (6) This Agreement does not impede, impair or otherwise seek to truncate or limit future CEQA review. Future CEQA review shall take place as required by applicable law.
- G. As of the execution of this Agreement by the Parties, various land use regulations, entitlements, grants, permits and other approvals will have been adopted, issued, and/or granted by City relating to the Ellis Specific Plan, including, without limitation, all of the following:
  - (1) EIR (City Council Resol. No. 2008-260)
  - (2) Annexation Agreement (City Council Resol. No. 2008-262)
  - (3) TR Ellis General Plan Amendment (City Council Resol. No. 2008-261)
  - (4) Ellis Specific Plan (with Zoning) (City Ordinance No. 1130)
  - (5) This Agreement (City Ordinance No. 1131)

The above-listed approvals are more particularly described in the EIR and the resolutions adopting those approvals.

H. Given the community character quality of the Ellis Specific Plan, its compliance with CEQA and applicable planning and zoning laws, and its approval by the City, and given Owner's significant land dedication, financial obligations and personnel commitment to the Swim Center (as set forth in this Agreement), the City wishes to allow Owner to be eligible to apply for and potentially receive up to 2,250 RGAs. Again, if, and only if, certain specified prerequisites set forth in this Agreement are first satisfied, then may Owner record this Agreement against properties and become "eligible" to apply for the RGAs provided for in this Agreement. As to all property, as detailed in this Agreement, Owner must have a legal or equitable interest in such property before this Agreement can be recorded against such property. Further, under this Agreement, only after an application for development of such property by Owner is first properly and publicly processed and reviewed in compliance with all controlling planning and

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environmental (CEQA) laws, the CEQA compliance work is certified and adopted by City, and then the development proposal and its needed permits and entitlements are adopted and approved by City (which City adoption and approval shall remain within the full and exclusive discretion of City and which adoption and approval is not mandated by this Agreement), will Owner be eligible to make application for RGAs under this Agreement. In other words, only upon acquisition of the requisite interest in a property and then the successful conclusion of this City-controlled and fully discretionary planning/environmental review process will Owner then be "eligible" to apply for a set number of RGAs, and those RGAs will only be used on such property and approved project. This opportunity to be "eligible" for such future RGAs if such compliance requirements are secured is enough of an additional value to Owner for Owner to agree to the full Swim Center Commitment; without such additional value, Owner could not agree to the level of land dedication and financial obligation contained in the Swim Center Commitment. Through the Approvals given for the Ellis Specific Plan, Owner may record this Agreement against that property within the Ellis Specific Plan (shown on *Exhibit A* to this Agreement).

- I. City's issuance of RGAs under this Agreement complies with City's Growth Management Ordinance and the City's Growth Management Ordinance Guidelines (collectively, "GMO"), and the maximums they set for annual RGA and building permit issuance for development agreements (referred to in this Agreement as the "GMO Maximums" and further defined below in Section 1.07(c) of this Agreement).
- J. The real property that is the immediate subject of this Agreement is that portion of the Ellis Specific Plan property that is depicted and legally described on Exhibit A to this Agreement (the "Immediate Property"). Owner has a legal and/or equitable interest in the Immediate Property. In addition, all of the Ellis Specific Plan property will be subject to this Agreement, and other properties may become eligible to record this Agreement and thereafter secure its relevant rights, responsibilities, burdens and benefits, if and only if the requirements of this Agreement and applicable law are first satisfied. The additional portions of the Ellis Specific Plan property (beyond the Immediate Property) and other potential properties are collectively referred to in this Agreement as an "Other Property" or "Other Properties." Further, the Immediate Property and such Other Properties are collectively referred to in this Agreement as the "Property."
- K. It is in this unique setting - a strong community desire to construct the Swim Center and Owner's willingness to provide such an extraordinary commitment in return for future eligibility to apply for RGAs - that the Parties must draft this Agreement, ensuring that all of the requirements of controlling law are satisfied. This Agreement meets all of the requirements of law: it meets the contents requirements of the Development Agreement Statute and applicable law; it establishes a protocol for the processing of future approvals; and it establishes a process by which this Agreement can be recorded against future properties if and only if the requirements of law are satisfied. City and Owner are entering into this Agreement now in this fashion because of the unique community interest in the Swim Center and the benefits it will bring to Tracy and the unique opportunity the City presently has with the Owner's willingness to make substantial land dedication, design creation and financial contribution commitments to make the Swim Center a reality, while at the same time establishing a process and protocol that ensures that only after appropriate environmental and planning review will the City determine -

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in the City's sole and exclusive discretion - - whether future Owner projects (beyond the Ellis Specific Plan) should be approved.

- The consideration by City of the Swim Center, its location, the offer by Owner and this Agreement has been underway for more than seven years. In 2001, a survey of the Tracy community and public workshops were held that identified the need for community aquatic facilities. In 2003, NTD Architects completed the Tracy Aquatic Center Feasibility In July 2005, the City Council directed Tracy Tomorrow and Beyond to make Study. recommendations for the Swim Center. In the summer of 2005, Tracy Tomorrow and Beyond conducted additional public workshops. In October of that year, the City Council received the recommendations of Tracy Tomorrow and Beyond. Also in October 2005, Owner proposed Ellis as a location to be considered for the Swim Center. Between October 2005 and January 2006, the City studied a number of possible sites for the Swim Center including the existing Tracy ballpark. In January 2006, the City Council selected the Ellis Specific Plan as the site for the Swim Center. In April 2006, the City Council authorized City Staff to begin negotiations with Owner for a Development Agreement with provisions for the granting of funds and land by Owner for a Swim Center. In August 2006, the City Council, Planning Commission, and Parks Commission approved the conceptual design for the Swim Center at Ellis. In May 2007, the City Council directed City Staff to prioritize this Agreement for Ellis and the Swim Center. In January 2008, a joint Planning Commission/City Council workshop was held to discuss this Agreement, the Ellis Specific Plan, and the Swim Center. Between April and December of 2008, the Planning Commission held a series of public meetings to discuss the EIR, the General Plan Amendment, the Ellis Specific Plan and this Agreement. The City Council and the Planning Commission provided direction and the public provided comment throughout this process.
- For all of the reasons stated above, this Agreement is consistent with the General M. Plan and the Ellis Specific Plan. For example, as required by the General Plan, this Agreement envisions proper environmental analysis and a proper planning process in compliance with controlling law before any approval allowing development can take place. No approvals are granted through, nor guaranteed by, this Agreement, and this Agreement ensures that the City's future consideration and decision shall be in the sole and exclusive discretion of the City. (General Plan Goal LU-1 and Objective LU-1.1 (and its Policy P1); Objective LU-1.2 (and its Policy P3); Goal LU-6; and Goal LU-7.) Further, this Agreement requires that any distribution of RGAs under this Agreement comply with all applicable City regulations, including the General Plan (Objective LU-1.4, Policies P1-P5 and Action A1). This Agreement helps to bring to fruition the kind of family-oriented swim center envisioned by the General Plan (Objective OSC-4.1, Policies P3, P10, Action A3). In fact, the General Plan recognizes this Agreement as the potential vehicle by which the City and Owner could reach agreement relative to such a swim center in a manner that City could not otherwise require Owner to do, that Owner may receive RGAs only if and after all requirements of controlling law have been satisfied, and that such risk shall be placed on Owner alone. Finally, this Agreement is not contrary to nor contradictory of any General Plan text or diagrams.
- N. On December 3<sup>rd</sup>, 2008, following duly noticed and conducted public hearings, the Planning Commission, the hearing body for purposes of the Development Agreement Statute, took appropriate action under CEQA, the Planning and Zoning Law, and the Tracy Municipal Code, and made recommendations regarding this Agreement to the City Council. On December

16<sup>th</sup>, 2008, following duly noticed and conducted public hearings, the City Council certified the EIR, took appropriate action under the Planning and Zoning Law, and introduced and conducted the first reading of Ordinance No. 1131, an ordinance approving this Agreement, and directing this Agreement's execution by City ("Approving Ordinance"). On January 6<sup>th</sup>, 2009, the City Council conducted the second reading and adopted the Approving Ordinance.

## ARTICLE 1 APPLICABLE DEVELOPMENT TERMS

## 1.01 The Swim Center at Ellis.

- (a) Owner hereby commits to provide ten million dollars (\$10,000,000.00) toward the design, construction, operation and maintenance of the Swim Center, with City being responsible for the facility program, and construction, operation and maintenance of the facility. Owner shall deposit into a segregated and interest-bearing City account the "Owner Swim Center Contribution," as further defined and described in the "Swim Center Payment Protocol" set forth in Exhibit B to this Agreement, within thirty (30) days of the "Annexation Effective Date" of the annexation of the Ellis Specific Plan area to City (defined below). Once so deposited, the Owner Swim Center Contribution shall be available for use by City, further defined and described in the Swim Center Payment Protocol set forth in Exhibit B to this Agreement. City and Owner shall develop the Swim Center pursuant to a public/private partnership. The detailed terms and conditions of that public/private partnership are set forth in Exhibit B to this Agreement.
- (b) Owner shall make an offer of dedication to City of land not to exceed a total size of sixteen (16) acres (unless Owner in its sole and exclusive discretion determines to provide City with more than 16 acres) for the Swim Center ("Swim Center Land Dedication"), subject to the following:
- shall make an offer of dedication of the Swim Center Land Dedication to City, which Swim Center Land Dedication shall be of no cost to City. Owner's offer of the Swim Center Land Dedication shall take place in that location and configuration set forth in the Ellis Specific Plan. City shall have two (2) years from the Annexation Effective Date to accept the Swim Center Land Dedication ("Two-Year Period"). If City does not accept said Swim Center Land Dedication within the Two-Year Period, then one (1) day after the conclusion of the Two-Year Period, such Owner offer to City of the Swim Center Land Dedication shall be considered rejected by City, shall expire without any further action of the Parties, and thereafter, the land comprising the Swim Center Land Dedication shall be available for development by Owner pursuant to the Ellis Specific Plan. Additionally, at any time prior to said Two-Year Period, City rejection, the land comprising the Swim Center Land Dedication, and upon such City rejection, the land comprising the Swim Center Land Dedication shall be available to Owner for development pursuant to the Ellis Specific Plan.
- (2) The minimum on-site park requirements of the Ellis Specific Plan are addressed in Section 1.16 of this Agreement. The Swim Center shall be considered a City "community park," as that term is defined in the General Plan and other City laws. Upon City

acceptance of the Swim Center Land Dedication, Owner shall have satisfied its community or regional park(s) obligation, and shall not be required to pay any additional monies toward the Swim Center or any other community or regional park(s).

- (c) City shall contribute toward the Swim Center that amount of money (plus interest earned) that City has already collected (and will continue to collect) from the Plan C FIP designated for an aquatic center ("City Swim Center Contribution"). The Owner Swim Center Contribution and the City Swim Center Contribution are collectively referred to in this Agreement as the "Swim Center Funds." Additionally, to the extent legally possible, City should establish and impose against new development a fee, charge, assessment or other financial obligation to be used toward the costs of the design, construction, operation and maintenance of the Swim Center ("New Development Swim Center Contribution"). Any and all New Development Swim Center Contributions collected by City should be added to the Swim Center Funds. The requirements of this subdivision (c) are further defined and described in the Swim Center Payment Protocol set forth in Exhibit B to this Agreement.
- (d) Owner already has provided a design team to City, and Owner has already conducted an outreach program that led to the completion of the "Conceptual Design" of the Swim Center. The Conceptual Design provides the detail for the Swim Center project description provided by this Agreement.
- (e) The Swim Center shall be named the "Serpa Swim Center." After acceptance of the Swim Center by the City, but prior to the opening of the Swim Center to the public, City shall allow Owner to use and occupy the Swim Center for one (1) day without charge. Owner shall provide adequate insurance coverage for such use and occupancy.
- (f) The amenities included in the Conceptual Design for the Swim Center have been selected through a public outreach program, are subject to the constraints of the Swim Center budget and compliance with controlling law, and may include the following:
  - (1) 50 Meter (approximately) Competition Pool
  - (2) Recreation Pool (separate from Competition Pool)
  - (3) Spray ground
  - (4) Water Slide
  - (5) Wet Play Structure
  - (6) Lazy River
  - (7) Flow Rider
  - (8) Showers and Locker Rooms
  - (9) Ticket Facilities

- (10) Pool Equipment Room and Storage
- (11) On Site Development (parking, ancillary structures, landscaping,
- (g) If a funding shortfall should exist, the work for each phase of the Swim Center shall be prioritized for that particular phase at the time that City seeks bids for the particular phase. Work receiving a higher priority shall be completed first so as to ensure its completion. As a result, if work cannot be completed due to a budget shortfall, that work receiving a lower priority could potentially be deferred.

## 1.02 Other Processing.

etc.).

- (a) Nothing in this Agreement shall be construed to limit the authority or obligation of City to hold necessary public hearings, nor to limit the discretion of City or any of its officers or officials with regard to those "Owner Approvals" (defined below) that require the exercise of discretion by City, provided that such discretion shall be exercised consistent with the laws contained with the Applicable Law.
- (b) At its approval and execution, this Agreement does not provide Owner with any right to develop or construct any project or to secure any Owner Approval; instead, it simply provides certain rights and responsibilities regarding approvals already given for the Ellis Specific Plan, provides certain vested rights to laws and approvals already in place, provides a protocol by which later Owner Approvals may be processed by Owner and later included into this Agreement - if and only if such Owner Approvals are compliant with all controlling California law (including proper Planning and Zoning Law and CEQA compliance), have secured approval of the Parties, and are adopted/approved by the City (who shall retain all discretion in this regard) - and provides the process by which this Agreement will be recorded against the property that Owner has the statutorily-required interest in. The public review process envisioned by this Agreement is ongoing, and following City's adoption of this Agreement, that public review process shall continue.
- (c) City shall inform Owner, upon request, of the necessary submission requirements for a complete application for each Owner Approval. Owner Approval shall include, without limitation, an Owner petition to LAFCO seeking all LAFCO approvals relative to the annexation of Owner property to the City, and/or an Owner request to City that City adopt a resolution of application to LAFCO seeking all LAFCO approvals relative to the annexation of Owner property to the City, and/or all the actions contemplated in Section 1.11 of this Agreement. Provided Owner has paid all appropriate Processing Fees, City shall accept, process, review and act upon all applications for Owner Approvals pursuant to this Agreement and the Applicable Law it describes with "Good Faith and Fair and Expeditious Dealing." Likewise, City shall commence, continue and diligently process any and all initial studies, assessments, EIRs and other relevant CEQA compliance documents regarding the Owner Approvals with Good Faith and Fair and Expeditious Dealing. For the purposes of this Agreement, "Good Faith and Fair and Expeditious Dealing" shall mean that that the Parties shall act toward each other and the tasks necessary or desirous to the processing contemplated by this Agreement pursuant to the Applicable Law and in a fair, diligent, best efforts, expeditious and reasonable manner

(except in those cases where a Party is given sole discretion under this Agreement), and that no Party or Parties shall take any action that will prohibit, impair or impede any other Party's or Parties' exercise or enjoyment of its rights and obligations secured through this Agreement.

If Owner requests, City shall meet with Owner prior to Owner's (d) submission of applications for Owner Approvals for the purpose of ensuring all requested information is understood by Owner so that Owner's applications, when submitted, will be accurate and complete. Upon submission by Owner of an application for an Owner Approval, together with appropriate Processing Fees, City shall process such application for Owner Approval with Good Faith and Fair and Expeditious Dealing. If City is unable to so process any such application, or upon request by Owner, City shall engage mutually acceptable outside consultants to aid in such processing. Owner shall be required to pay all of City's actual costs related to such outside consultants. Owner, in a timely manner, shall provide City with all documents, applications, plans and other information necessary for City to carry out its obligations hereunder, and Owner shall cause the Owner's planners, engineers and all other consultants to submit in a timely manner all required materials and documents. If City denies an application for an Owner Approval, City shall specify in detail the modifications, changes, or improvements that are required to obtain approval. City and Owner shall cooperate, with the goal being to obtain and issue Owner Approvals that are consistent with the modifications, changes, or improvements that are required by City. City shall with Good Faith and Fair and Expeditious Dealing consider any subsequently submitted Owner Approval that complies with the City-specified modifications.

## 1.03 Applicable Law.

- (a) As used in this Agreement, "Applicable Law" shall exclusively mean all of the following:
- (1) As relates to the development of any or all of the Property, the terms and conditions of this Agreement.
- (2) The EIR, the General Plan Amendment, the Ellis Specific Plan and its zoning regulations, and all other land use regulations, entitlements, grants, permits, plans and other "Owner Approvals" that City has already or will in the future specifically approve, adopt, issue, and/or grant relative to Owner requests relating to the Property, provided such Owner Approvals are:
  - (A) Compliant with all controlling California law (e.g., Planning and Zoning Law, CEQA, etc.);
    - **(B)** Mutually agreed to by the Parties;
    - (C) Adopted by the City; and
    - (D) Take "Legal Effect."
- (3) As relates to the development of any or all of the Property, the City rules, regulations, ordinances, policies, standards, specifications, practices and standard

operating procedures of City (whether adopted by the City Council, the Planning Commission, the City staff or the voters of the City) in force and effect on December 1<sup>st</sup>, 2008 ("Existing City Laws"). The City has determined that the Specific Plan Ordinance adopted by City on November 18<sup>th</sup>, 2008 does not apply to the Property.

- (4) As relates to the development of any or all of the Property, the City "Processing Fees" for land use approvals, including without limitation, fees for processing zoning, subdivision maps, building permits and other similar permits and entitlements which are charged for processing applications and which are in force and effect on a Citywide basis at the time the application for the Owner Approval is presented to the City.
- California Building Code (as modified by City), and those other State-adopted construction, fire and other codes, including "Green Codes" (as all may be modified by City) applicable to improvements, structures and development, and the applicable version or revision of said codes by local City action (collectively referred to as "Construction Codes") in place at that time (date) that building plans subject to such Construction Codes are submitted by Owner to City for an Owner Approval, provided that such Construction Codes have been adopted by City and are in effect on a Citywide basis.
- (6) As relates to the development of any or all of the Property, the "Mandated New City Law(s)," pursuant to Section 1.05(e) of this Agreement.
- (7) As relates to the development of any or all of the Property, the "New City Law(s)" that Owner elects to be subject to pursuant to Section 1.05(d).
- (8) As relates to the development of any or all of the property contained in a Plan Approval outside the Ellis Specific Plan, those "affordable housing" laws in place at the time of application completion for such Plan Approval.
- This Agreement complies with laws regarding Development Agreement Statute (including without limitation section 65865.2), which requires this Agreement to specify the duration (Term) of the Agreement, the permitted uses of the Property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The duration of this Agreement is set forth in Section 1.06 of this Agreement, and this Agreement sets forth provisions for the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes in the Applicable Law provisions of this Agreement. For example, the Ellis Specific Plan is part of the Applicable Law for the Ellis Specific Plan property, and the Ellis Specific Plan sets forth the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes for that Ellis Specific Plan property. Likewise, as to Other Properties beyond the Ellis Specific Plan property that this Agreement may apply to in the future, upon the recordation of this Agreement against such Property, the Applicable Law will apply, which Applicable Law uses the General Plan and City Laws applicable to such Property, all of which set forth the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes. Further, such General Plan and City



Laws require the processing and City approval of Owner Approvals before any development can take place, which Owner Approvals will likewise set forth the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes. Finally, under this Agreement's own terms and conditions, Owner is not eligible to make application for nor receive an RGA (needed before any residential development can take place in City) unless and until a "Plan Approval" (defined in Section 1.07(b) of this Agreement) has first been processed and approved by City pursuant to this Agreement. Under this Agreement, such Plan Approval must set forth the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes. Like the Ellis Specific Plan, that Plan Approval will become part of the Applicable Law provisions of this Agreement. In other words, at no time upon the recordation of this Agreement against a Property (which recordation cannot take place until the requirements of this Agreement and controlling law have been satisfied regarding the recordation of this Agreement against such Property) will there not be applicable, known and understood permitted uses, the density and intensity of those uses, the maximum height and size of proposed buildings, and the dedication of land for public purposes relative to such Property.

- (c) The Parties acknowledge that the Ellis Approvals and other Owner Approvals likely will be processed in stages and therefore one or more Ellis Approvals and/or Owner Approvals may take Legal Effect before other Ellis Approvals and/or Owner Approvals.
- (d) In the event of any conflict between any of subparts (1), (2), (3), (4), (5), (6) and/or (7) of subdivision (a) of this Section 1.03 (above), the hierarchical order of authority shall be subpart (1) first, then subpart (2), then subpart (3), then subpart (4), then subpart (5), then subpart (6), then subpart (7), then subpart (8).

## 1.04 Vested Right to Applicable Law.

- (a) By this Agreement, the Property against which this Agreement is recorded (such recordation not allowed until the requirements of this Agreement and applicable law have been satisfied) shall have a vested right to the Applicable Law.
- (Immediate Property and/or Other Property) and any discretion exercised by City on an Owner Approval shall occur pursuant to only the law that comprises the Applicable Law. During the Term of this Agreement, City regulation of the development of the Property (Immediate Property and/or Other Property) shall occur pursuant to only the Applicable Law.

## 1.05 New City Law(s).

(a) Any City ordinance, resolution, minute order, rule, motion, policy, standard, specification, or a practice adopted or enacted by City, its staff or its electorate (through their powers of initiative, referendum, recall or otherwise) that is not part of the Applicable and that takes effect on or after December 2<sup>nd</sup>, 2008 is hereby referred to as a "New City Law(s)." The Parties recognize that City is currently updating its GMO Guidelines and that the provisions set forth in this Agreement will be incorporated into the GMO Guidelines. Except as otherwise provided in this Agreement, a New City Law shall be deemed to be in conflict with



this Agreement or the Applicable Law or to reduce the development rights provided hereby if the application to the Property would accomplish any of the following results, either by specific reference to the Property or as part of a general enactment which affects or applies to the Property:

- (1) Change any land use designation or permitted use of the Property allowed by the Applicable Law or limit or reduce the density or intensity of the Property or any part thereof, or otherwise require any reduction in the total number of residential dwelling units, square footage, floor area ratio, height of buildings, or number of proposed non-residential buildings, or other improvements;
- (2) Limit or control the availability of public utilities, services, or facilities otherwise allowed by the Applicable Law;
- (3) Limit or control the rate, timing, phasing or sequencing of the approval, development, or construction of all or any part of the Property and/or Owner Approvals in any manner, or take any action or refrain from taking any action that results in Owner's having to substantially delay construction on the Property or require the acquisition of additional permits or approvals by the City other than those required by the Applicable Law;
- (4) Limit or control the location of buildings, structures, grading, or other improvements of the Property in a manner that is inconsistent with or more restrictive than the limitations in the Ellis Approvals and Applicable Law;
  - (5) Limit the processing of Owner Approvals.
- City shall not apply any New City Law(s) to the Property that is in conflict (b) with this Agreement or that is excessive under controlling law (collectively, "in conflict with" or "inconsistent with"). If City believes that it has the right under this Agreement to impose/apply a New City Law on the Property/project, it shall send written notice to Owner of that City position ("Notice of New Law(s)"). Upon receipt of the Notice of New City Law, if Owner believes that such New City Law is in conflict with this Agreement, Owner may send written notice to City within thirty (30) days of Owner's receipt of City's Notice of New Law ("Objection to New City Law(s)"). Owner's notice to City of its Objection to New City Law(s) shall set forth the factual and legal reasons why Owner believes City cannot apply the New City Law(s) to the Property. City shall respond to Owner's Objection to New City Law(s) ("City Response") within thirty (30) days of receipt of said Owner Objection to New City Law(s). Thereafter, the Parties shall meet and confer within thirty (30) days of the date of Owner's receipt of the City Response and shall continue to meet over the next sixty (60) days ("Meet and Confer Period") with the objective of arriving at a mutually acceptable solution to this disagreement. The New City Law(s) shall not be applied to the Property until the dispute over the applicability of the New City Law(s) is resolved. Within fifteen (15) days of the conclusion of the Meet and Confer Period, City shall make its determination, and shall send written notice to Owner of that City determination. If City determines to impose/apply the New City Law(s) to the Property in question, then Owner shall have a period of ninety (90) days from the date of receipt of such City determination within which to file legal action challenging such City action. In other words, a 90-day statute of limitations regarding Owner's right to judicial review of the New City Law(s)



shall commence upon the conclusion of the Meet and Confer Period. If upon conclusion of judicial review of the New City Law(s) (at the highest judicial level sought and granted), the reviewing court determines that Owner is not subject to the New City Law(s), such New City Law(s) shall cease to be a part of the Applicable Law, and City shall return Owner to the position Owner was in prior to City's application of such New City Law(s) (e.g., City return fees, return dedications, etc.).

- (c) The above-described procedure shall not be construed to interfere with City's right to adopt or apply any New City Law(s) with regard to all other areas of City (excluding the Property and Owner Approvals).
- (d) Owner, in its sole and absolute discretion, may elect to be subject to a New City Law(s) that is/are not otherwise a part of the Applicable Law. In the event Owner so elects, Owner shall provide notice to City of that election and thereafter such New City Law(s) shall be part of the Applicable Law.
- City shall not be precluded from applying any New City Law(s) to the (e) extent that such New City Law(s) are specifically mandated to be applied to developments such as the development of the Property by changes in State or Federal laws or regulations (and implemented through the Federal, State, regional and/or local level) ("Mandated New City Law(s)"). In the event such Mandated New City Law(s) prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps or permits approved by City for the Property, this Agreement shall be modified, extended or suspended as may be necessary to comply with such Mandated New City Law(s). Immediately after enactment of any such Mandated New City Law(s) that will materially affect the terms and conditions of this Agreement, the Parties shall meet and confer in good faith (pursuant to subdivision (e) above) to determine the feasibility of any such modification, extension or suspension based on the effect such modification, extension or suspension would have on the purposes and intent of this Agreement. In the event that an administrative challenge and/or legal challenge (as appropriate) to such Mandated New City Law(s) preventing compliance with this Agreement is brought and is successful in having such Mandated New City Law(s) determined to not apply to this Agreement, this Agreement shall remain unmodified and in full force and effect. To the extent that any such Mandated New City Law(s) (or actions of regional and local agencies, including City, required by such Mandated New City Law(s) or actions of City taken in good faith in order to prevent adverse impacts upon City because of such Mandated New City Law(s)) have the effect of preventing, delaying or modifying Owner's ability to use or develop the Property or any portion thereof, in a material fashion, then Owner shall have the option to terminate (unilaterally) this Agreement.

#### 1.06 Term.

(a) The term of this Agreement shall commence thirty (30) days after the adoption of the Approving Ordinance ("Agreement Effective Date"), and shall continue twenty five (25) years plus one day ("Term"), unless said Term is otherwise terminated, modified or extended as provided in this Agreement or any amendment thereto.



- (b) If any administrative, legal and/or equitable action and/or other proceeding instituted by any person, entity or organization (that is not a Party to this Agreement) challenging the validity of this Agreement, the Ellis Specific Plan project, the Ellis Approvals, the Owner Approvals and their respective projects, or the sufficiency of any environmental review under CEQA ("Third Party Challenge") is filed, then the Term of this Agreement shall be tolled for the period of time from the date of the filing of such Third Party Challenge until the conclusion of such litigation by dismissal or entry of a final judgment, provided such tolling period does not exceed five (5) years. The filing of any such Third Party Challenge(s) against City and/or Owner shall not delay or stop the development, processing or construction of the Ellis Specific Plan or other approval or issuance of any Owner Approvals, unless enjoined or otherwise controlled by a court of competent jurisdiction. The Parties shall not stipulate to the issuance of any such order unless mutually agreed to.
- (c) Notwithstanding any other part of this Section 1.06, as it relates to a residential unit, this Agreement shall terminate and be of no further force and effect for each individual residential unit on the Property on that date a "Certificate of Occupancy" is issued by City for such residential unit.
- (d) Pursuant to Government Code section 66452.6(a) (or its successor section in substantially the same form) and this Agreement, and subject to subdivision (f) of this Section 1.06, the term of any tentative map, vesting tentative map, parcel map, vesting parcel map or final map, or any re-subdivision or any amendment to any such map (collectively referred to as "Subdivision Document") relating to the Property shall automatically be extended to and until the later of the following: (1) the end of the term of this Agreement; or (2) the end of the term or life of any such Subdivision Document otherwise given pursuant to the Subdivision Map Act or local regulation not in conflict with the Subdivision Map Act. Any improvement agreement entered into pursuant to the Subdivision Map Act or other State or local regulation shall have a term no shorter than 365 days from execution of the improvement agreement and no longer than that term decided by City.
- (e) If this Agreement terminates for any reason prior to the expiration of vested rights otherwise given under the Subdivision Map Act to any vesting tentative map, vesting parcel map, vesting final map or any other type of vesting map on the Property (or any portion of the Property) (collectively, "Vesting Map"), such termination of this Agreement shall not affect Owner's right to proceed with development under such Vesting Map in accordance with the ordinances, policies and standards so vested under the Vesting Map. Notwithstanding the foregoing or any other provision of this Agreement or the Applicable Law it describes, no Vesting Map shall extend the Applicable Law beyond the stated Term of this Agreement (and the rules, regulations and official policies of City applicable to that portion of the Property covered by such Vesting Map shall become those in effect as of the expiration of such Term), except as otherwise agreed to by City and Owner; provided, however, that City and Owner may agree to an extension of the Term of this Agreement with respect to the area covered by any such Vesting Map.
- (f) The term of any Owner Approvals, including without limitation, all development plans, development permits, or other permit, grant, agreement, approval or entitlement for the general development of all or any part of their respective projects and

properties, shall automatically be extended to and until the later of the following: (1) the end of the Term of this Agreement; or (2) the end of the term or life of the Owner Approval otherwise given pursuant to controlling law.

## 1.07 RGAs.

- (a) No RGAs shall be allocated to any Property against which this Agreement is recorded except as provided by this Agreement. If this Agreement is recorded against Other Properties, such Other Properties shall be limited to receipt of RGAs from City pursuant to this Agreement only, and the collective totals of RGAs that can be allocated by City to such Other Properties shall not exceed the RGA totals set forth in this Agreement.
- No portion of the Property shall receive any RGAs under this Agreement unless and until any such portion of the Property has first secured City approval of its legislative development approval such as a Specific Plan (Government Code section 65450 et seq.), or, in the case where no Specific Plan is required by City, has secured City approval of a legislative approval that provides the detail similar to that otherwise required by the City's new "Traditional Residential" General Plan Land Use Designation (both situations collectively referred to in this Agreement as "Plan Approval"), and where such portion of the Property has had this Agreement recorded against it. No such Plan Approval shall be granted by City until complete and legally compliant environmental review and planning process pursuant to controlling law has taken place, and City approval and adoption of the Plan Approval, in City's sole and exclusive discretion, has taken place. Further, such Plan Approval shall set forth the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes. In other words, a legally compliant and City-approved and adopted Plan Approval on a portion of the Property (which Plan Approval must set forth the contents requirements of the Development Agreement Statute (i.e., setting forth the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes)) is a prerequisite to such Property being eligible to receive any RGAs under this Agreement.
- (c) The GMO sets maximums regarding City's issuance of RGAs and building permits. The maximums contained in the GMO relative to City's issuance of RGAs and building permits on an annual basis are referred to in this Agreement as the "GMO Maximums." This Agreement conforms to the applicable GMO and its GMO Maximums, and this Agreement only invokes this Agreement's requirements regarding a Plan Approval's eligibility to apply for RGAs if compliance with all other aspects of controlling law has been secured, including without limitation, full CEQA and planning/zoning law compliance, and City's sole and exclusive discretion has been exercised and the Plan Approval has been adopted by City. This Section therefore sets forth the process, terms and conditions relative to a Plan Approval's eligibility to apply for (and applications relating to) RGAs and building permit issuance.
- (d) In no event shall the sum total of Owner's Plan Approvals be eligible for more than 2,250 RGAs over the Term of this Agreement ("Overall RGA Maximum"). Further, in no event shall any or all of the Plan Approvals be eligible for more than the specific number of RGAs allocated by this Agreement on a yearly basis ("Annual RGA Eligibility"). These two numeric limitations, taken together with this Agreement's requirement that no RGA be issued

until at a minimum, a legally compliant Plan Approval is adopted, and this Agreement's requirement that such RGA will only take place during the Term of this Agreement, means that the Properties against which this Agreement is recorded might never secure (reach) the Overall RGA Maximum under this Agreement. For, example, if Plan Approvals amounting to 2,250 units are not secured by Properties during the Term of this Agreement, and/or once Plan Approval has been secured there is not enough time remaining under the Term of this Agreement to allow City to allocate the remaining RGAs to the Plan Approval under the then-applicable Annual RGA Eligibility, then the Properties will not receive the 2,250 Overall RGA Maximum under this Agreement. Despite this possibility, Owner shall nonetheless be obligated to perform the Swim Center Commitment set forth in this Agreement.

- (e) Owner shall make application to City for RGAs ("RGA Application(s)") pursuant to the RGA Application attached hereto as *Exhibit C* to this Agreement and subject to the following terms and conditions:
- (1) RGA Applications may be submitted by Owner to City during the following time periods:
  - (A) Anytime during normal business days and hours of City before, up to, and including the first (1st) Friday in January of any calendar year ("January Cycle") in which Owner meets the requirements for eligibility for RGAs established by this Agreement; and
  - (B) If Owner has not applied to City for all of Owner's then-applicable (for that calendar year) Annual RGA Eligibility by the close of the January Cycle of that calendar year, then, anytime during normal business days and hours of City after the January Cycle closes and before, up to, and including the first (1st) Friday in July of that same calendar year ("July Cycle") Owner may apply to City for the remainder of Owner's then-applicable (for that calendar year) Annual RGA Eligibility. For example, if in a particular calendar year Owner had an Annual RGA Eligibility under this Agreement of 125 RGAs, and Owner only sought 75 of those RGAs during the January Cycle of that calendar year, then Owner may apply to City during the July Cycle of that same calendar year for the remaining 50 RGAs of the Annual RGA Eligibility.
- (2) Owner shall provide a separate RGA Application for each Plan Approval for which Owner seeks RGAs that calendar year. The total RGAs sought by Owner in any calendar year shall not exceed the total Annual RGA Eligibility for that calendar year set by this Agreement.
- (3) Owner RGA Application(s) to City shall provide City with the information requested in the RGA Application form attached hereto as *Exhibit C* to this Agreement.
- (4) After an RGA Application is submitted by Owner to City, the RGA Application may be amended by Owner if the amended RGA Application complies with all requirements of this Section 1.07, and is clearly labeled as an amendment.

- (5) City shall respond to any and all RGA Application(s) submitted by Owner within sixty (60) days of the date of the close of the application period for the relevant cycle (January Cycle or July Cycle) of that same calendar year.
- (f) The schedule below uses the terminology "first year," "second year," and so forth; those phrases are meant to mean that the "first year" is 2009. However, if a Plan Approval builds completely out and therefore secures all of the RGAs it can use for that Plan Approval, RGA allocation will stop until another Plan Approval is secured. That next Plan Approval may take years to secure. Therefore, the then-applicable next year allocation on the schedule would not take place until the year that the Plan Approval would be eligible to apply for RGAs. Or, comparatively, more than one Plan Approval might exist at any time, and yet the combination of Plan Approvals could never secure more than the applicable total Annual RGA Eligibility, nor could the combination of Plan Approvals ever exceed the Overall RGA Maximum. Therefore, subject to all of the requirements of this Agreement, including without limitation the other subdivisions of this Section 1.07, the schedule regarding the Annual RGA Eligibility shall be as follows:
- (1) In the first year, City shall allocate any and all remaining RGAs then available, up to a maximum of 125 RGAs.
- (2) In the second year, City shall allocate any and all RGAs then available, up to a maximum of 125 RGAs.
- (3) In the third year, City shall allocate any and all RGAs then available, up to a maximum of 125 RGAs.
- (4) In the fourth year, City shall allocate any and all RGAs then available up to a maximum of 125 RGAs.
- (5) In the fifth year, City shall allocate any and all RGAs then available, up to a maximum of 175 RGAs.
- (6) In the sixth year, City shall allocate any and all RGAs then available, up to a maximum of 175 RGAs.
- (7) In the seventh year, City shall allocate any and all RGAs then available, up to a maximum of 175 RGAs.
- (8) In the eighth year, City shall allocate any and all RGAs then available, up to a maximum of 175 RGAs.
- (9) In the ninth year, City shall allocate any and all RGAs then available, up to a maximum of 175 RGAs.
- (10) In the tenth year, City shall allocate any and all RGAs then available, up to a maximum of 225 RGAs.

- (11) In the eleventh year, and for each calendar year thereafter, until such time as Owner has used the entirety of the Overall RGA Maximum, or such time as the Term of this Agreement has lapsed, whichever occurs first, City shall allocate any and all RGAs then available, up to a maximum of 225 RGAs.
- (12) In conjunction with each allocation cycle, City shall determine the number of RGAs that City has allocated to Owner as of that date, and therefore the number of RGAs remaining under the Overall RGA Maximum.
- (g) Section 1.14(a)(1) of this Agreement requires that City shall make available enough capacity from the existing wastewater treatment plant sufficient to provide the Ellis Specific Plan area development (and only the Ellis Specific Plan area development) with adequate wastewater treatment capacity for five hundred (500) residential units (Section 1.14(a)(1) refers to this as the "Ellis Initial Capacity"). Pursuant to this Section 1.07, the first year, the second year, the third year and the fourth year of Annual RGA Eligibility allocations (as those terms are set forth and defined in this Section 1.07), totaling 500 RGAs, shall only be allocated to, and only used within, the Ellis Specific Plan.
- Except as provided in Section 1.07(g) above (i.e., the first 500 RGAs (h) issued by City must go to the Ellis Specific Plan Approval), Owner may use any RGAs allocated under the Annual RGA Eligibility on any portion of the Owner's Property (Immediate Property or Other Properties) upon which Owner has secured a Plan Approval; Owner may not use any RGAs allocated under the Annual RGA Eligibility on any portion of the Owner's Property upon which a Plan Approval does not yet exist. If, when Owner makes an RGA Application for RGAs under the Annual RGA Eligibility, the subject Plan Approval (and related project) for which such RGA Application is made has remaining residential units of a number less than that year's applicable Annual RGA Eligibility, then Owner's RGA Application shall not request RGAs (under the Annual RGA Eligibility) in excess of such remaining residential units. If RGAs have already been allocated by City to a Plan Approval under the Annual RGA Eligibility but such allocated RGAs are not needed or wanted by Owner for that Plan Approval, such un-needed RGAs shall be returned by Owner to City and such returned RGAs shall not be counted toward the Overall RGA Maximum, and may be re-issued by City to any other Owner Plan Approval. Upon such re-issue of RGAs by City to another Plan Approval, such re-issued RGAs shall be counted toward the Overall RGA Maximum. Further, once RGAs have been allocated to a Plan Approval under the Annual RGA Eligibility but are not needed or wanted for that Plan Approval and are therefore returned by Owner to City pursuant to the text above, if no other Plan Approval then currently exists, then such returned RGAs shall not be transferable by Owner to another developer or project that does not qualify under this Agreement (again, such returned RGAs shall not be counted by City against the Overall RGA Maximum and shall be available for future City allocation to Owner consistent with this Section above). Further, if before allocation of RGAs to a Plan Approval (at least ten (10) days prior to the application deadline for second cycle (July), Owner notifies City (in writing) of Owner's willingness (such Owner willingness being Owner's sole and exclusive discretion) to receive less than the full Annual RGA Eligibility that Owner otherwise has a right to receive from City under this Agreement ("Un-Allocated RGAs"), City shall have the right to use the Un-Allocated RGAs as City sees fit, including without limitation issuing the Un-Allocated RGAs to other (non-Owner) projects, pursuant to City's sole and

exclusive discretion. Such Un-Allocated RGAs shall not be counted toward the Overall RGA Maximum.

(i) RGAs allocated under the Annual RGA Eligibility shall not expire during the Term of this Agreement. If all or any part of the RGAs allocated to Owner are not used by Owner in any one calendar year, said unused RGAs shall be available for use by Owner in any subsequent years remaining within the Term.

#### 1.08 **Building Permits.**

- (a) Property against which this Agreement is recorded shall receive Building Permits only as provided by this Agreement (and any Memorandum of Assignment applicable to such Property).
- (b) Owner shall notify City of the calendar year in which Owner will be ready to commence construction of the development(s) approved in a Plan Approval(s).
- (c) Upon confirmation by City that Owner is in fact ready to start such construction, then commencing on January 1st of said calendar year designated by Owner, the following shall apply:
- (1) For a Property that has secured Plan Approval and is qualified to receive RGAs under this Agreement, City shall reserve building permits for that Property for that calendar year in the same number and amount as the number and amount of RGAs that Owner has an eligibility right to receive in that same calendar year under this Agreement (i.e., the Annual RGA Eligibility) ("Reserved Building Permits"). Owner alone shall distribute such Reserved Building Permits among the applicable Plan Approvals as Owner determines in its sole and exclusive discretion (taking into consideration applicable Memorandums of Assignment). So, for example, if, under the applicable Annual RGA Eligibility, Owner had Property or Properties that had a right to receive 125 RGAs that calendar year, then City would reserve 125 building permits for Owner in that same calendar year, and Owner would then distribute such Reserved Building Permits among the applicable Plan Approvals as Owner determines in its sole and exclusive discretion (taking into consideration applicable Memorandums of Assignment).
- (2) Notwithstanding (1) above, in any calendar year in which the Property would receive fewer than 125 building permits that calendar year from City (because fewer than 125 building permits are available), City shall nonetheless reserve 125 building permits for Owner, unless such 125 building permits are not available under the GMO Maximums, in which case City shall reserve for Owner all building permits (fewer than 125) then available under the GMO Maximums.
- (3) Notwithstanding any of the foregoing, if at any time, but not less than ten (10) days prior to August 31st, Owner notifies City's Chief Building Official of Owner's decision (in Owner's sole and exclusive discretion) to receive fewer than the building permits that Owner otherwise has a right to receive from City under this Agreement ("Un-Issued Building Permits"), City shall have the right to use the Un-Issued Building Permits as City sees fit, including without limitation issuing the Un-Issued Building Permits to other (non-Owner)



projects, pursuant to City's sole and exclusive discretion. Such Un-Issued Building Permits shall not be counted as issued to Owner that year.

- (4) In addition to the building permits reserved by this Section, Owner may seek building permits from City on a first come, first served basis.
- (5) Owner shall make application to City for all or any part of such Reserved Building Permits by end of business on September 30<sup>th</sup> of each calendar year; Owner shall lose its rights to those Reserved Building Permits that Owner has not made application to City for by end of business on September 30<sup>th</sup> of such calendar year. On October 1st of each calendar year such Reserved Building Permits to which Owner has lost its rights shall revert back to City for issuance by City in City's sole and exclusive discretion. Such unclaimed Building Permits shall not be counted as issued to Owner that year.
- (6) Notwithstanding any other provision of this Agreement to the contrary, all building permits sought by Owner and issued by City through the calendar year 2013 under this Agreement shall exclusively be issued to, and only used within, the Ellis Specific Plan area. However, upon a request by Owner, the City Council of City may consider a request to waive all or any portion of the foregoing requirement. The City Council's decision regarding such request shall be in the sole and exclusive discretion of the City Council; Owner hereby waives any right to challenge judicially any such City Council decision on such Owner request.

#### 1.09 Significant Actions by Third Parties.

- (a) Owner shall be responsible for the acquisition of permits, approvals, easements and services required to serve the Property and Plan Approval from all non-City providers of utilities at Owner's cost. Owner shall also be responsible for coordinating with any non-City providers of utilities to ensure the proper installation and construction of non-City utilities in accordance with the Applicable Law. The provision of all such services shall be subject to City approval, which City approval shall be subject to Good Faith and Fair and Expeditious Dealing.
- schedule, Owner shall apply for such other permits and approvals as may be required by other private and public and quasi-public entities in connection with the development of, or the provision of services to, the Property. City shall cooperate with Owner in Good Faith and Fair and Expeditious Dealing, at no cost to City, in Owner's efforts to obtain such permits and approvals and City shall, from time to time (at the request of Owner), use its Good Faith and Fair and Expeditious Dealing to enter into binding agreements with any such other entity as may be necessary to ensure the timely availability of such permits and approvals to Owner, provided such permits and approvals are mutually determined by City and Owner to be reasonably necessary or desirable and are consistent with Applicable Law. In the event that any such permit or approval as set forth above is not obtained within three (3) months from the date application is deemed complete by the appropriate entity, and such circumstance materially deprives Owner of the ability to proceed with development of the Property or any portion thereof, or materially deprives City of a bargained-for public benefit of this Agreement, then, in such case, and at the

election of Owner, Owner and City shall meet and confer with the objective of attempting to mutually agree on alternatives, Owner Approvals, and/or an amendment to this Agreement to allow the development of the Property to proceed with each Party substantially realizing its bargained-for benefit there from.

(c) City and Owner acknowledge and agree that City may from time to time enter into (with Good Faith and Fair and Expeditious Dealing) joint exercise of power agreements or memoranda of understanding with other governmental agencies consistent with and to further the purposes of this Agreement.

# 1.10 Amendment of this Agreement; Inclusion of Owner Approvals into this Agreement.

- (a) This Agreement may be amended from time to time in accordance with California Government Code section 65868 and the Enabling Resolution, and upon the mutual written consent of City and Owner, with City costs payable by the Owner. Owner may seek City interpretation regarding one or more of the terms and conditions of this Agreement to determine whether or not an amendment is needed.
- (b) This Agreement anticipates and provides the process and rules governing subsequent Owner Approvals (including without limitation Plan Approvals). No amendment of this Agreement shall be required in connection with City processing and/or approval of any such Owner Approval for the Property. Any such Owner Approval that is approved by City and becomes part of the Applicable Law pursuant to the requirements of this Agreement shall be vested into by Owner and City, and shall become a part of this Agreement as if set forth herein in full. City shall not process or approve any Owner Approval unless Owner requests such process and approval.

#### 1.11 Annexation.

- (a) As to the Property or any portion thereof, the following shall apply:
- (1) From time to time, during the Term of this Agreement, certain portions of the Property may be outside City's current corporate boundary. Such portions are collectively referred to in the singular as an "Annexation Property."
- Property, or as soon thereafter as a "Plan for the Provision of Services" (as that phrase is defined by the law controlling the San Joaquin County Local Agency Formation Commission ("LAFCO")) and all other materials required by controlling law and/or requested by LAFCO can be prepared and completed relating to such Annexation Property, City shall consider a "Resolution of Application" to LAFCO requesting annexation of such Annexation Property, and all other relevant property determined by City in its sole and exclusive discretion to be appropriate. City shall submit each such Resolution of Application, Plan for the Provision of Services and other material required by controlling law and/or requested by LAFCO. City may process any such annexation of Annexation Property concurrently with other Owner Approvals.

- (3) City shall use Good Faith and Fair and Expeditious Dealing to cause the completion of such annexation of Annexation Property subject to all applicable requirements of law. If such annexation of Annexation Property cannot be accomplished without conditions that are unacceptable to Owner then, at Owner's request, City shall terminate or request termination of the proceedings, as appropriate, with respect to the Annexation Property.
- (4) Owner shall pay City's reasonable costs relating to all City actions taken pursuant to this Section 1.11, including reasonable consultant costs, and including such LAFCO fees, costs and charges relating to such annexation(s) that LAFCO charges to City.
- (5) If City's first Resolution of Application to LAFCO requesting annexation of an Annexation Property is denied by LAFCO, then the Parties shall continue to work together to secure such annexation in such a manner as they may mutually agree, including annexing only portions of the Annexation Property at different times until such time as all of the Annexation Property is annexed to City. To the extent that the law requires a date to be set forth within this Agreement by which annexation of Annexation Property must be accomplished, that date shall be two (2) days prior to the termination of the Term of this Agreement.
- (b) Owner shall be responsible for the City's processing costs regarding actions taken by City pursuant to this Section 1.11.

#### 1.12 Memorandum of Assignment / Operative.

- (a) Provided all of the requirements of this Section and this Agreement have been met, the Property to which this Agreement may be recorded in the future shall include all of the property within the City's then-existing Sphere of Influence. Property against which this Agreement is recorded shall receive RGAs and Building Permits only as provided by this Agreement and the below-described "Memorandum of Assignment".
- **(b)** As to any Property, this Agreement may only be recorded against such Property at such time and date as all of the following have occurred:
- (1) The Property is known and its legal description prepared ("Subject Property").
- (2) Owner has acquired a legal or equitable interest in such Subject Property;
- (3) Such Subject Property is included within the City's Sphere of Influence; and
- (4) The City Council has determined that such Subject Property has satisfied the requirements of subdivisions (1), (2) and (3) above and has authorized its designated agent to sign the "City Authorization to Record Development Agreement" set forth in Exhibit D of this Agreement. Owner shall record the City Authorization to Record Development Agreement with the Memorandum of Assignment substantially in the form set forth in Exhibit E to this Agreement against such Subject Property. The recorded Memorandum of Assignment shall grant to the Subject Property all rights, responsibilities, benefits and burdens of this

Agreement except as this Agreement relates to the Overall RGA Maximum and the Annual RGA Eligibility. As to the Overall RGA Maximum and the Annual RGA Eligibility, the Memorandum of Assignment shall designate the maximum amount of RGAs otherwise available under this Agreement that are being allocated to such Subject Property. Such Subject Property shall not be allowed to use or have any claim under this Agreement to the Overall RGA Maximum or Annual RGA Eligibility in excess of such expressed maximum amounts in such Memorandum of Assignment. Such Memorandum of Assignment may be amended and then rerecorded to reflect any new allocation amount set forth in a new Memorandum of Assignment. Any such RGAs that are so allocated by such Memorandum of Assignment to such Subject Property that are unused by such Subject Property shall be returned to City and City shall add back such unused RGAs into the Overall RGA Maximum. Such Memorandum of Assignment shall likewise set forth the overall total and annual total of building permits that shall be reserved by City for such Subject Property. As set forth in Section 1.07(h) of this Agreement, such Subject Property shall not have a claim to any RGAs or building permits provided by this Agreement (including without limitation the Overall RGA Maximum or Annual RGA Eligibility) beyond that expressly set forth in the Memorandum of Assignment or amended Memorandum of Assignment. As relates to the Ellis Specific Plan Property, the Memorandum of Assignment recorded against said Property shall provide an overall amount of RGAs that is identical to the number of residential lots set forth in the approved subdivision maps(s) for said Ellis Specific Plan Property, although the number of RGAs available on an annual basis from the Annual RGA Eligibility shall be determined by Owner in his sole and exclusive discretion except as provided in Section 1.07(h) of this Agreement.

- (c) As used in this Agreement, the term "Operative" shall have that meaning set forth in Government Code section 65865.
- (1) With respect to the Immediate Property, this Agreement shall become Operative upon the occurrence of the recording of this Agreement against the Immediate Property and the annexation of the Immediate Property to the City within the Term of this Agreement.
- (2) With respect to an Other Property, this Agreement shall become Operative upon the occurrence of the recording of this Agreement against the Other Property and the annexation of the Other Property to the City within the Term of this Agreement.

#### 1.13 Adequate Water Supply.

(a) Pursuant to the water supply assessment ("WSA") by City relating to the potential development this Agreement addresses (including without limitation the water assessment prepared in the EIR referenced in Recital paragraph F of this Agreement), adequate water supply, capacity and treatment (collectively, "Water Capacity") is known and will be available during the Term of this Agreement for the potential maximum development that may occur pursuant to this Agreement. Therefore, City shall make such Water Capacity available to Owner for such potential development during the Term of this Agreement. Neither City nor Owner shall take any actions, including without limitation, approval by City of any new development after the Effective Date of this Agreement, that would impair or impede that Water Capacity nor otherwise make the Water Capacity unavailable during the Term of this Agreement



for the potential maximum development that may occur pursuant to this Agreement. For residential uses, such Water Capacity shall be made available in accordance with Owner's building permit schedule for residential units as listed in this Development Agreement. A water supply verification shall take place at the subdivision map approval stage as required by such law. If for any reason, despite the City's best efforts, such Water Capacity is not available from surface water supplies for Owner's use on such development when needed, then the following shall apply:

- (1) City shall pursue interim measures to satisfy such Water Capacity requirements, including without limitation, City's use of groundwater.
- If for any reason, despite City's best efforts, such interim measures are either not available, or are available but not in quantities necessary to fully satisfy such Water Capacity requirements, then Owner may, at Owner's sole and exclusive discretion, unfront the cost of design, construction, operation and maintenance of ground water well, pump station, piping network and appurtenances to City (collectively, "Additional Well") to meet the Owner's water needs until such time as City-provided permanent Water Capacity is available. Owner's development will not be served from the Additional Well until construction of the Additional Well is completed and accepted by the City. Once the City-provided permanent Water Capacity is made available to Owner's Property, Owner's need for the Additional Well may be eliminated. In such a circumstance (where Owner's need for the Additional Well is later eliminated because City-provided permanent Water Capacity is available), City may use the Additional Well for City purposes, provided City reimburses Owner for the costs to Owner of the design, construction, operation and maintenance (of the Additional Well). Additionally, Owner may use such Additional Well to provide irrigation water for the public areas, rights-of-way, parks, special landscape features, open space, and anywhere else where irrigation is required to sustain plant species.
- (b) Owner shall pay its pro rata share (fair share) of the costs of providing such Water Capacity to any such potential development of the Immediate Property and the Other Properties. More specifically, the costs related to the treatment aspects of the Water Capacity provided to the development within a particular Plan Approval shall be spread and pro-rated over the number of building permits likely to be issued for the development within such particular Plan Approval, and such pro-rated amount shall be paid upon the issuance of each building permit for such development with such Plan Approval for the full cost of water supply. The costs related to the transmission aspects of the Water Capacity provided to the development within a particular Plan Approval shall be paid by those impact fees (or other municipal financing mechanism mutually acceptable and agreeable to the Parties) that are established in an adopted finance plan such as a Finance Implementation Plan ("FIP") relating to such development within a particular Plan Approval.

#### 1.14 Wastewater Treatment and Conveyance Capacity.

#### (a) <u>Wastewater Treatment Capacity</u>.

(1) Upon the Effective Date of this Agreement, and in accordance with the building permit schedule allocated to Owner by this Agreement, City shall make available

capacity from the existing City wastewater treatment plant sufficient to provide the Ellis Specific Plan area development with adequate wastewater treatment capacity for five hundred (500) single-family detached residential units ("Ellis Initial Capacity"). Owner shall pay the prevailing wastewater treatment plant impact fees at the time of such building permit issuance for Ellis Initial Capacity in accordance with the City fees imposed on development for the existing Phase I Wastewater Treatment Plant Expansion. City shall not be obligated to advance funds for Additional Capacity or Expansion, except to the extent that such funds have already been collected by City for such Additional Capacity or Expansion.

Beyond the Ellis Initial Capacity referenced in subdivision (a) of **(2)** this Section 1.14, upon each Plan Approval within the Overall RGA Maximum, the project contained within such Plan Approval shall receive that wastewater treatment capacity, and treatment and transmission capacity ("Additional Capacity") needed to adequately service said Plan Approval, with said Additional Capacity coming from the City's existing capacity at the existing wastewater treatment plant or "Expansion" of the existing wastewater treatment plant. For the purposes of this Agreement, "Expansion" shall mean that expansion of the existing treatment capacity of the existing wastewater treatment plant, which Expansion will increase the treatment capacity of the plant from the existing approximately 10.2 million gallons per day of treatment capacity to the approximately 16 million gallons per day of treatment capacity. Such Expansion may be done in incremental phases. Owner shall pay its fair share (pro rata share) of the costs of the Expansion (taking into account all users that will use the Expansion) through a form of municipal financing or other mechanism acceptable and agreeable to the Parties. City shall take such measures as needed to ensure that other public and private development projects proposing to utilize the Expansion shall pay their fair share of the funding needed to construct, maintain and operate the Expansion. Owner's above-described funding obligations shall be coordinated with the other public and private development projects to ensure that such monies are collected from Owner and other public and private development projects at approximately the same time. If the required funding from others (other users, other development projects, etc.) is not available for the phase of Expansion needed to provide the Additional Capacity Owner needs when Owner needs it, or if some funding from others is available but is not adequate to fund the phase of Expansion needed to provide said Additional Capacity Owner needs when Owner needs it, then, at Owner's sole and exclusive discretion, Owner may pay the cost of such phase of Expansion needed to provide such Additional Capacity ("Owner Funded Phase"); in such a case, Owner shall be reimbursed for that portion of the Owner Funded Phase that exceeds Owner's Additional Capacity needs. Except for responsibilities provided for in applicable CIPs and/or other developments to pay their fair share, City shall not be obligated to advance funds for Additional Capacity Expansion.

#### (b) <u>Conveyance Capacity</u>.

(1) Owner shall be allowed to use then existing capacity in then-existing conveyance systems. If either increasing the conveyance capacity in the existing wastewater lines to provide adequate conveyance capacity to such area of development within a Plan Approval is needed, or if constructing new wastewater lines to provide adequate conveyance capacity to such area of development within a Plan Approval is needed (collectively, "Conveyance Expansion"), then such development within such Plan Approval shall be responsible for its fair share (proportional) of the costs of the Conveyance Expansion. The

improvements to the existing conveyance system or construction of new wastewater lines (i.e., the Conveyance Expansion) will be completed by City in accordance with City's approved Wastewater Master Plan.

City shall take such measures as needed to ensure that other public or private development projects proposing to use the Conveyance Expansion shall pay their fair share (proportional) of the costs of such Conveyance Expansion. If additional funding from such other development projects is not available prior to Owner's need for the Conveyance Expansion, Owner, in its sole and exclusive discretion, may request City to complete construction of the Conveyance Expansion (in multiple phases if requested by Owner). The construction of, and payment by Owner for, such owner conveyance improvements accomplished in multiple phases shall be in accordance with Owner's needs. In such event, no other development will have right to this new or expanded conveyance capacity available after completion of the particular construction phase. Wastewater conveyance connection will be available to Owner only after the required improvements are completed, or accepted by, City. Wastewater conveyance capacity shall be provided from the Corral Hollow sewer line and other western sewer lines as set forth in the Wastewater Master Plan Corral Hollow Sewer Analysis for the maximum development authorized by this Agreement. Except for responsibilities provided for in applicable CIPs and/or other developments to pay their fair share, City shall not be obligated to advance funds for conveyance improvements.

#### 1.15 Schools.

- (a) Owner has entered into a Memorandum of Understanding with the Tracy Unified School District.
- (b) Prior to the first residential building permit issuance, Owner shall execute a school facilities mitigation agreement with the Jefferson School District to mitigate the impact of the Ellis Specific Plan on Jefferson School District facilities.

#### 1.16 Ellis Specific Plan Parks.

- (a) Owner shall provide and dedicate to City parks pursuant to the four (4) acres per thousand formula required by the Ellis Specific Plan and Applicable Law ("Park Requirements"). No additional park dedications, in lieu fees or other park-related requirements shall by imposed by City on Owner or the Ellis Specific Plan property beyond the Park Requirements.
- (b) The timing of the dedication to City of Ellis Specific Plan parks and the construction of Ellis Specific Plan park improvements shall be determined by City at the time of City approval of subdivision map(s) for the Ellis Specific Plan property.

#### 1.17 Future Impact Fees, Taxes and Assessments; Nexus.

(a) During the Term of this Agreement, only those impact fees, taxes, assessments and other charges that are established in an adopted FIP for the particular Property shall apply to the particular Property.

**(b)** Except as provided in this Agreement (including without limitation, Sections 1.01), this Agreement is not intended to change or affect either Parties' rights or obligations regarding the over-sizing of improvements, services and/or facilities beyond the impacts of the Property.

# ARTICLE 2 ASSIGNMENT, DEFAULT, ANNUAL REVIEW, TERMINATION, LEGAL ACTIONS

#### 2.01 Covenants Run With The Land.

- (a) This Agreement and all of its provisions, agreements, rights, powers, standards, terms, covenants, obligations, benefits and burdens shall be binding upon and inure to the Parties and their respective heirs, successors (by merger, consolidation, or otherwise), assigns, devisees, administrators, representatives, lessees, and all other persons or entities acquiring the Property, whether by sale, operation of law or in any manner whatsoever, and shall inure to the benefit of the Parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns (collectively, "Assignee").
- (b) Additionally, this Agreement and all of its provisions, agreements, rights, powers, standards, terms, covenants and obligations, shall be binding upon the Parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons or entities acquiring the Other Properties or any lot, parcel or any portion thereof, or any interest therein, whether by sale, operation of law or in any manner whatsoever, and shall inure to the benefit of the Parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns (also, collectively, "Assignee").
- by the Assignee of such assignment, of Owner's rights and interests under this Agreement, Owner shall be released from its obligations with respect to the Property, or any lot, parcel, or portion thereof so assigned to the extent arising subsequent to the date of such assignment. A default by any Assignee shall only affect that portion of the Property owned by such Assignee and shall not cancel or diminish in any way Owner's rights hereunder with respect to the assigned portion of the Property not owned by such Assignee. The Assignee shall be responsible for the reporting and annual review requirements relating to the portion of the Property owned by such Assignee, and any amendment to this Agreement between City and Assignee shall only affect the portion of the Property owned by such Assignee.

#### 2.02 Defaults.

(a) Any failure by City or Owner to perform any material term or provision of this Agreement, which failure continues uncured for a period of sixty (60) days following written notice of such failure from the other Party (unless such period is extended by written mutual consent), shall constitute a default under this Agreement. Any notice given pursuant to the preceding sentence shall specify the nature of the alleged failure and, where appropriate, the manner in which such alleged failure satisfactorily may be cured. If the nature of the alleged

failure is such that it cannot reasonably be cured within such 60-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such 60-day period.

- **(b)** No failure or delay in giving notice of default shall constitute a waiver of default; provided, however, that the provision of notice and opportunity to cure shall nevertheless be a prerequisite to the enforcement or correction of any default.
- (c) During any cure period specified under this Section 2.02 and during any period prior to any delivery of notice of failure or default, the Party charged shall not be considered in default for purposes of this Agreement. If there is a dispute regarding the existence of a default, the Parties shall otherwise continue to perform their obligations hereunder, to the maximum extent practicable in light of the disputed matter and pending its resolution or formal termination of the Agreement as provided herein.
- (d) City will continue to process in good faith development applications during any cure period, but need not approve any such application if it relates to a development proposal on the Property with respect to which there is an alleged default hereunder.
- (e) In the event either Party is in default under the terms of this Agreement, the non-defaulting Party may elect, in its sole and absolute discretion, to pursue any of the following courses of action: (i) waive such default; (ii) pursue administrative remedies, and/or (iii) pursue judicial remedies. In no event shall City modify this Agreement as a result of a default by Owner except in accordance with the provisions of Section 1.10 above.
- may, in addition to any other rights or remedies, institute legal action to cure, correct, or remedy any default by the other Party to this Agreement, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation hereunder or to seek specific performance. Except for situations or events involving the City's gross negligence or willful misconduct, neither City nor or its officers, agents, or employees shall be liable in damages for any breach or violation of this Agreement, except for attorneys' fees as provided in Section 3.05(a), it being expressly understood and agreed that the only legal remedies available to Owner for a breach or violation of this Agreement by City shall be a legal action in mandamus, specific performance, or other injunctive or declaratory relief to enforce the provisions of this Agreement. Nothing in this section shall be deemed to limit either Party's rights under the Tort Claims Act. For purposes of instituting a legal action under this Agreement, any City Council determination under this Agreement shall be deemed a final agency action.

#### 2.03 Annual Review.

(a) The Enabling Resolution provides for annual review of Owner's good faith compliance with the terms of this Agreement. Each year during the term of this Agreement, City shall initiate the annual review by written notice to Owner. Upon receipt of such written notice, Owner shall comply with such requirements of the Enabling Resolution and shall furnish to City a report demonstrating good faith compliance by Owner with the terms of this Agreement.

- (b) Following any such annual review, if Owner is determined to be in good faith compliance with the terms of this Agreement, City shall furnish Owner, upon Owner's request, a certification of compliance in recordable form.
- (c) Following any such annual review, if Owner is determined to not be in good faith compliance with the terms of this Agreement, City shall furnish to Owner a notice of noncompliance, which shall be deemed a notice of default and shall commence the cure period set forth in Section 2.02 above.
- (d) If City fails to either (1) hold the annual review meeting, or (2) notify Owner in writing (following the date the review meeting is to be held) of the City's determination as to compliance or noncompliance with the terms of the Agreement, such failure shall be deemed an approval by City of Owner's current compliance with the terms of this Agreement.
- (e) In addition to the annual review provided for in this Section 2.03, City may investigate or evaluate from time to time during the course of any given year, and regardless of whether such investigation or evaluation takes place as part of the annual review, any subject matter that is properly the subject of an annual review.

#### 2.04 Force Majeure Delay, Extension of Times of Performance.

- (a) In addition to specific provisions of this Agreement, performance by either Party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, governmental entities other than City, its departments, agencies, boards and commissions, enactment of conflicting State or Federal laws or regulations, or litigation (including without limitation litigation contesting the validity, or seeking the enforcement or clarification of this Agreement whether instituted by Owner, City, or any other person or entity) (each a "Force Majeure Event").
- (b) Either Party claiming a delay as a result of a Force Majeure Event shall provide the other Party with written notice of such delay and an estimated length of delay. Upon the other Party's receipt of such notice, an extension of time shall be granted in writing for the period of the Force Majeure Event, or longer as may be mutually agreed upon by the Parties, unless the other Party objects in writing within ten (10) days after receiving the notice. In the event of such objection, the Parties shall meet and confer within thirty (30) days after the date of objection to arrive at a mutually acceptable solution to the disagreement regarding the delay. If no mutually acceptable solution is reached, either Party may take action as permitted under this Agreement.

#### 2.05 <u>Legal Actions</u>.

- (a) In the event of any Third Party Challenge, the Parties shall agree to mutually cooperate with each other in the defense of any such challenge.
- (b) City shall tender the complete defense of any such Third Party Challenge to Owner ("Tender"), and upon acceptance of such Tender by Owner, Owner shall control all

aspects of the defense and shall indemnify and hold harmless City against any and all third-party fees and costs arising out of such Third Party Challenge.

- (c) If City wishes to assist Owner when Owner has accepted the Tender, City may do so if Owner consents to such assistance and if City pays its own attorney fees and costs (including related court costs).
- (d) Should Owner refuse to accept such a Tender, City may defend such Third Party Challenge, and if City so defends, Owner shall pay City's attorney fees and costs (including related court costs).
- (e) If any part of this Agreement (including, without limitation, any part of the exhibits and attachments thereto) or any Owner Approval is held by a court of competent jurisdiction to be invalid, City shall: (1) use its best efforts to sustain and/or re-enact that part of this Agreement and/or Owner Approval; and (2) take all steps possible to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express and implied intent of this Agreement, and then adopting or re-enacting such part of this Agreement and/or Owner Approval as necessary or desirable to permit execution of this Agreement and/or Owner Approval. If despite such efforts such part of this Agreement and/or Owner Approval cannot be cured and/or re-enacted or re-adopted, and such invalidity or unenforceability would have a material adverse impact on the Owner, by depriving Owner of a material benefit of this Agreement, such as the benefit of the Overall RGA Maximum and/or Annual RGA Eligibility, then Owner may terminate this Agreement by providing written notice thereof to the City, and upon such termination, Owner shall no longer be subject to the benefits and burdens of this Agreement, including without limitation the Swim Center Commitment, Swim Center Land Dedication, Overall RGA Maximum and/or Annual RGA Eligibility.

## ARTICLE 3 GENERAL PROVISIONS

#### 3.01 <u>Definitions</u>.

- (a) To the extent that any capitalized terms contained in this Agreement or its Exhibits are not defined below, then such terms shall have the meaning otherwise ascribed to them in this Agreement and its Exhibits and/or the Applicable Law.
- **(b)** As used in this Agreement and its Exhibits, the following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section:
- (1) "Additional Capacity" shall have that meaning set forth in Section 1.14(a)(2) of this Agreement.
- (2) "Additional Well" shall have that meaning set forth in Section 1.13(a)(2) of this Agreement.
- (3) "Agreement" shall mean this Development Agreement between City and Owner.



- (4) "Agreement Effective Date" shall have the meaning set forth in Section 1.06(a) of this Agreement.
- of the following have occurred: the annexation of the property contained within the Ellis Specific Plan (including the Swim Center) has been approved by LAFCO and the Conducting Authority, the annexation approvals have taken effect under controlling law, the applicable statute of limitations has run on those LAFCO and Conducting Authority annexation approvals without a lawsuit being filed within that statutory limitations period, or if a lawsuit has been filed within that statutory limitations period, that the defendant and real party have prevailed in the lawsuit, or the Annexation is otherwise determined legal and effective.
- (6) "Annexation Property" shall have the meaning set forth in Section 1.11(a)(1) of this Agreement.
- (7) "Annual RGA Eligibility" shall have the meaning set forth in Section 1.07(d) of this Agreement.
- (8) "Applicable Law" shall have that meaning set forth in Section 1.03 of this Agreement.
- (9) "Approving Ordinance" shall have the meaning set forth in Recital paragraph N of this Agreement.
- (10) "Assignee" shall have the meaning set forth in Section 2.01(a) and (b) of this Agreement.
- (11) "CEQA" shall have that meaning set forth in Recital paragraph F of this Agreement.
- (12) "Certificate of Occupancy" shall mean a certificate issued or final inspection approved by the City authorizing occupancy of a residential unit.
- (13) "City" shall have that meaning set forth in the preamble of this Agreement.
- (14) "City Authorization to Record Development Agreement" shall have the meaning set forth in Section 1.12(b)(4) and Exhibit D of this Agreement.
- (15) "City Response" shall have the meaning set forth in Section 1.05(b) of this Agreement.
- (16) "City Swim Center Contribution" shall have the meaning set forth in Section 1.01(c) of this Agreement.
- (17) "Claims" shall have the meaning set forth in Section 3.04 of this Agreement.

- (18) "Conceptual Design" shall have the meaning set forth in Section 1.01(d) of this Agreement.
- (19) "Construction Codes" shall have the meaning set forth in Section 1.03(a)(5) of this Agreement.
- (20) "Conveyance Expansion" shall have the meaning set forth in Section 1.14(b)(1) of this Agreement.
- (21) "Development Agreement Statute" shall have the meaning set forth in the preamble of this Agreement.
- (22) "EIR" shall have the meaning set forth in Recital paragraph F(3) of this Agreement.
- (23) "Ellis Approvals" shall have the meaning set forth in Recital paragraph F(4) of this Agreement.
- (24) "Ellis Initial Capacity" shall have the meaning set forth in Section 1.14(a)(1) of this Agreement.
- (25) "Ellis Specific Plan" shall have the meaning set forth in Recital paragraph D of this Agreement.
- (26) "Enabling Resolution" shall have the meaning set forth in the preamble of this Agreement.
- (27) "Existing City Laws" shall have the meaning set forth in Section 1.03(a)(3) of this Agreement.
- (28) "Expansion" shall have the meaning set forth in Section 1.14(a)(2) of this Agreement.
- (29) "FIP" shall have the meaning set forth in Section 1.13(b) of this Agreement.
- (30) "Force Majeure Event" shall have the meaning set forth in Section 2.04(a) of this Agreement.
- (31) "General Plan" shall have the meaning set forth in Recital paragraph D of this Agreement.
- (32) "General Plan EIR" shall have the meaning set forth in Recital paragraph F(1) of this Agreement.
- (33) "GMO" shall have the meaning set forth in Recital paragraph I of this Agreement.

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- (34) "GMO Maximums" shall have the meaning set forth in Recital paragraph I and Section 1.07(c) of this Agreement.
- (35) "Good Faith and Fair and Expeditious Dealing" shall have the meaning set forth in Section 1.02(c) of this Agreement.
- (36) "Immediate Property" shall have the meaning set forth in Recital paragraph J of this Agreement.
- (37) "January Cycle" shall have the meaning set forth in Section 1.07(e)(1)(A) of this Agreement.
- (38) "July Cycle" shall have the meaning set forth in Section 1.07(e)(1)(B) of this Agreement.
- (39) "LAFCO" shall have the meaning set forth in Section 1.11(a)(2) of this Agreement.
- (40) "Legal Effect" shall mean that the ordinance, resolution, permit, license or other grant of approval (collectively, "permit") in question, has been adopted by City and that all applicable administrative appeal periods and statutes of limitations have run and that the permit has not been overturned or otherwise rendered without legal and/or equitable force and effect by a court of competent jurisdiction or other tribunal with final and binding decision authority.
- (41) "Mandated New City Law(s)" shall have the meaning set forth in Section 1.05(e) of this Agreement.
- (42) "Meet and Confer Period" shall have the meaning set forth in Section 1.05(b) of this Agreement.
- (43) "Memorandum of Assignment" shall have the meaning set forth in Section 1.12(b)(4) and Exhibit E of this Agreement.
- (44) "New City Law(s)" shall have the meaning set forth in Section 1.05(a) of this Agreement.
- (45) "New Development Swim Center Contribution" shall have the meaning set forth in Section 1.01(c) of this Agreement.
- (46) "Notice of New Law(s)" shall have the meaning set forth in Section 1.05(b) of this Agreement.
- (47) "Objection to New City Law(s)" shall have the meaning set forth in Section 1.05(b) of this Agreement.
- (48) "Operative" shall have the meaning set forth in Section 1.12(c) of this Agreement.

- (49) "Other Property" or "Other Properties" shall have the meaning set forth in Recital paragraph J of this Agreement.
- (50) "Overall RGA Maximum" shall have the meaning set forth in Section 1.07(d) of this Agreement.
- (51) "Owner" shall have that meaning set forth in the preamble of this Agreement.
- (52) "Owner Approvals" shall have the meaning set forth in Section 1.03(a)(2) of this Agreement, and includes without limitation the Plan Approvals and the Ellis Approvals.
- (53) "Owner Swim Center Contribution" shall have the meaning set forth in Section 1.01(a) and Exhibit B of this Agreement.
- (54) "Owner Funded Phase" shall have that meaning set forth in Section 1.14(a)(2) of this Agreement.
- (55) "Park Requirements" shall have the meaning set forth in Section 1.16(a) of this Agreement.
- (56) "Party" and "Parties" shall have the meaning set forth in the preamble of this Agreement.
- (57) "Plan Approval" is one type of Owner Approval and shall have the meaning set forth in Section 1.07(b) of this Agreement.
- (58) "Plan for the Provision of Services" shall have that meaning set forth in Section 1.11(a)(2) of this Agreement.
- (59) "Planning Commission" shall have the meaning set forth in Recital paragraph C of this Agreement.
- (60) "Police Powers" shall have the meaning set forth in the preamble of this Agreement.
- (61) "Processing Fees" shall mean fees charged by the City which represent the costs to City for City staff (including consultants) time and resources spent reviewing and processing applications for Owner Approvals, as governed by Government Code section 66014.
- (62) "Property" shall have the meaning set forth in Recital paragraph J of this Agreement.
- (63) "Reserved Building Permits" shall have the meaning set forth in Section 1.08(c)(1) of this Agreement.

- (64) "Residential Growth Allotments" or "RGAs" shall have the meaning set forth in the GMO in effect on July 1<sup>st</sup>, 2008.
- (65) "Resolution of Application" shall have the meaning set forth in Section 1.11(a)(2) of this Agreement.
- (66) "RGA Application(s)" shall have the meaning set forth in Section 1.07(e) of this Agreement.
- (67) "Serpa Swim Center" shall have the meaning set forth in Section 1.01(e) of this Agreement.
- (68) "South Schulte EIR" shall have the meaning set forth in Recital paragraph F(2) of this Agreement.
- (69) "South Schulte EIR Settlement" shall have the meaning set forth in Recital paragraph F(2) of this Agreement.
- (70) "South Schulte Specific Plan" shall have the meaning set forth in Recital paragraph D of this Agreement.
- (71) "Subdivision Document" shall have the meaning set forth in Section 1.06(d) of this Agreement.
- (72) "Subject Property" shall have the meaning set forth in Section 1.12(b)(1) and Exhibit E of this Agreement.
- (73) "Subject Property Annual Building Permit Total" shall have the meaning set forth in Exhibit E of this Agreement.
- (74) "Subject Property Annual RGA Eligibility Total" shall have the meaning set forth in *Exhibit E* of this Agreement.
- (75) "Subject Property Building Permit Total" shall have the meaning set forth in Exhibit E of this Agreement.
- (76) "Subject Property RGA Total" shall have the meaning set forth in *Exhibit E* of this Agreement.
- (77) "Swim Center" shall have the meaning set forth in Section 1.01 of this Agreement.
- (78) "Swim Center Advance Costs" shall have the meaning set forth in Exhibit B of this Agreement.
- (79) "Swim Center Commitment" shall have the meaning set forth in Recital paragraph C of this Agreement.

- (80) "Swim Center Land Dedication" shall have the meaning set forth in Section 1.01(b) of this Agreement.
- (81) "Swim Center Funds" shall have the meaning set forth in Section 1.01(c) of this Agreement.
- (82) "Swim Center Funds Account" shall have the meaning set forth in Exhibit B of this Agreement.
- (83) "Swim Center Payment Protocol" shall have the meaning set forth in Section 1.01(a) of this Agreement.
- (84) "Tender" shall have the meaning set forth in Section 2.05(b) of this Agreement.
- (85) "Term" shall have the meaning set forth in Section 1.06(a) of this Agreement.
- (86) "Third Party Challenge" shall have the meaning set forth in Section 1.06(b) of this Agreement.
- (87) "Two-Year Period" shall have the meaning set forth in Section 1.01(b)(1) of this Agreement.
- (88) "Un-Allocated RGAs" shall have the meaning set forth in Section 1.07(h) of this Agreement.
- (89) "Un-Issued Building Permits" shall have the meaning set forth in Section 1.08(c)(3) of this Agreement.
- (90) "Urban Reserves" shall have the meaning set forth in Recital paragraph D of this Agreement.
- (91) "Vesting Map" shall have the meaning set forth in Section 1.06(e) of this Agreement.
- (92) "Water Capacity" shall have the meaning set forth in Section 1.13(a) of this Agreement.
- (93) "WSA" shall have the meaning set forth in Section 1.13(a) of this Agreement.

#### 3.02 Requirements of Development Agreement Statute.

(a) The permitted uses, density and/or intensity of use, maximum height and size of buildings and other structures, provisions for reservation or dedication of land, and other terms and conditions applicable to any development and construction on the Property shall be those set forth in the General Plan, and all other provisions of the Applicable Law.

- (b) During the Term of this Agreement, and pursuant to Government Code section 65866, the rules, regulations, official policies and all other controlling criteria shall be the Applicable Law, which Applicable Law may expand pursuant to this Agreement to include New City Law(s), Owner Approvals, and other subsequent actions that this Agreement includes in the Applicable Law.
- As stated above, this Agreement complies with laws regarding (c) Development Agreement Statute (including without limitation section 65865.2), which requires this Agreement to specify the duration (Term) of the Agreement, the permitted uses of the Property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The duration of this Agreement is set forth in Section 1.06 of this Agreement, and this Agreement sets forth provisions for the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes in the Applicable Law provisions of this Agreement. For example, the Ellis Specific Plan is part of the Applicable Law for the Ellis Specific Plan site, and the Ellis Specific Plan sets forth the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes for that Ellis Specific Plan area. Likewise, as to Other Properties that this Agreement may apply to in the future, upon the recordation of this Agreement against such Property, the Applicable Law will apply, which Applicable Law uses the General Plan and City Laws applicable to such Property, all of which set forth the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes. Further, such General Plan and City Laws require the processing and approval of Owner Approvals before any development can take place, which Owner Approvals will likewise set forth the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes. Finally, under this Agreement's own terms and conditions, Owner is not eligible to make application for nor receive an RGA (needed before any residential development can take place) unless and until a "Plan Approval" (defined in Section 1.07(b) of this Agreement) has first been processed and approved by City pursuant to this Agreement, and this Agreement is thereafter recorded against such property. Under this Agreement, such Plan Approval must set forth the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes. Like the Ellis Approvals, that Plan Approval will become part of the Applicable Law provisions of this Agreement. In other words, at no time upon the recordation of this Agreement against a Property (which recordation cannot take place until the requirements of this Agreement and controlling law have been satisfied regarding the recordation of this Agreement against such Property) will there not be applicable, know and understood the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, and the dedication of land for public purposes relative to such Property.

#### 3.03 <u>Development Timing.</u>

The Parties acknowledge that the timing, sequencing, and phasing of any later-approved development is solely the responsibility of Owner. In particular, the Parties desire to avoid the result of the California Supreme Court's holding in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), where the failure of the parties therein to consider and

expressly provide for the timing of the development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement.

#### 3.04 <u>Hold Harmless and Indemnification</u>.

Owner shall indemnify, defend, and hold harmless City (including its elected officials, officers, agents, and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) (collectively, "Claims") resulting from or arising out of the development contemplated by this Agreement by Owner or Owner's agents, representatives, contractors, subcontractors, or employees, other than a liability or claim based upon City's gross negligence or willful misconduct. The indemnity obligations of this Agreement shall not extend to Claims arising from activities associated with the maintenance or repair by the City or any other public agency of improvements that have been accepted for dedication by the City or such other public agency. From time to time the City and Owner may enter into subdivision improvement agreements, as authorized by the Subdivision Map Act, and those subdivision improvement agreements may have language that is different from the language contained in this Agreement. In the event of any conflict between the provisions of this section and the indemnification provisions in such subdivision improvement agreements, the indemnification provisions in this Agreement shall prevail.

#### 3.05 Miscellaneous.

- (a) Applicable Law and Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of California. Owner acknowledges and agrees that City has approved and entered into this Agreement in the sole exercise of its legislative discretion and the standard of review of the validity and meaning of this Agreement shall be that accorded legislative acts of the City. Should any legal action be brought by a Party for breach of this Agreement or to enforce any provision herein, the prevailing Party of such action shall be entitled to reasonable attorneys' fees, court costs, and such other costs as may be fixed by the court.
- (b) Development Is a Private Undertaking. The development contemplated by this Agreement is a separately undertaken private development. No partnership, joint venture, or other association of any kind between the Owner, on the one hand, and City on the other, is formed by this Agreement. The only relationship between City and Owner is that of a governmental entity regulating the development of private property and the owners of such private property.
- (c) <u>Construction</u>. As used in this Agreement, and as the context may require, the singular includes the plural and vice versa, and the masculine gender includes the feminine and neuter and vice versa.

#### (d) Notices.

(1) 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 respective Party as follows:

#### If to the City:

City Manager City of Tracy 333 Civic Center Plaza Tracy, CA 95376 Telephone: (209) 831-6000

Facsimile: (209) 831-6120

#### With a copy to:

City Attorney
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
Telephone: (209) 831-6130
Facsimile: (209) 831-6137

#### If to Owner:

Les Serpa Chris Long Surland Communities, LLC 1024 Central Avenue Tracy, CA 95376 Telephone: (209) 832-7000 Facsimile: (209) 833-9700

#### With a copy to:

Michael Patrick Durkee Allen Matkins Leck Gamble Mallory & Natsis LLP 200 Pringle Avenue, Suite 300 Walnut Creek, CA 94596 Telephone: (925) 943-5551 Facsimile: (925) 943-5553

- (2) Either Party may change the address stated herein by giving notice in writing to the other Party, and thereafter notices shall be addressed and transmitted to the new address. Any notice given to Owner as required by this Agreement shall also be given to all other signatory Parties hereto and any lender which requests that such notice be provided. Any signatory Party or lender requesting receipt of such notice shall furnish in writing its address to the Parties to this Agreement.
- (e) <u>Recordation</u>. No later than ten (10) days after the Agreement Effective Date, the Clerk of the City shall record a copy of this Agreement in the Official Records of the Recorder's Office of San Joaquin County. Owner shall be responsible for any recordation fees.



- 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.
- 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.
- (h) Execution/Entire Agreement. This Agreement may be executed in duplicate originals, each of which is deemed to be an original. This Agreement also may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts shall together constitute one and the same instrument. This Agreement, including these pages and all the exhibits inclusive, and all documents incorporated by reference herein, constitute the entire understanding and agreement of the Parties.
- (i) The individuals executing this Agreement represent and Signatures. warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of Owner and City. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.
- Exhibits. The following exhibits are attached to this Agreement and are (i) hereby incorporated herein by this reference for all purposes as if set forth herein in full:

Exhibit A Immediate Property Legal Description

Exhibit B Swim Center Payment Protocol

Exhibit C RGA Transmittal and Application Forms

Exhibit D City Authorization to Record Development Agreement

Exhibit E Memorandum of Assignment

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

"City"	
CITY OF TRACY,	a municipal
corporation	_

By: Title: Mayor

"Owner"

SURLAND COMMUNITIES, LLC, a California

limited liability company

Les Serpa

Title: Managing Member\_

Date:

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California	}
County of San Joaquin	
On2/5/09 before me,	ron K. Davis, Notary Public
personally appeared Brent H.	ron K. Davis Notary Public  Here Insert Name and Title of the Officer  TVCS  Name(s) of Signer(s)
SIMION R. DAVIS Commission # 1739969 Netary Public - Cattlornia San Joaquin County MyComm.SpiesMay14,2011	who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/ase subscribed to the within instrument and acknowledged to me that he/\$\frac{1}{2}\text{Se}(1)\text{Def} executed the same in his/\text{Def} that authorized capacity(\text{Def}), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.  I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.  WITNESS my hand and official seal.  Signature of Notary Public
OPTIC	ONAL —————
Though the information below is not required by law, it means and could prevent fraudulent removal and read	nay prove valuable to persons relying on the document ttachment of this form to another document.
Description of Attached Document	
Title or Type of Document:	
Document Date:	Number of Pages:
Signer(s) Other Than Named Above:	
Capacity(ies) Claimed by Signer(s)	
Signer's Name:  Individual Corporate Officer — Title(s): Partner — Limited General Attorney in Fact Trustee Guardian or Conservator Other: Signer le Representier:	Signer's Name:  Individual  Corporate Officer — Title(s):  Partner — Limited General Attorney in Fact Trustee Guardian or Conservator Other:
Signer Is Representing:	Signer Is Representing:

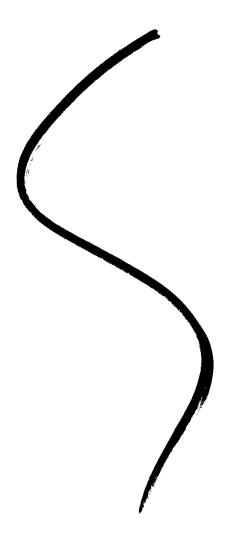
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### **ACKNOWLEDGMENT**

State of California County of
On January 28, 2009 before me, Kirstie L. McKenzie, Notary Public (insert name and title of the officer)
personally appearedLes J. Serpa
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
WITNESS my hand and official seal.  KIRSTIE L. MCKENZIE Commission # 1761001 Notary Public - California
Signature (Seal)  Son Joaquin County My Comm. Expires Sep 8, 2011

M

Exhibit A Immediate Property Legal Description





The land situated in the unincorporated area of the County of San Joaquin, State of California, and described as follows:

#### **DESCRIPTION**

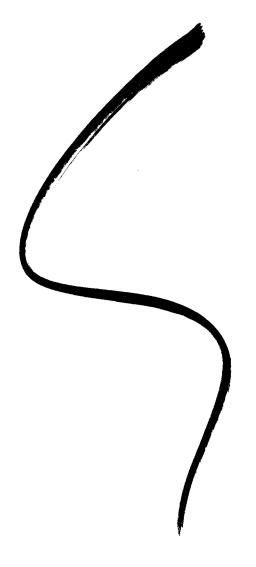
All that certain real property situate in Section 6, Township 3 South, Range 5 East, Mount Diablo Base and Meridian, County of San Joaquin, State of California, and described as follows:

Parcel 1 as said parcel is shown on that certain map entitled "PA-0800181, PARCEL MAP", filed January 27, 2009, in Book 25 of Parcel Maps at Page 33 in the Office of the Recorder of San Joaquin County.



Exhibit B

Swim Center Payment Protocol





#### SWIM CENTER PAYMENT PROTOCOL

#### \*\*\*\*\*\*\*\*\*

- **EX.B-1.** The purpose of this *Exhibit B* is to memorialize the terms, conditions, and parameters by which City and Owner shall implement the design and construction of the Swim Center, as well as to set forth a protocol for the funding of the design and construction costs of the Swim Center. This *Exhibit B* shall not be construed as a preliminary or final approval of the Swim Center or any other land use decision and/or other discretionary process or approval not yet given by City.
- **EX.B-2.** The Swim Center is a public project that will be owned and operated by City. As a result, City shall enter into contracts with all consultants and construction contractors necessary for the design, construction, operation, and maintenance of the Swim Center.
- **EX.B-3.** During the design and construction phases, Owner representatives may participate in design decisions, design modifications and other design-related decisions. Owner representatives shall be invited by City to attend construction progress meetings with City representatives, consultants, and the general contractor to allow for such Owner participation.
- **EX.B-4.** Section 2.20.140 of the Tracy Municipal Code requires that a formal Request for Proposal ("RFP") procedure be followed for consulting services costing \$50,000 or more. This procedure is not required, however, if the City Council determines that compliance with this procedure would not be in the best interest of City. Because RJM Design Group, Inc. ("RJM") and Gates Associates ("Gates") have been responsible for preliminary design to date and are highly qualified to continue to provide design services for the Swim Center, the City Council may determine that it is in the best interest of City not to follow the RFP procedure for the design services for the Swim Center.
- **EX.B-5.** Urban Design Associates ("UDA"), the consultant that prepared the Ellis Specific Plan, drafted the Schematic Design and Design Development concepts for the Swim Center. If desired by City, City may hire UDA to assist in the further refinement of the Schematic Design and Design Development for the Swim Center, with the costs for any such assistance of UDA to be paid by City from the Swim Center Funds.
- **EX.B-6.** Within thirty (30) days following the Annexation Effective Date, Owner shall deposit the Owner Swim Center Contribution, and City shall deposit the City Swim Center Contribution, into a segregated and interest-bearing City account ("Swim Center Funds Account"). City should likewise deposit any New Development Swim Center Contribution funds it collects from new development into said Swim Center Funds Account on a quarterly basis. Any and all interest earned relative to the funds in the Swim Center Funds Account shall be kept with, added to and become part of the Swim Center Funds Account. Within thirty (30) days of the Owner deposit into such Swim Center Funds Account, City shall remit to Owner monies totaling \$324,000 ("Swim Center Advance Costs"). The rationale for the Swim Center Advance Costs is as follows:



(a) Concept Master Plan Development:

(1) RJM Design Group	\$173,000
(2) Urban Design Associates	\$40,000
(3) BKF Engineering	\$3,000
(4) Gates and Associates	\$20,000

(b) Feasibility and Demographic Study and Analysis

_		
	(1) RJM Design Group	\$22,000
L	(1) IOM Design Group	\$32,000

(c) Budget Review and Analysis

(1) RJM Design Group	\$56,000
(-/	Ψ50,000

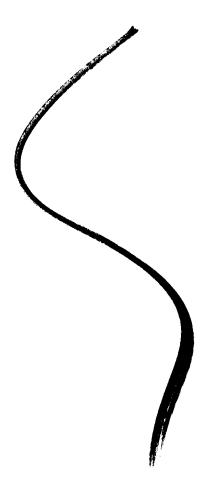
**EX.B-7.** Monies withdrawn from the Swim Center Funds Account shall be for the sole purpose of funding the design, construction, operation, and/or maintenance costs of the Swim Center. City shall make withdrawals from the Swim Center Fund Account in the amounts and at the times it deems necessary in order to pay those costs authorized by this Ex.B-7.

**EX.B-8.** Notwithstanding the foregoing, in the event that an Annexation Effective Date never occurs due to the failure to successfully annex the Ellis Specific Plan Property, Owner shall bear the sole responsibility for the applicable Swim Center costs incurred by Owner, except that in the event any such work funded by Owner is subsequently used by City then City shall pay to Owner the actual cost of such work within thirty (30) days of demand by Owner.



### Exhibit C

# RGA Transmittal and Application Forms



## **RGA Transmittal Form**

# SURLAND DEVELOPMENT AGREEMENT RESIDENTIAL GROWTH ALLOTMENT APPLICATION

Development Agreement between THE CIT COMMUNITIES, LLC dated	Y OF TRACY and SURLAND
Submitted by:	( / ig. oom one /.
Received by:	<del></del>



#### APPLICATION FOR RESIDENTIAL GROWTH ALLOTMENTS

### **Purpose Of Application**

RGA's:	Exception (Fo	or Affordable Housing Units):	
	Applicant's Ir	nformation	
Name:	Telep	hone No.:	
Company:		Fax No.:	
Mailing Address: _	1.00.00		
City/State/Zip Cod	le:		
	Property Owner	s Information	
Name:	Telep	hone No.:	
Company:		Fax No.:	
Mailing Address: _			
(if necessary, plea	se attach a sheet listing additior	nal property owner information)	
	Project Info	ormation	
Recorded Subdivis	sion Name:		
Tract No.:	Total No. of Lots:	Total Acreage:	
Specify Planning A	Area (ex: Ellis, etc.):		
Р	roject (Ownership) Area for	which RGA's are applied	
Project Area name	e (if different from above):		
Project Area owne	rship:		
		r of Project Area lots:	
Assessor's Parcel	No(s).:		

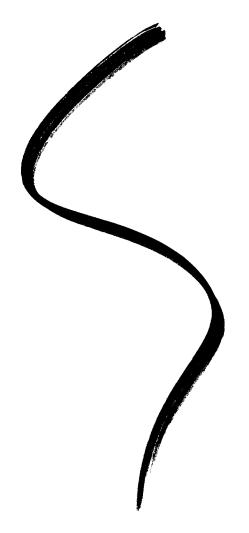


### Project (Ownership) Area for which RGA's are applied (continued)

Total number of RGA's previously awarded to Project Area:			
Total number of building permits issued:			
Total number of unused RGA's (RGA's previously awarded less the total number of RGA's use			
for building permit issuance):			
Total number of RGA's requested in this application:			
Identify the relevant plan approval(s) that have been obtained for the Project			
Area:			
Applicant's Signature			
•			
I, the undersigned, have complied with all the requirements of the Agreement relevant to this application:			
Applicant's Signature Date			



 ${\it Exhibit \, D}$  City Authorization to Record Development Agreement

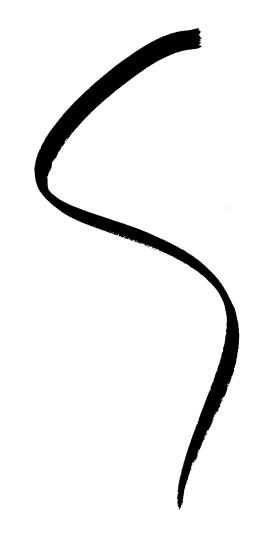


# City Authorization to Record Development Agreement

EX.D	-1. Pursuant to Section 1.12 of the Development Agreement by and between
	TRACY, a municipal corporation ("City"), and SURLAND COMMUNITIES,
	rnia limited liability company ("Owner"), dated, 2009, this Agreement
may be record	led against a Subject property when all of the following has occurred:
(a)	The Subject Property is known and its legal description prepared;
<b>(b)</b>	Overnor has acquired a local or acquirely interest in the Q.1' A.D.
(b)	Owner has acquired a legal or equitable interest in the Subject Property;
(c)	The Subject Property is included within the City's Sphere of Influence; and
(•)	The budgett reporty is included within the City's Sprice of Influence, and
(d)	The City Council has determined that the Subject Property has satisfied the
requirements	of subdivisions (a), (b) and (c) above and has authorized its designated agent to
	Authorization to Record Development Agreement."
	•
EX.D-	
Property has	satisfied the requirements of subdivisions (a), (b) and (c) above. The City Council
hereby author	rizes the City Manager to sign this City Authorization to Record Development
Agreement an	d have it recorded against such Subject Property

# Exhibit E

# Memorandum of Assignment





NO FEE DOCUMENT per Government Code § 6103 RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

City Clerk City of Tracy 333 Civic Center Plaza Tracy, CA 95376

Memorandum Of Assignment This "Memorandum of Assignment" relates to that Development Agreement by and between the City of Tracy and Surland Communities, LLC dated January \_, 2009 ("Agreement") (the form of this Memorandum of Assignment was Exhibit E to the Agreement), and the recording and use of the Agreement on that certain real property ("Subject Property"). This Memorandum of Assignment is entered into by SURLAND COMMUNITIES, LLC a California limited liability company ("Owner") and [owner of Subject Property] ("Assignee"). 1. The Subject Property is more particularly described in Exhibit 1, attached hereto and incorporated herein by this reference as if set forth in full. 2. The Subject Property is hereby burdened and benefitted by and otherwise bound and subject to each and every term and condition of the Agreement, including the following additional details/requirements: The Subject Property shall have a right to an overall total of only RGAs ("Subject Property RGA Total"). The Subject Property shall not have any right to any RGAs given under the Agreement beyond the Subject Property RGA Total. The Subject Property shall have a right to only RGAs from the Annual RGA Eligibility ("Subject Property Annual RGA Eligibility Total"). The Subject Property shall not have any right to any RGAs from the Annual RGA Eligibility given under the Agreement beyond the Subject Property Annual RGA Eligibility Total. The Subject Property is subject to the following additional RGA terms and conditions [list]. The Subject Property shall have a right to a total of only Building Permits ("Subject Property Building Permit Total"). The Subject Property shall not have any right to any Building Permits beyond the Subject Property Building Permit Total



Permits per year from the Building Permits otherwise available under the Agreement ("Subject Property Annual Building Permit Total"). The Subject Property shall not have any right to

any Building Permits beyond the Subject Property Annual Building Permit Total.

Additionally, the Subject Property shall have a right to only Building

(f) The Permit terms and conditions	Subject Proper [list].	ty is subject	to the	following	additional	Building
Executed this California.	day of			, at _		
SURLAND COMMUNITI California limited liability c	,					
	В	By:				
	It	ts:				
[SUBJECT PROPERTY OW	VNER]:					
	В	By:				
	It	ts:		100		



**To:** Leticia Ramirez, Andrew Malik

From: Les Serpa

**Date:** March 19, 2021

**Re:** Surland Development Agreement Amendment

The first meeting with staff on Wednesday 3/17 regarding the request from council for a development agreement amendment was constructive. We are willing to continue to discuss an amendment with the City in a positive manner.

As requested, we wanted to confirm that we did acknowledge the vote in the affirmative at the City Council hearing on 3/16 to authorize a negotiation for an amendment to the Development agreement between Surland and the City of Tracy.

Even though we are willing to collaborate with you, this is a request to open DA discussions by the City and not Surland. Therefore, it is most appropriate for the City to detail what is being asked and what the City is willing to offer in exchange. That will provide clarity of the deal points the City wants us to consider. Most importantly, we are interested in being expeditious with timing so as not to interfere with the progress of the Aquatic park as expected by our community.

We do have other applications with the City of Tracy which should continue to move forward as they are unrelated to a proposed DA amendment. Most notably the application for an amendment to the Ellis Specific Plan that will be coming to City Council on April 6<sup>th</sup>.

#### AGENDA ITEM 3.C

## **REQUEST**

# DISCUSS RECOMMENDED FUNDING PLAN APPROACH AND ALLOCATION FOR AMERICAN RESCUE PLAN ACT (ARPA) AND PROVIDE DIRECTION TO STAFF

# EXECUTIVE SUMMARY

The City Council will receive a presentation from staff on the estimated funding expected from the most recent Federal stimulus package, American Rescue Plan Act of 2021. The City Council will be asked to provide direction regarding an estimated funding plan approach and allocation and direct the City Manager to work with the Council Fiscal Sustainability Ad-Hoc Committee to develop a comprehensive funding plan that addresses eligible budget needs and/or priority projects using ARPA funds. The plan approach and allocation would be based on general eligibility categories provided by Department of Treasury. Staff will return at a future City Council meeting to discuss the Committee's recommended funding plan.

# **DISCUSSION**

On March 11, 2021, President Biden approved the American Rescue Plan Act of 2021, the third economic stimulus related to the COVID-19 (i.e., coronavirus disease 2019) pandemic. This bill provides \$1.9 trillion in additional relief to address the continued impact of COVID-19 on the economy, public health, state and local governments, individuals, and businesses.

## State and Local Fiscal Recovery Funds

As outlined in the Department of Treasury fact sheet (Attachment A):

"The American Rescue Plan provides \$350 billion dollars in emergency funding for state, local, territorial, and Tribal governments to remedy this mismatch between rising costs and falling revenues. This includes:

- \$195 billion for states, (a minimum of \$500 million for each State);
- \$130 billion for local governments (a minimum of \$1.25 billion per state is provided by the statute inclusive of the amounts allocated to local governments within the state);
- \$20 billion for tribal governments; and
- \$4.5 billion for territories

The American Rescue Plan will provide needed relief to state, local, and Tribal governments to enable them to continue to support the public health response and lay the foundation for a strong and equitable economic recovery. In addition to helping these

governments address the revenue losses they have experienced as a result of the crisis, it will help them cover the costs incurred due to responding to the public health emergency and provide support for a recovery — including assistance to households, small businesses and nonprofits, aid to impacted industries, and support for essential workers. It will also provide resources for state, local, and Tribal governments to invest in infrastructure, including water, sewer, and broadband services."

California cities are expected to receive more than \$8 billion in much needed assistance to help offset the billions of dollars in revenue shortfalls due to the shutdown of local economies and the billions spent protecting public health, delivering essential services, protecting vulnerable populations, and helping small businesses survive during the pandemic.

# ARPA Expense Eligibility

According to League of California Cities, the City of Tracy is expected receive over \$17.8 million in ARPA funds. While this funding is guaranteed to the City, there are expense eligibility requirements. Additionally, the funding will come in two tranches; the first would be issued within 90 days of the enactment of the bill and the second would come one year later.

ARPA funds must be expended no later than December 31, 2024 for the following general categories:

# • Provide Government Fiscal Response

 Address impacts of revenue loss and expenses incurred in response to the pandemic

#### Address Economic Effects:

o Aid to households, small businesses, nonprofits, and other industries

#### Investments in Infrastructure:

o Support water, wastewater, and broadband

The Department of Treasury will issue more detailed guidance outlining its interpretation and implementation of eligible uses. While not all the details are known, this funding could be incorporated into the budget as short-term solutions, helping to offset one-time expenses and restore revenues.

# City of Tracy Recommended ARPA Funding Approach and Allocation

Using the three identified "categories" above, staff is seeking Council feedback and direction about its desired funding approach to inform the future development of a funding plan in cooperation with the Council Fiscal Sustainability Ad-Hoc Committee. The Ad-Hoc Committee will present a funding plan recommendation to the Council on a preferred, potential and least preferred ranking. The Council's 2021-2023 strategic priorities and recently approved conceptual fiscal sustainability budget strategies will help to guide the Committee's recommendation. Staff has developed some general funding parameters for Council consideration to help guide its policy discussion.

General Categories	Estimated Funding Allocation	% of Allocation
Provide Government Fiscal Response (Revenue Loss and Expenses due to COVID-19)	\$ 12,000,000	67%
Address Economic Effects (Aid to Households, Businesses, Non- Profits)	3,000,000	17%
Investments in Infrastructure (Support for Water, Wastewater, Broadband)	2,800,000	16%
Total Estimated Funding	\$ 17,800,000	100%

## Additional ARPA Stimulus Funds

In addition to the \$350 billion to help state and local governments address economic impacts related to COVID-19, the federal American Rescue Plan Act includes other funding programs and policy changes in an effort to further mitigate the damage the pandemic has done.

Below is a categorized summary of many of the provisions of interest that may help inform cities and their partners as determinations are made of where best to dedicate funds and where to access other federal funding programs to bolster local efforts. See Attachment A and B: Department of Treasury Fact Sheet and Tax Foundation Chart for further details on Federal funding allocation.

- Economic Impact Payments
- Child Tax Credit
- Capital Projects Fund
- Homeowner Assistance Fund
- Emergency Rental Assistance
- State Small Business Credit Initiative
- Employee Retention Credit and Paid Leave Credit Programs
- Unemployment Compensation

## **STRATEGIC PLAN**

This agenda item supports Governance Strategic Goal 3: Ensure Short and Long-term Financial Sustainability.

Agenda Item 3.C April 6, 2021 Page 4

# FISCAL IMPACT

There is no immediate fiscal impact on the City's budget related to this staff report. Staff will return with a recommended funding plan for future consideration.

# RECOMMENDATION

It is recommended that Council provide feedback regarding the proposed funding plan approach and allocation as it relates to the three general categories of expenses and direct the City Manager to work with the Council Fiscal Sustainability Ad-Hoc Committee to further refine Council's recommended ARPA funding approach and allocation and develop a funding plan for Council consideration.

Prepared by: Karin Schnaider, Finance Director

Reviewed by: Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

## <u>ATTACHMENTS</u>

Attachment A - Department of Treasury FACT Sheet (Source Department of Treasury) Attachment B - Graph of Total American Rescue Plan Act (Source Taxfoundation.org)



# DEPARTMENT OF THE TREASURY WASHINGTON, D.C.

March 18, 2021

## FACT SHEET: The American Rescue Plan Will Deliver Immediate Economic Relief to Families

The current public health crisis and resulting economic crisis have devastated the health and economic wellbeing of millions of Americans. From big cities to small towns, Americans – particularly people of color, immigrants, and low-wage workers – are facing a deep economic crisis. More than 9.5 million workers have lost their jobs in the wake of the pandemic, with 4 million out of work for half a year or longer.

The American Rescue Plan will change the course of the pandemic and deliver immediate and direct relief to families and workers impacted by the COVID-19 crisis through no fault of their own. This law is one of the most progressive pieces of legislation in history, and will build a bridge to an equitable economic recovery.

### **Economic Impact Payments**

Through this third round of Economic Impact Payments, the U.S. Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) are ensuring that Americans will receive fast and direct relief during the final phase of the COVID-19 crisis. As of yesterday, **approximately 90 million Economic Impact Payments had been disbursed**, thereby ensuring that **more than \$242 billion** of much-needed relief will be received by millions of Americans and their families within days of enactment of the American Rescue Plan. Unlike the prior rounds of Economic Impact Payments, the American Rescue Plan requires a 2021 "true-up" additional payment, when applicable, based on information (such as a recently filed 2020 tax return) that the IRS receives mid-year during 2021. This additional Economic Impact Payment will ensure that Americans and their families receive greater amounts of financial assistance during 2021, rather than waiting to claim a Recovery Rebate Credit on a tax return in 2022.

Those eligible will automatically receive an Economic Impact Payment of up to \$1,400 for individuals or \$2,800 for married couples, plus \$1,400 for each dependent. Unlike the prior rounds of Economic Impact Payments, families will get a payment for all their dependents claimed on a tax return, not just their qualifying children under 17.

Normally, a taxpayer will qualify for the full amount if they have an adjusted gross income of up to \$75,000 for singles and married persons filing a separate return, up to \$112,500 for heads of household, and up to \$150,000 for married couples filing joint returns and surviving spouses. Payment amounts are reduced for filers with incomes above those levels.

The Treasury Department and the IRS continue to expand outreach to the millions of homeless, rural poor, and other disadvantaged Americans to ensure that they receive Economic Impact Payments. This includes new and continued relationships with homeless shelters, legal aid clinics, and providing Economic Impact Payment information in more than 35 languages.

# **Child Tax Credit**

The American Rescue Plan's expansion of the Child Tax Credit will substantially reduce child poverty by supplementing the earnings of families receiving the tax credit. Specifically, the Child Tax Credit has been revised in the following ways:

- 1. **The credit amount has been increased.** The American Rescue Plan increased the amount of the Child Tax Credit from \$2,000 to \$3,600 for children under age 6, and \$3,000 for other children under age 18.
- 2. **The credit's scope has been expanded.** Children 17 years old and younger, as opposed to 16 years old and younger, will now be covered by the Child Tax Credit.
- 3. Credit amounts will be made through advance payments during 2021. Individuals eligible for a 2021 Child Tax Credit will receive advance payments of the individual's credit, which the IRS and the Bureau of the Fiscal Service will make through periodic payments from July 1, to December 31, 2021. This change will allow struggling families to receive financial assistance now, rather than waiting until the 2022 tax filing season to receive the Child Tax Credit benefit.
- 4. **The credit is now fully refundable.** By making the Child Tax Credit fully refundable, low-income households will be entitled to receive the full credit benefit, as significantly expanded and increased by the American Rescue Plan.
- 5. The credit is now extended to Puerto Rico and the U.S. Territories. For the first time, low-income families residing in Puerto Rico and the U.S. Territories will receive this vital financial assistance to better support their children's development and health and educational attainment.

To facilitate the disbursement of Child Tax Credit advance payments during 2021, the American Rescue Plan requires the IRS to establish an online portal for taxpayers to update relevant data for mid-year payment adjustments (for example, the birth of a child during 2021). In addition to this online tool, the Treasury Department and the IRS will carry out a sweeping public awareness campaign parallel to its Economic Impact Payment campaign to reach all Americans who may be eligible for this financial assistance.

# **State and Local Fiscal Recovery Fund**

State, local and tribal governments across America have been under an unprecedented strain in the wake of the COVID-19 crisis. While the need for services has increased —including setting up emergency medical facilities, standing up vaccination sites, and supporting struggling small businesses—state and local revenues have plummeted as a result of the economic fallout from the crisis. At the height of the fallout, public sector employment fell by around 1.4 million jobs, including layoffs of 1 million educators, compared to around 750,000 job losses during the Great Recession. As a result, communities have faced untenable choices, between laying off educators, firefighters and other frontline workers or failing to provide services that communities rely on.

The American Rescue Plan provides \$350 billion dollars in emergency funding for state, local, territorial, and Tribal governments to remedy this mismatch between rising costs and falling revenues. This includes:

- \$195 billion for states, (a minimum of \$500 million for each State);
- \$130 billion for local governments (a minimum of \$1.25 billion per state is provided by the statute inclusive of the amounts allocated to local governments within the state);
- \$20 billion for tribal governments; and
- \$4.5 billion for territories

The Rescue Plan will provide needed relief to state, local, and Tribal governments to enable them to continue to support the public health response and lay the foundation for a strong and equitable economic recovery. In addition to helping these governments address the revenue losses they have experienced as a result of the crisis, it will help them cover the costs incurred due responding to the public health emergency and provide support for a recovery – including through assistance to households, small businesses and nonprofits, aid to impacted industries, and support for essential workers. It will also provide resources for state, local, and Tribal governments to invest in infrastructure, including water, sewer, and broadband services.

## **Capital Projects Fund**

The COVID-19 crisis starkly illuminated key shortcomings – and inequalities – in U.S. infrastructure. While some communities were able to adapt to the pandemic with remote or socially-distanced options for work, education, and health care, others lacked the infrastructure needed to do so, compounding the disruptions of the pandemic and exacerbating existing inequalities, with long-term consequences for American families. One particularly salient infrastructure challenge has been the digital divide and the absence of foundational conditions that enable network connectivity and access. As more and more areas of work and education move online, this divide risks leaving many American families behind.

Recognizing these challenges, the American Rescue Plan provides \$10 billion for states, territories, and Tribes to cover the costs of capital projects like broadband infrastructure.

The Capital Projects Fund takes critical steps to addressing these challenges laid bare by the pandemic, especially in rural America and low- and moderate-income communities, helping to ensure that all communities have access to the high-quality, modern infrastructure needed to thrive, including internet access.

## **Homeowner Assistance Fund**

As the economic fallout from the COVID-19 crisis took form, millions of Americans were faced with the pressures of having to decide between making mortgage payments and other essential obligations. This was especially true for the low-income communities and communities of color who bore the brunt of this crisis. Across the country, one in 10 homeowners with a mortgage are behind on payments. The law takes immediate steps to help Americans stay in their homes and keep a roof over their heads.

The American Rescue Plan provides nearly **\$10 billion** for states, territories, and Tribes to provide relief for our country's most vulnerable homeowners. This includes:

• A minimum of \$50 million for each state, the District of Columbia and Puerto Rico;

- \$30 million for the territories of Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands;
- An explicit mandate to prioritize socially disadvantaged households;

The law prioritizes those homeowners that have experienced the greatest hardships, leveraging local and national income indicators to maximize intended impact. Applicable funding uses include delinquent mortgage payments, allowing Americans across the country to take a step in the right direction toward household stabilization. These necessary actions will minimize foreclosures in the coming months, alleviate emergency shelter capacity, and mitigate potential COVID-19 infections.

#### **Emergency Rental Assistance**

An underlying consequence of the COVID-19 pandemic is that household stability is not just a financial security issue, but also a health concern. As the country entered the throes of the crisis, many cities and states began creating or expanding rental assistance programs to support at-risk households. The December appropriations bill provided \$25 billion of federal relief to be administered by the Emergency Rental Assistance (ERA) program for disbursement to existing state and local government programs. The American Rescue Plan nearly doubles the initial funding to expand the reach and impact of the existing ERA program, taking additional steps to mitigate the financial harm caused by the pandemic and keeping Americans safe as the country addresses the virus.

The American Rescue Plan provides **\$21.6 billion** for states, territories, and local governments to assist households that are unable to pay rent and utilities due to the COVID-19 crisis. This includes:

- A minimum of \$152 million for each state and the District of Columbia;
- \$305 million for the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa;
- \$2.5 billion for payments to "high-need grantees," locations with an urgent need for assistance when factoring conditions such as change in employment, concentration of very low-income renters, and rental market costs

As a result of the American Rescue Plan, states and localities across the country will be better armed to provide relief and assistance to those vulnerable households. The new funding will leverage existing program structures, allowing for money to be disbursed quickly and efficiently to on the ground emergency programs, and ensuring this country's hardest-hit families to receive their equitable share of relief.

## **State Small Business Credit Initiative**

It is no secret that the pandemic has disproportionately impacted small businesses across the country, particularly those owned and operated by women and minorities. Every community has had to face the unfortunate reality of local storefronts that are closing or have closed, resulting in friends and family members being furloughed or laid off. Nationally, small business revenue is down 32 percent, and at least 400,000 firms have permanently closed. After a year of the public health crisis, many businesses are hanging on by a thread. Within this law are plans to provide critical assistance to small businesses across the country, facilitating the urgent deployment of capital and support to help these organizations not just persevere, but recover on solid footing.

The American Rescue Plan provides **\$10 billion** to state and Tribal governments to fund small business credit expansion initiatives. This program will build off the inaugural model developed in 2011 during the

Obama-Biden Administration, in which nearly \$1.5 billion in capital supported over \$8 billion in new lending and investing activity across 142 different programs in its first 5 years. The new iteration will expand in scale and include:

- \$1.5 billion for states to support businesses owned by socially and economically disadvantaged people;
- \$1 billion for an incentive program to boost funding tranches for states that show robust support for such businesses; and
- \$500 million to support very small businesses with fewer than 10 employees;

This law will inject capital into state small business support and capital access programs, provide collateral support, facilitate loan participation, and enable credit guarantee programs. It will boost state venture capital programs and provide funding for technical support and assistance. This Administration recognizes that small businesses—enterprises that are responsible for two-thirds of net new jobs in this country—are the backbone of the American economy, and a bellwether of economic progress.

# **Employee Retention Credit and Paid Leave Credit Programs**

In addition to the SSBCI, the American Rescue Plan extends a number of critical tax benefits to small businesses that are intended to help businesses through to the recovery while keeping up their payrolls and still taking steps to protect health outcomes for employees.

The American Rescue Plan extends the availability of the Employee Retention Credit for small businesses through December 2021 and allows businesses to offset their current payroll tax liabilities by **up to** \$7,000 per employee per quarter. This credit of up to \$28,000 per employee for 2021 is available to small businesses who have seen their revenues decline, or even been temporarily shuttered, due to COVID.

The American Rescue Plan also extends through September 2021 the availability of Paid Leave Credits for small and midsize businesses that offer paid leave to employees who may take leave due to illness, quarantine, or caregiving. Businesses can take **dollar-for-dollar tax credits equal to wages of up to** \$5,000 if they offer paid leave to employees who are sick or quarantining. Paid Leave Credits are a powerful incentive to encourage the offer of paid sick and family leave, which will help keep the virus under control by ensuring sick employees can stay home.

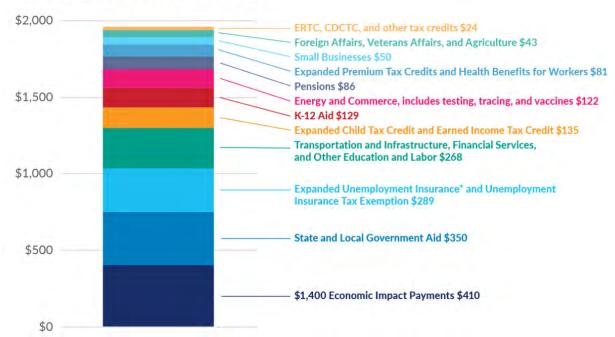
#### **Unemployment Compensation**

Across the nation, millions of Americans lost their jobs in the wake of the COVID-19 pandemic and, as a result, claimed unemployment benefits. The American Rescue Plan waives federal income taxes on the first \$10,200 of unemployment benefits received in 2020 by middle- and lower-income taxpayers. The tax relief extends to both workers who received benefits through federal unemployment programs as well as those who received traditional benefits through their state unemployment insurance fund. This law will provide tax relief for Americans who lost their jobs and utilized unemployment benefits last year – allowing millions of workers to focus their benefits on covering essentials during the COVID-19 pandemic.

# Graph of Total American Rescue Plan Act Source found Taxfoundation.org

# What's in the \$1.9 Trillion American Rescue Plan Act?

Topline summary of relief in Billions of Dollars



Note: "Subject to change pending estimate of Senate version of unemployment insurance expansion. Source: Joint Committee on Taxation and Committee for a Responsible Federal Budget

TAX FOUNDATION @TaxFoundation

https://files.taxfoundation.org/20210312120937/American-Rescue-Plan-Act-of-2021-1.9-Trillion-Covid-Relief-Bill-Expanded-Child-Tax-Credit-Unemployment-Insurance-state-and-local-aid-economic-impact-payments-education-funding-pensions.png (03/29/2021)

#### **AGENDA ITEM 3.D**

#### REQUEST

# DISCUSS ROLE, MAKEUP, AND NECESSITY OF CITY BOARDS AND COMMISSIONS AND PROVIDE DIRECTION TO STAFF

## **EXECUTIVE SUMMARY**

The City Council appoints over 50 individuals to its boards and commissions to advise and assist in carrying out the functions of local government. These boards and commissions provide valuable community perspective and input that inform City policy decisions and operations.

On August 4, 2020, then-Mayor Pro Tem Young, seconded by then-Council Member Ransom, requested that staff evaluate the role, make up, validity, and necessity of each of the City's boards and commissions. Subsequently, on October 6, 2020, then-Mayor Pro Tem Young, seconded by Council Member Vargas, requested that staff present a report to the Council on each City board and commission's function, relevance, and presentation of annual reports.

This report summarizes the scope, makeup, and actions performed by our City boards and commissions and provides Council an opportunity to provide direction.

## DISCUSSION

On August 4, 2020, then-Mayor Pro Tem Young, seconded by then-Council Member Ransom, requested that staff evaluate the role, make up, validity and necessity of each of the City's boards and commissions. Subsequently, on October 6, 2020, then-Mayor Pro Tem Young, seconded by Council Member Vargas, requested that staff present a report to the Council on each City board and commission's function, relevance, and presentation of annual reports.

The City of Tracy currently has seven boards and commissions appointed by Council, which include the Measure V Residents' Oversight Committee, the Parks and Community Services Commission, the Planning Commission, the Tracy Arts Commission, the Transportation Advisory Commission, the Youth Advisory Commission, and the Building Board of Appeals.

Most boards and commissions are created by City resolution or ordinance and serve as advisory bodies to the City Council or staff. They provide information, analysis, and recommendations to inform the City Council and staff on matters pertaining to the board or commission's specialized area. Some boards and commissions have specific authority to make binding decisions, such as the Planning Commission. These bodies generally derive their decision making authority from state laws.

Appointees to boards and commissions perform a public service to our community and have both an obligation and an opportunity to provide helpful input that will shape the

services and programs the City provides. This requires a thorough understanding of their role as a board member or commissioner, as well as a willingness to engage constructively with the public, elected officials, and City staff.

# City Boards, Commissions, and Committees

Listed below are the various City boards and commissions and their responsibilities:

## Planning Commission

The Planning Commission was established by Chapter 10.04 of Title 10 of the Tracy Municipal Code in 1953 and meets the second and fourth Wednesday of each month. It consists of five (5) members appointed by the City Council. The Commission prepares and recommends adoption, amendment or repeal of the City's General Plan; makes recommendations to the proper City officials regarding maps or plots of land subdivision; hold hearings on planning and zoning matters per State and City laws; and advises and makes recommendations regarding acquisition, use, or disposition of City-owned property. Examples of policy items that go before the Planning Commission include land use proposals, zoning regulations, vesting tentative subdivision maps, and recommendations on environmental impact reports. The Planning Commission evaluates development applications and reports through agenized staff reports. The commission does not direct staff or City operations, rather staff aligns its operations and goals with the City Council's Strategic Priorities.

Planning Commission actions can be appealed to the City Council, who can then decide to uphold the commission's decision, overturn it, modify it, or send it back for further study. The Planning Commission does not prepare an annual report to the Council, as the commission's primary role is to review and approve development applications per state law and the Tracy Municipal Code. The Planning Commission agenda and the Development Services Department project pipeline report is provided to the City Council for their reference. Commissioners receive a \$50 stipend per meeting.

## Measure V Residents' Oversight Committee

The Measure V Residents' Oversight Committee was established in 2017, per City Council Ordinance 1223 (approved by the voters), and consists of five (5) members appointed by the City Council. It meets quarterly on the 3rd Monday of January, April, July and October. The Committee reviews expenditures and revenues through the annual independent financial audits, has oversight of revenues generated by Measure V and expenses related to Measure V, and serves in an advisory role to the City Council. City Council retains final authority in all decisions. The Oversight Committee's role is to advise the City Council of its findings and make recommendations during the term of the Committee. The Committee presents an annual written report documenting its findings to the City Council. The Measure V Residents' Oversight Committee Member position is a volunteer, non-paid position.

## Parks & Community Services Commission

The City Council established the Parks and Community Services Commission in 1997 per Chapter 7.16 of the Tracy Municipal Code. The commission consists of seven (7) members, six of whom are appointed by City Council. The seventh member is appointed by the Tracy Unified School District (TUSD). All seven (7) members serve a four-year term and serve at the pleasure of the City Council, with the exception of the TUSD appointee. The Parks and Community Services Commission is charged with

advising on rules and regulations governing the conduct of recreation programs, protection of property, activities of persons in all parks, and hearing appeals of decisions made by the Parks and Recreation Director including park permits issued or denied. They advise the City Council on recreation and facility master planning and development, park design, and review grant opportunities and details. The Parks and Community Services Commission is an advisory body to the City Council on all quality of life matters that pertain to senior citizens, adults, teens and youth. They receive reports on programming, such as activities at the Senior Center, After School Program, special events, and youth and adult sports. They also receive reports on public recreation facilities development and use. With both programming and facilities, the Commission provides valuable feedback and helps the department set the direction for the prioritization of projects and use of resources, including funding allocation recommendations for the City's Community Development Block Grant (CDBG) program.

With staff facilitation, the Commission organizes and implements goals and objectives on an annual basis. The Commission prepares an annual report and Senior Citizen report to the City Council. The Commission meets the first Thursday of each month at 7:00 p.m., and holds public meetings on recreation programming and facility usage. Commissioners receive a \$50 stipend per meeting.

# Transportation Advisory Commission

The City Council established the Transportation Advisory Commission in 2007. It consists of nine (9) members, each serving a four-year term. Commission meetings are held on the second Tuesday of each month at 7:00 p.m. The Commission acts in an advisory role to the City Council on matters relating to transportation in the community. The purpose of the Transportation Advisory Commission is to address various public transportation issues including transit (TRACER bus service, San Joaquin Regional Transit District (SJRTD), Altamont Corridor Express (ACE Train), taxis), airport, and bikeways. The Commission gathers information by participating in public outreach at various City-sponsored events and by speaking with various groups and individuals with whom they have contact within the community. Additionally the Commission reviews and provides input on City-wide public transportation and airport planning documents and policies, advises on service levels and routes, recommends rules and procedures including rates, fares, and user fees for the use of transportation service programs and facilities. The Commission identifies transportation infrastructure needs and provides recommendations to improve connectivity for transit users. The Commission also recommends and promotes marketing strategies for community outreach programs to strengthen the use of the transit system with a particular emphasis on seniors/ADA passengers and students.

With staff facilitation, the Commission organizes and implements goals and objectives on an annual basis, and prepares an annual report to the Council. Commissioners receive a \$50 stipend per meeting.

#### Youth Advisory Commission

The Youth Advisory Commission ("YAC") was established in 1998 and consists of eight (8) to 14 members. The purpose of the YAC is to provide youth with an opportunity to make a positive impact in the Tracy community. The YAC meets the second Wednesday of each month at City Hall. The role of the YAC is to foster increased involvement of youth in the affairs of municipal government. Some of the responsibilities include: addressing issues, activities and concerns of youth especially as they relate to

municipal programs and projects within the City of Tracy; holding forums on safety, recreation and school issues; making recommendations to the Parks & Recreation Department regarding the planning and implementation of programs; and participating in Youth Advisory Commission Activities. The YAC annual report is presented to Council in January of each year. YAC Members are non-paid volunteers.

## **Tracy Arts Commission**

The City Council established the Tracy Arts Commission ("TAC"), previously known as the Cultural Arts Commission and Community Cultural Arts Commission, by City Council Ordinance 501 in July of 1991. The seven-member body is appointed by the City Council to serve four-year terms. Meetings are held on the second Tuesday of each month. City Council's charge to the TAC is to preserve and cultivate the expression and appreciation of the arts in Tracy. The TAC represents the diversity of the creative community including arts patrons, architecture, engineering, historical preservation, design arts, arts administration, arts education, visual arts and the performing arts. In addition, the TAC maintains the Civic Art Plan, advises the City Council on the City-wide public art program, and advises staff on activities and programming. The TAC makes design and funding recommendations for Civic Art Program projects that utilize Capital Improvement Project funding, for City Council approval. They also make recommendations for any arts, aesthetic, design, architectural, and beautification projects from any City department or the City Council as requested. The TAC may perform other arts-related duties and functions as the City Council may direct.

The TAC uses Budget, Civic Art and Special Events Subcommittees to carry out their duties, provide programming recommendations, and collaborate with the educational, business, and creative communities. The TAC and staff have a working, collaborative relationship, as all of their projects require staff expertise in the arts policies and practices, resulting in public programming such as the Downtown Tracy Artwalk, Downtown Tracy Mural Project, Tracy Art Week/Month, and the collection and projects of the Civic Art Program. TAC does not prepare an annual report for the Council at this time. However, staff can assist the TAC with preparing an annual report at Council's discretion. Commissioners receive a \$50 stipend per meeting.

## **Building Board of Appeals**

Established by Ordinance 602 on May 1, 1984, and pursuant to Tracy Municipal Code Chapter 9.44, the City Council established a Building Board of Appeals for the purpose of hearing appeals by persons aggrieved by any administrative decisions in the application of the Uniform Housing, Building, Mechanical, Electrical, Plumbing, Abatement of Dangerous Buildings, and Fire Codes, or regulations adopted pursuant thereto. The five-member body is appointed by the City Council to serve four-year terms. The board consists of members who are qualified by experience and training (such as licensed contractors, engineers, and architects) to evaluate matters pertaining to building construction. The Board meets as-needed, and members are non-paid volunteers.

# San Joaquin County Commission on Aging

The San Joaquin County Commission on Aging was established by the San Joaquin County Board of Supervisors, and takes an active role advocating for the needs of senior citizens in San Joaquin County. One member is appointed by the Tracy City Council for a three-year term. The Commission membership must consist of more than 50% of individuals who are 60 years of age or older. However, any adult who is interested in issues relating to seniors may be considered for appointment. The Commission meets

on the first Monday of each month except for August, when no meeting is held. Members are non-paid volunteers.

# San Joaquin County Mosquito Abatement District Board

Established by the State of California, Department of Health Services, State Health and Safety Code, Chapters 5 and 6 of Division 3, the San Joaquin County Mosquito Abatement District takes actions for the extermination of mosquitoes and the abatement of their breeding places throughout the District, while conforming to all California Government Codes applicable to public agencies. The Board meets the third Tuesday of each month at 1:00 p.m. The City Council appoints one resident to serve on the San Joaquin County Mosquito Abatement District Board. The term of the appointment is 2-4 years, at the discretion of the City Council. Members are non-paid volunteers.

# Ad Hoc & Standing Committees

Ad hoc Committees are formed for a specific purpose and dissolve after completing their mission. However, standing boards, commissions, and committees become an integral part of the City's governance structure by having continuing subject matter oversight or a fixed meeting schedule. Standing boards, commissions, and committees are evaluated and approved at the City Council's discretion.

# Application, Appointments, and Reappointments

Residents who are interested in serving on a City of Tracy board, commission, or committee must complete and submit the appropriate application form to the City Clerk. Recommendations for appointment are typically made by a subcommittee of the City Council and are approved by the full Council, per the Council's advisory body selection and appointment policy (Attachment A). Reappointment is not automatic; therefore, board members, commissioners, and committee members are required to submit a new application to the City Clerk prior to each term expiration date to be considered for reappointment.

All Commissioners, excluding members of the Board of Appeals, must be city residents and cannot be employees of the City of Tracy. The master list of members who currently serve on City boards and commissions for 2021, including their appointment and term expiration date, is provided in Attachment B. There is currently one vacancy on the Transportation Advisory Commission, one vacancy on the Tracy Arts Commission, and two vacancies on the Parks and Community Services Commission. Additionally, three of the Transportation Advisory Commissioners terms will expire on April 30, 2021.

### **Governing Policy**

#### Bylaws

The City's bylaws are standardized for most boards and commissions, with some specific provisions applicable to each body. The standard bylaws include sections on duties, ethics and conflicts of interest, and procedural matters, including scheduling, noticing, and conducting meetings and preparation of agendas (Attachment C). Bylaws are consistent with those set forth by the City Council for the operation of the board or commission and the conduct of its meetings.

## Public Meetings

City boards and commissions are subject to the Brown Act, meaning their deliberations and decisions must be done in an open public meeting. Each year, City boards and commissions cumulatively hold more than 70 meetings. Generally, regular meetings are held on a reoccurring date and time. Special meetings may be called to discuss a specific topic, but do not occur frequently. Regular meetings must be noticed to the public at least 72 hours in advance; special meeting must be noticed within 24 hours of the meeting. Advance public notice of the meetings are provided by physically posting the notice, listing the meeting on the City website, and by direct email to interested parties who have requested such notices.

Currently, all meetings are conducted in accordance with the City Council's meeting procedures. The Council may consider authorizing certain boards and commissions to follow less stringent public meeting protocols.

#### Public Records Act

Records of the City are subject to disclosure under the California Public Records Act. Agendas, staff reports, and email communications about board or commission business are generally considered to be public records subject to disclosure under the Public Records Act.

## Role of City Staff

Each board and commission has a staff liaison who provides professional and administrative support. Staff liaisons are the primary conduit for members of boards and commissions to communicate with the City. Staff liaisons perform a variety of roles, including:

- Serving as a channel of communication between the board/commission and other City staff;
- Creating meeting notices, preparing minutes, and creating agendas;
- Scheduling meetings and booking meeting locations;
- Maintaining board/commission records;
- Coordinating the collection and distribution of information requested by the board/commission;
- Prepare board and commission agendas and minutes, publish online, and make print copies available to the public;
- Facilitating the coordinating and implementation of board/commission goals and actions.

The City Clerk's Office also provides a wide range of support and oversight for City boards and commissions, including: facilitating the noticing and recruitment of new appointees, maintaining board and commission roster, and ensuring meetings and records are accurate and meet applicable Brown Act requirements.

# Past Council Discussion on New Commission Formation & Consolidations

On July 2, 2013, staff presented Council with an option to consolidate three existing commissions as part of a broader discussion on the formation of a senior commission. The option included the consolidation of the Parks and Community Services Commission, the Tracy Arts Commission, and the Youth Advisory Commission into one 11 member Community Services Commission; and included the appointment of three senior advisory members to ensure senior citizen representation. The goal of the

consolidation was to improve resident engagement with specific populations in a more inclusive and collaborative manner, create more synergy among the members who sit on these separate commissions in order to accomplish broader community goals, and to facilitate commission recruitments which can be difficult to fill. During the meeting, the Council did not move to create a Community Services Commission or establish a new senior commission.

# **Commission Vacancies**

Currently, there are vacancies that exist on the Parks, Arts, and Transportation Advisory Commissions (see Attachment B). The Council may consider downsizing these commissions to five-member bodies to reflect the makeup of the City Council, which can also be achieved through attrition so that sitting commissioners are not impacted. Reducing the commission size will result in less vacancies to fill, and operationally may be more manageable for staff. The cost savings associated with reducing the size of these commissions is roughly \$3,600 annually.

The recruitments for these vacancies are currently on hold until staff receives further direction from Council. Should the Council decide to reduce the size of the Parks, Arts, and Transportation Advisory Commissions to five-member bodies, staff will return with a report to amend the Commission bylaws.

# **Council Direction**

- 1. Is the City Council in favor of downsizing the Parks, Arts, and Transportation Advisory Commissions from seven to five members?
- 2. Would the City Council like to update the commission bylaws to require annual reports from all City commissions?
- 3. Should the City commissions strictly follow Rosenberg's Rules of Order or have flexibility regarding the rules of procedure they employ?

#### FISCAL IMPACT

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

# STRATEGIC PLAN

This agenda item supports the City Council's 2021-2023 Governance Strategic Priority, and specifically implements the following goal:

Goal 1: Model good governance, teamwork, and transparency.

# RECOMMENDATION

That the City Council discuss the role, makeup, and necessity of City boards and commissions and provide direction to staff.

Agenda Item 3.D April 6, 2021 Page 8

Prepared by: Vanessa Carrera, Assistant to the City Manager

Reviewed by: William Wilson, Cultural Arts Supervisor

Bill Dean, Assistant Director of Development Services

Ed Lovell, Transportation Manager

Jolene Jauregui-Correll, Recreation Manager Brian MacDonald, Parks & Recreation Director

Adrianne Richardson, City Clerk

Approved by: Jenny Haruyama, City Manager

# <u>ATTACHMENTS</u>

A – Council Policy on Appointments to Advisory Bodies

B – City of Tracy, Boards and Commissions Roster and Term Expirations

C – City of Tracy, Boards and Commissions By-laws

#### RESOLUTION 2020-009

ADOPTING A COUNCIL POLICY ESTABLISHING A SELECTION PROCESS FOR APPOINTMENTS TO CITY ADVISORY BODIES AND REPEALING RESOLUTION NO. 2004-089 AND RESOLUTION NO. 2004-152

WHEREAS, In March 2004, the Tracy City Council adopted Resolution No. 2004-089 establishing a policy for the selection process and defining residency requirements for appointee bodies ("Policy") in accordance with Government Code sections 54970 et seq. that was last amended in May 2004, via Resolution No. 2004-152;

WHEREAS, The current policy states that the Mayor (or designee) and a selected Council member shall serve on a selection subcommittee to review applications to serve on an advisory body, interview applicants, and make a recommendation to the full Council on a candidate for appointment to an advisory body,

WHEREAS, In practice, Council appoints any two Council members to a subcommittee to review applications and interview applicants for an appointment to an advisory body, and

WHEREAS, Council wishes to amend the policy to accurately reflect its current practice.

NOW, THEREFORE, the City Council of the City of Tracy hereby adopts the Council Policy Establishing a Selection Process for Appointments to City Advisory Bodies, attached as Exhibit A, and thereby repeals and supersedes Resolution No. 2004-089, and Resolution No. 2004-152.

The foregoing Resolution 2020-009 was passed and adopted by the Tracy City Council on the 21st day of January, 2020, by the following vote:

AYES: COUNCIL MEMBERS: ARRIOLA, RANSOM, VARGAS, YOUNG, RICKMAN

NOES: COUNCIL MEMBERS: NONE ABSENT: COUNCIL MEMBERS: NONE ABSTAIN: COUNCIL MEMBERS: NONE

MAYOR

ATTEST:

CITY CLERK

# COUNCIL POLICY ESTABLISHING A SELECTION PROCESS FOR APPOINTMENTS TO CITY ADVISORY BODIES

(Exhibit "A" to Resolution No. 2020-009)

# SECTION 1: PURPOSE

To establish a selection process for appointments to City advisory bodies including defining residency requirements, in accordance with Government Code sections 54970 et seq.

# SECTION 2: SELECTION PROCESS FOR APPOINTEE BODIES

- A. On or before December 31st of each year, the City Clerk shall prepare an appointment list of all regular and ongoing boards, commissions and committees that are appointed by the City Council of the City of Tracy. The list shall contain the following information:
  - 1. A list of all appointee terms which will expire during the next calendar year, with the name of the incumbent appointee, the date of the appointment, the date the term expires and the necessary qualifications for the position.
  - 2. A list of all boards, commissions and committees whose members serve at the pleasure of the Council and the necessary qualifications of each position.
  - 3. The list of appointments shall be made available to the public for a reasonable fee that shall not exceed actual cost of production. The Tracy Public Library shall receive a copy of the list.
- B. Whenever a vacancy occurs in any board, commission or committee, whether due to expiration of an appointee's term, resignation, death, termination or other causes, a special notice shall be posted in the office of the City Clerk, The Tracy Public Library, the City website, and in other places as directed within twenty (20) days after the vacancy occurs. Final appointment to the board, commission or committee shall not be made by the City Council for at least ten (10) working days after the posting of the notice in the Clerk's office. If Council finds an emergency exists, the Council may fill the unscheduled vacancy immediately.
- C. Appointments shall be made for the remainder of the term created by the vacancy except as follows:
  - 1. If appointee will fill an un-expired term with six months or less remaining, the appointment shall be deemed to be for the new term.
  - 2. If the vacancy is filled by an emergency appointment the appointee shall serve only on an acting basis until the final appointment is made pursuant to section 2.
- D. The Council shall use the following selection process to provide an equal opportunity for appointment to a board, commission or committee:

- 1. Council shall appoint two Council members to serve on a subcommittee to review applications, interview applicants and recommend a candidate for appointment to the board, commission or committee.
- 2. If the Council subcommittee determines there are multiple qualified candidates, the subcommittee can recommend the Council establish an eligibility list that can be used to fill vacancies that occur in the following twelve (12) months.
- 3. At the Council subcommittee's discretion, the chair (or designee) of the board, committee or commission for which a member will be appointed, can participate in the interviews.
- E. In the event there are not two or more applicants than vacancies on any board, commission or committee, the filing deadline may be extended by the City Clerk.
- F. An individual already serving on a City of Tracy board, committee or commission may not be appointed to serve on an additional City of Tracy board, committee, or commission concurrently.

# SECTION 3: DEFINITION OF RESIDENCY REQUIREMENTS

- A. The following definitions shall be used to determine whether residency requirements are met for boards and commissions to which the Tracy City Council appoints members:
  - 1. Tracy Planning Area means the geographical area defined in the City of Tracy General Plan and any amendments thereto.
  - 2. City of Tracy means within the city limits of the City of Tracy.
  - 3. Citizen means a resident of the City of Tracy.
  - 4. Tracy School District means the geographical area served by the Tracy Unified School District.
  - 5. Sphere of Influence shall be the geographical area approved by the Local Agency Formation Commission (LAFCo) of San Joaquin County and any amendments thereto.
- B. Residency, as defined above and as set forth in the applicable bylaws for each board or commission, shall be verified annually by the City Clerk. The residency must be verifiable by any of the following means:
  - 1. Voter registration,
  - 2. Current California Driver's License or Identification,

#### ATTACHMENT "A"

- 3. Utility bill information (phone, water, cable, etc.),
- 4. Federal or State tax returns.
- C. Members of boards or commissions shall notify the City Clerk in writing within thirty (30) days of any change in residency. If the change in residency results in the board member or commissioner no longer meeting the residency requirements, the member shall tender their resignation to the City Clerk who shall forward it to the City Council.

# CITY OF TRACY

# 2021 Master List of Board, Committees and Commissions

<u>Name</u>	Appointment Date	Term Expiration		
BOARD OF APPEALS				
Dennis Alegre James Caling Hossein Ebrahimi Scott Schendel Jerry Yerian	February 19, 2019 February 19, 2019 February 19, 2019 February 19, 2019 February 19, 2019	February 28, 2023 February 28, 2023 February 28, 2022 February 28, 2023 February 28, 2022		
MEASURE V RESIDENTS' OVERS	IGHT COMMITTEE			
Ameni Alexander Karen Parker-Moore Allan Borwick Abdul Wahid Joyce Fenton	April 8, 2020 April 8, 2020 March 5, 2019 March 5, 2019 October 20, 2020	February 28, 2023 February 28, 2023 February 28, 2022 February 28, 2022 February 28, 2023		
PARKS AND COMMUNITY SERVICES COMMISSION				
Linda Jimenez Jacy Krogh Todd Lieberg Rajdeep Singh Vacant Vacant Lori Souza (TSUD Representative)	February 5, 2008 February 4, 2020 January 2, 2018 April 16, 2019	January 31, 2024 January 31, 2024 January 2, 2022 January 31, 2024 January 2, 2022 January 2, 2022		
PLANNING COMMISSION				
Gurtej Atwal Maurice Francis Albert (Cliff) Hudson Joseph Orcutt	October 1, 2019 October 2, 2019 April 8, 2020	March 31, 2024 March 31, 2022 March 31, 2024		

<u>Name</u>	Appointment Date	Term Expiration		
SAN JOAQUIN COUNTY COMMISSION ON AGING				
Wayne Templeton	July 22, 2020	June 30, 2023		
SAN JOAQUIN COUNTY MOS	QUITO ABATEMENT DISTRIC	T BOARD		
Prabhjot Singh	July 22, 2020	June 30, 2024		
TRACY ARTS COMMISSION				
Margarita Anderson Jeff Bordes Nila Dhugga Maxine Lees Cynthia Reis Taranjit Sandhu <mark>Vacant</mark>	December 17, 2019 October 18, 2017 January 7, 2014 December 17, 2019 December 17, 2019 March 19, 2012	December 31, 2023 December 31, 2021 December 31, 2021 December 31, 2023 December 31, 2021 December 31, 2021 December 31, 2023		
TRANSPORTATION ADVISORY COMMISSION				
Cooper, Gary English, Alice Khanna, Rajnish Silva, Tim <mark>Vacant</mark> Vaughn, Alvin <mark>Vacant</mark>	April 16, 2019 September 5, 2017 November 7, 2018 December 3, 2013 September 4, 2007	April 30, 2021 April 30, 2021 April 30, 2021 April 30, 2022 April 30, 2022 April 30, 2022 April 30, 2023		
VOLITILIA DIVICO DIVICO NAMICO	ION			

# YOUTH ADVISORY COMMISSION

Almazon, Alexandra Andrews, Kayla Crowley, Samantha Dash, Seemani Delapaz, Adriana Dhillon, Harleen Kala, Manasvini Kala, Sashank Karthikeyan, Ethan Mahendran, Kaavya	July 16, 2019 February 2, 2021 July 16, 2019 July 16, 2019 August 1, 2019 February 2, 2021 February 2, 2021 February 2, 2021 August 1, 2020 August 1, 2020	July 31, 2021 July 31, 2023 July 31, 2021 July 31, 2021 July 31, 2023 July 31, 2023 July 31, 2023 July 31, 2022 July 31, 2022 July 31, 2022
Mahendran, Kaavya	August 1, 2020	July 31, 2022
Mamsa, Mysha	July 16, 2019	July 31, 2021
Moshan, Ingrid	July 16, 2019	July 31, 2021
Razi, Yasmeen	August 1, 2019	July 31, 2022

# ATTACHMENT "B"

# 2021 Boards and Commissions List

Xiao, Beiyuan "Peter"	February 2, 2021	July 31, 2023
Adult Commissioners:		
Scott Arbogast	February 2, 2021	July 31, 2023
Sarah Ying Bai	February 2, 2021	July 31, 2023
Wes Huffman	August 1, 2019	July 31, 2021

# BYLAWS OF THE PLANNING COMMISSION OF THE CITY OF TRACY, CALIFORNIA

WHEREAS, Pursuant to California Government Code sections 6500 <u>et seq.</u> ("Government Code") and Chapter 10.04 of Title 10 of the Tracy Municipal Code ("Municipal Code"), a Planning Commission ("Commission") of the City of Tracy, California, has been established; and

WHEREAS, The membership qualifications, terms of office, organization, required meetings of the Commission are set forth in the Municipal Code; and

WHEREAS, The powers and duties of the Commission are set forth in the Government Code and the Municipal Code; and

WHEREAS, The Commission may adopt, subject to City Council ("Council") approval, bylaws for the transaction of its affairs and conduct of its meetings.

NOW, THEREFORE, these Bylaws govern the conduct of the meetings and the transaction of its affairs.

## A. PURPOSE

The purpose of the Commission is to perform all of the functions of a city planning commission as described by California state planning and zoning law, as further described in Chapter 10.04 of Title 10 of the Municipal Code, except as otherwise provided by ordinance or resolution of the Council.

# B. ROLE AND RESPONSIBILITIES

The role of the Commission is to perform all of the functions of a city planning commission as described by California state planning and zoning law, as further described in Chapter 10.04 of Title 10 of the Municipal Code, except as otherwise provided by ordinance or resolution of the Council. The responsibilities of the Commission include making recommendations to the Council regarding the general plan and amendments thereto, subdivision map applications in accordance with the California Subdivision Map Act and the Municipal Code, and holding hearings on planning and zoning matters.

# C. MEMBERSHIP GUIDELINES

- 1. **Membership**. The Commission shall consist of five (5) members unless otherwise provided in the Municipal Code.
- 2. **Term.** Each member shall serve a four- year term. Terms for members appointed to fill unexpired terms shall be in accordance with the Municipal Code.
- 3. **Attendance**. Attendance requirements are set forth in Chapter 10.04 of the Municipal Code.
- 4. **Leave of Absence**. A Planning Commission member may submit a written request to the City Council, for a leave of absence of up to six-months, which may be approved in its discretion.
- 5. **AB 1234 Training and Form 700 Completion.** If a member of the Planning Commission who is required to complete AB 1234 training (State Mandated

By Laws of the Planning Commission City of Tracy Page 2 of 4

Ethics Training) and/or is required to complete form 700 (Statement of Economic Interest), does not do so in a timely manner, the City Clerk's Office will send two written notices at least 10 days apart to the member. If the member does not complete the required training and/or form, and provide proof of compliance to the City Clerk's Office, within 30 days of receiving the second written notice, his or her appointment will automatically terminate.

# D. QUORUM

A quorum of the Planning Commission shall consist of a majority of the members (including any vacancies). A quorum must be present in order for the Planning Commission to hold a meeting.

# E. OFFICERS AND DUTIES

- 1. The officers of the Planning Commission shall be:
  - a. The Chairperson and
  - b. The Vice-Chairperson.
- 2. The Chairperson shall:
  - a. Preside at all regular and special meetings.
  - b. Rule on all points of order and procedure during the meetings.
  - c. Sign all resolutions and minutes.
  - d. Provide recommendations to staff liaison regarding agenda items.
- 3. The Vice Chairperson shall assume all duties of the Chairperson in his or her absence or disability.
- 4. In case of the absence of both the Chairperson and Vice Chairperson from any meeting, an Acting Chairperson shall be elected from among the members present.

# F. TERMS AND VACANCIES

The officers will be selected by the membership for a one year term. The annual election of officers shall take place at the last regular meeting in June of each year. The terms of officers shall commence as of July 1st following the election and shall continue through June 30th of the following year. In the first year of formation, the election of officers shall take place at the first regular meeting.

# G. <u>MEETINGS</u>

- 1. Regular meetings of the Planning Commission shall be held on the Second and Fourth Wednesday of each month, except in November and December of each year when regular meetings shall be held on the First and Third Wednesday, and shall begin at 7:00 p.m. in the Tracy Council Chambers.
- 2. If the scheduled date of a regular meeting conflicts with a holiday period, staff shall reschedule that meeting to be conducted within that month.
- 3. Any regular meeting may be adjourned, or any item on the agenda continued to the next or any subsequent regular meeting of the Planning Commission by a

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majority of the quorum. If a meeting is adjourned or an item is continued to a special meeting to be held on a date other than a regular meeting date, the time, place, and date of such special meeting shall be specified in the motion for adjournment or continuance.

- 4. All meetings are subject to the Brown Act as set forth in Government Code sections 54950 and following. Accordingly, all meetings shall be noticed and agendas for all meetings shall be prepared and posted in accordance with the current Council meeting procedures.
- 6. All meetings shall be conducted in accordance with the current Council meeting procedures.
- 7. All agendas shall be prepared and distributed in accordance with Council meeting procedures and the Brown Act.

# H. FUNDING

Any funding necessary for operation of the Commission shall be included in the City of Tracy budget, which shall be approved by the Council.

# I. ADMINISTRATIVE PROCEDURES AND POLICIES

The Commission shall follow all applicable City fiscal administrative policies and procedures.

## J. SUBCOMMITTEES

The Commission may form ad hoc subcommittees in accordance with the Brown Act, and make appointments to that subcommittee, as it deems necessary. A quorum of Commission members may not be appointed to serve on a single subcommittee. Before forming a subcommittee, the Commission shall establish a specific charge and term for the subcommittee.

# K. STAFF LIAISON

The Commission shall have a staff liaison designated by the Development and Engineering Services Department. The staff liaison shall:

- Receive and record all exhibits, petitions, documents, or other material presented to the Planning Commission in support of, or in opposition to, any question before the Planning Commission.
- 2. Sign all meetings minutes and resolutions upon approval.
- Prepare and distribute agendas and agenda packets.

# L. ADOPTION

This document, as adopted and amended by Council resolution, shall serve as the Bylaws for the Commission.

#### ATTACHMENT "C"

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Commission: Recommended approval to Council on December 17, 2003, by motion action.

Council: Approved by Council on January 20, 2004, by Resolution No. 2004-016, and

amended by Council on March 2, 2010, by Resolution No. 2010-022.

(09 29 10)

# BYLAWS OF THE MEASURE V RESIDENTS' OVERSIGHT COMMITTEE CITY OF TRACY, CALIFORNIA

WHEREAS, Pursuant to Ordinance 1223, the City Council has established a Measure V Residents' Oversight Committee (the "Oversight Committee") for the purpose of overseeing revenues generated by and expenses related to the one-half cent sales tax measure (Measure V), which was adopted by the voters on November 8, 2016, and

WHEREAS, The Measure V Residents' Oversight Committee By-Laws are consistent with those set forth by the City Council for the operation of the City's Boards, Commissions and Committees, and

NOW, THEREFORE, these By-Laws govern the conduct of the meetings and the transaction of the affairs of the Oversight Committee.

# A. PURPOSE

Pursuant to Ordinance 1223 the Oversight Committee shall review the revenue and expenditure from the Measure V transactions and use (sales) tax through the annual independent financial audits performed by an independent auditor. The Oversight Committee shall have oversight of revenues generated by and expenses related to Measure V. The Oversight Committee serves in only an advisory role to the City Council. The City Council retains final authority in all decisions.

## B. ROLE AND RESPONSIBILITIES

The role of the Oversight Committee is to review the independent financial audit of the City that includes revenue raised by Measure V and other financial reports necessary to advise the City Council of its findings and make recommendations during the term of the Committee. The Committee will present an annual written report documenting its findings to the City Council in August of each year or when reasonably possible thereafter based upon availability of data needed for the annual written report.

The Oversight Committee Member position is a volunteer, non-paid position whose roles and responsibilities <u>will</u> include the following:

- To serve in an advisory-only capacity to the City Council;
- To provide oversight of the revenues and expenses pertaining to the portion of the sales tax generated by Measure V:
- To review the annual independent financial audit of the City performed by an independent auditor on sections pertaining to the revenue and expenses related to the portion of the sales tax generated by Measure V;
- To review other City financial reports pertaining to the revenue generated by and expenses related to the portion of the sales tax generated by Measure V revenue and expenses;
- Providing Council with an annual written report;
- Additional reports to Council can be provided to Council at the committee and/or Council's discretion (all reports must be in writing and agendized pursuant to the Brown Act).

The Oversight Committee roles and responsibilities will not include the following:

- Oversight on Enterprise and other funds generated independent of Measure V;
- · Decision-making on spending priorities;
- Reviewing Enterprise and, except to the extent necessary for the General Fund, other funds generated independently of Measure V.

The Oversight Committee's findings will be presented annually in a written report to the City Council.

The City Council retains final authority in decisions for all aspects of the sales tax revenue.

# C. MEMBERSHIP GUIDELINES

- Membership. The Oversight Committee shall consist of five members who are residents of the City of Tracy and meet the residency requirement as outlined in Resolution 2004-152, establishing the council selection process, and defining residency requirements, for appointee bodies.
- 2. <u>Term.</u> The Oversight Committee will commence on March 1, 2017. Of the five members of the Committee first appointed, three shall be appointed for a three year term and two shall be appointed for a two year term. Subsequent appointments to the Oversight Committee shall be until the reporting period for the last one-half cent sales tax collected pursuant to Measure V. No member of the committee shall serve more than two consecutive terms.
- 3. <u>Attendance</u>. An Oversight Committee member's failure to attend two consecutive meetings in any calendar year shall result in his or her removal from the Committee at the discretion of the City Council. Absences may not be excused; however, an Oversight Committee member may request a leave of absence as outlined in these bylaws. For quorum confirmation, a member who needs to miss a meeting shall inform the staff liaison designated by the City Manager at least 48 hours before the next meeting.
- 4. <u>Leave of Absence.</u> A member of the Oversight Committee may submit a written request to the City Council, for a leave of absence of up to six-months, which may be approved in its discretion.

# D. QUORUM

A quorum of the Oversight Committee shall consist of a minimum of three members. A quorum must be present in order for the Oversight Committee to hold a meeting.

# E. OFFICERS AND DUTIES

- 1. The officers shall be:
  - a. The Chairperson and
  - b. The Vice-Chairperson.
- 2. The Chairperson shall:

- a. Preside at all regular and special meetings.
- b. Rule on all points of order and procedure during the meetings.
- c. Provide recommendations to staff liaison regarding agenda items.
- 3. The Vice Chairperson shall assume all duties of the Chairperson in his or her absence or disability.
- 4. In case of the absence of both the Chairperson and Vice Chairperson from any meeting, an Acting Chairperson shall be elected from among the members present.

#### F. <u>TERMS AND VACANCIES</u>

The officers will be selected by the membership for a one-year term. The election of officers shall take place each year at an annual meeting to be held within the first quarter of the calendar year. The terms of officers shall commence as of the date of that meeting and shall continue until the annual meeting in the following year.

#### G. MEETINGS

The Oversight Committee will meet a minimum of four times a year, on a quarterly basis on the 3<sup>rd</sup> Monday in January, 3<sup>rd</sup> Monday in April, 3<sup>rd</sup> Monday in July, and 3<sup>rd</sup> Monday in October at 5:30 p.m. at City Hall Room 109. Additional meetings may be scheduled by the Committee, at its discretion. Oversight Committee members are expected to attend all regular meetings.

1. All meetings are subject to the Brown Act as set forth in Government Code sections 54950 and following. Accordingly, all meetings shall be noticed and agendas for all meetings shall be prepared and posted in accordance with the current City Council meeting procedures. All agendas shall be distributed in accordance with City Council meeting procedures and the Brown Act.

#### H. FORM 700 FILINGS AND AB 1234 TRAINING

- The City Clerk's Office will monitor compliance with state and City Form 700 (Statement of Economic Interest) filing requirements, and AB 1234 (Ethics Training) requirements.
- 2. If a member of the Measure V Resident Oversight Committee fails to file a Form 700, or complete AB 1234 training in a timely manner, the City Clerk's Office will send two written notices at least 10 days apart to the member.
- 3. If the member does not file a Form 700 or a certificate confirming proof of compliance with AB 1234 training with the City Clerk's Office within 30 days of receiving the second written notice, his or her appointment will automatically terminate.

#### I. <u>FUNDING</u>

Any funding necessary for operation of the Oversight Committee shall be included in the City of Tracy budget, which shall be approved by the City Council.

#### J. ADMINISTRATIVE PROCEDURES AND POLICIES

The Oversight Committee shall follow all applicable City fiscal administrative policies and procedures.

#### K. STAFF LIAISON

The Oversight Committee shall have a staff liaison designated by the City Manager. The staff liaison shall:

- 1. Receive and record all exhibits, petitions, documents, or other material presented to the Committee in support of, or in opposition to, any question before the Committee.
- 2. Sign all meeting minutes.
- 3. Prepare and distribute agendas and agenda packets.

The staff liaison assigned to the Oversight Committee will be responsive to the Committee's request for information. The City staff liaison, or designee, will attend all Oversight Committee meetings.

#### L. ADOPTION

This document, as adopted by City Council Resolution 2017-026, shall serve as the Bylaws for the Measure V Residents' Oversight Committee.

# BYLAWS OF THE PARKS AND COMMUNITY SERVICES COMMISSION

CITY OF TRACY, CALIFORNIA

(Revised June 2010) (Council Resolution 2009-191)

WHEREAS, the City Council has established a Parks and Community Services Commission for the purpose of advising the Council on the planning and development of park and recreation facilities and delivery of recreation and community service programs; and

WHEREAS, the Parks and Community Services Commission is advisory to the City Council.

NOW, THEREFORE, these Bylaws govern the conduct of the meetings and the transaction of its affairs.

#### A. <u>PURPOSE</u>

The purpose of the Parks and Community Services Commission is to:

- 1. Establish rules and regulations governing the conduct of recreation programs, protection of property and activities of persons in all parks.
- 2. Establish rates, charges and deposits for the use of any and all recreation facilities.
- 3. Hold public hearings on recreation programming and facility usage and conduct investigations and surveys for the purpose of obtaining facts and data concerning recreation programs.
- 4. Review grants, facility developments and designs and recreation programs.
- 5. Advise the Council on the subject of recreation and facility master planning and development.
- 6. Make recommendations to the Council regarding the right to exclude persons; to regulate traffic, including pedestrian, equestrian, and vehicular; and to regulate the operations and use of bicycles; the keeping or use of animals; the conducting of assemblies, contests, games, and sports; and the regulation of activities, such as the merchandising, advertising, gambling, solicitation, and imbibing of alcohol, from or in any and all recreation facilities.
- 7. Forward appeals of any actions of the Commission to the Council.
- 8. Hear appeals of decisions made by the Parks and Community Services Department Director under TMC 4.40.150 (Special Event Permits).
- 9. Hear appeals of park permits issued or denied by the Parks and Community Services Department Director under TMC 4.16.160 (Regulations Pertaining to the Use of Park and Recreation Areas and Facilities).

#### B. ROLE AND RESPONSIBILITIES

The role of the Parks and Community Services Commission is to provide citizen and community perspective and input on the development of park and recreation facilities and the delivery of recreation and community services programs.

#### C. MEMBERSHIP GUIDELINES

- 1. **Membership.** The Parks and Community Services Commission shall consist of seven members of which one member shall be appointed by the Tracy Unified School District.
- 2. **Term.** Each member shall serve a four-year term.
- 3. Attendance. If a member of the Parks and Community Services Commission fails to attend four regular meetings in any calendar year, his or her position on the Parks and Community Services Commission shall automatically become vacant and the staff liaison shall so inform the City Clerk. Absences may not be excused; however, a commissioner may request a

Parks and Community Services Commission Bylaws City of Tracy Page 2 of 3

leave of absence as outlined in these Bylaws. For quorum confirmation, a member who is unable to attend a meeting shall inform the staff liaison designated by the relevant City Department at least 48 hours before the next meeting.

- 4. Leave of Absence. A Parks and Community Services Commission member may submit a written request to the City Council for a leave of absence of up to six months, which may be approved in its discretion.
- 5. AB 1234 Training and Form 700 Completion. If a member of the Parks and Community Services Commission who is required to complete AB 1234 training (State Mandated Ethics Training) and/or is required to complete form 700 (Statement of Economic Interest), does not do so in a timely manner, the City Clerk's Office will send two written notices at least 10 days apart to the member. If the member does not complete the required training and/or form, and provide proof of compliance to the City Clerk's Office, within 30 days of receiving the second written notice, his or her appointment will automatically terminate.

#### D. QUORUM

A quorum of the Parks and Community Services Commission shall consist of a majority of the members (including any vacancies). A quorum must be present in order for the Parks and Community Services Commission to hold a meeting.

#### E. OFFICERS AND DUTIES

- 1. The officers of the Parks and Community Services Commission shall be:
  - a. The Chairperson and
  - b. The Vice-Chairperson.
- 2. The Chairperson shall:
  - a. Preside at all regular and special meetings.
  - b. Rule on all points of order and procedure during the meetings.
  - c. Provide recommendations to staff liaison regarding agenda items.
- 3. The Vice Chairperson shall assume all duties of the Chairperson in his or her absence or disability. The Vice Chairperson shall chair the Commission's ad hoc subcommittee to review proposed park and recreation facility names prior to review by the Commission.
- 4. In case of the absence of both the Chairperson and Vice Chairperson from any meeting, an Acting Chairperson shall be elected from among the members present.

#### F. TERMS AND VACANCIES

The officers will be selected by the membership for a one-year term. The annual election of officers shall take place at the last regular meeting in June of each year. The terms of officers shall commence as of July 1st following the election and shall continue through June 30th of the following year. In the first year of formation, the election of officers shall take place at the first regular meeting.

#### G. MEETINGS

- 1. Regular meetings of the Parks and Community Services Commission shall be held on the 1<sup>st</sup> Thursday of each month and shall begin at 7:00 p.m.
- 2. If the scheduled date of a regular meeting conflicts with a holiday period, staff shall reschedule that meeting to be conducted within that month.
- 3. Any regular meeting may be adjourned, or any item on the agenda continued to the next or any subsequent regular meeting of the Parks and Community Services Commission, by a

Parks and Community Services Commission Bylaws City of Tracy Page 3 of 3

> majority of the quorum. If a meeting is adjourned or an item is continued to a special meeting to be held on a date other than a regular meeting date, the time, place, and date of such special meeting shall be specified in the motion for adjournment or continuance.

- 4. All meetings are subject to the Brown Act as set forth in Government Code Sections 54950 and following. Accordingly, all meetings shall be noticed and agendas for all meetings shall be prepared and distributed in accordance with the current City Council meeting procedures and the Brown Act.
- 5. All meetings shall be conducted in accordance with the current City Council meeting procedures.

#### Н. **FUNDING**

Any funding necessary for operation of the Parks and Community Services Commission shall be included in the City of Tracy budget, which shall be approved by the City Council.

All members of the Commission shall receive such compensation as established by Resolution 2001-432 of the City Council.

#### I. ADMINISTRATIVE PROCEDURES AND POLICIES

City Boards and Commissions shall follow all applicable City fiscal administrative policies and procedures.

#### SUBCOMMITTEES J.

The Parks and Community Services Commission may form ad hoc subcommittees in accordance with the Brown Act, and make appointments to that subcommittee, as it deems necessary. A quorum of Commission members may not be appointed to serve on a single subcommittee. Before forming a subcommittee, the Parks and Community Services Commission shall establish a specific charge and term for the subcommittee.

#### K. STAFF LIAISON

The Parks and Community Services Commission shall have a staff liaison designated by the relevant City Department. The staff liaison shall:

- 1. Receive and record all exhibits, petitions, documents, or other material presented to the Commission in support of, or in opposition to, any question before the Commission.
- Sign all meetings minutes and resolutions upon approval.
- 3. Prepare and distribute agendas and agenda packets.

#### **ADOPTION** L.

This document, as adopted by City Council, and amended by City Council Resolutions 2004-034, 2009-191 and 2010-022, shall serve as the Bylaws for the Parks and Community Services Commission.

Parks and Recreation Commission Established by Ordinance 690 on July 7, 1987 (Bylaws included in Ordinance)

Amended by Ordinance 802 on November 21, 1989

Amended by Ordinance 932 C.S. on February 6<sup>th</sup>, 1996 Amended by Ordinance 948 C.S. on January 7<sup>th</sup>, 1997

Amended by Ordinance 1060 on January 20, 2004

Amended by Resolution 2004-034 on January 20, 2004

Amended by Resolution 2009-191 on October 20, 2009

Amended by Resolution 2010-022 on March 2, 2010

# BYLAWS OF THE TRANSPORTATION ADVISORY COMMISSION CITY OF TRACY, CALIFORNIA

WHEREAS, the City Council has established a Transportation Advisory Commission for the purpose of advising the Council on the planning and development of public transportation related improvements and delivery of various public transportation service programs, and

WHEREAS, the Transportation Advisory Commission is advisory to the City Council; and

WHEREAS, The City General Plan promotes connectivity in mass transit, street patterns, bicycle trails, and pedestrian sidewalks and trails, as well as airport travel; and

WHEREAS, Public transportation related modes include automotive, rail, bicycle, bus, airport and pedestrian traffic such as inter-city (TRACER, Paratransit, Airports, Multimodal Station, bikeways, taxis, pedestrian trails) and intra-city (SJRTD, high-speed rail, and ACE).

NOW, THEREFORE, these Bylaws govern the conduct of the meetings and the transaction of its affairs.

#### A. PURPOSE

The purpose of the nine-member Transportation Advisory Commission is to:

- Address various public transportation issues including inter-city transit (TRACER, Paratransit, airports, Multimodal Station, taxis, limousines, Park-and-Ride lots, bikeways, trails and passes) and intra-city transit (SJRTD, commuter-vanpools and ACE);
- 2. Review City-wide public transportation and airport planning documents;
- 3. Advise on service levels and routes;
- 4. Recommend rules and procedures governing public transportation service programs, equipment and facilities considering regulatory guidelines, service improvements, coordination, efficiencies, protection of property, service improvements and activities of persons utilizing transportation services and facilities;
- 5. Recommend rates, fares, user fees, charges and deposits for the use of transportation service programs and facilities;
- 6. Review surveys and facilitate public input on public transportation programming and facility usage;
- 7. Identify transportation infrastructure needs and recommend allocation of funds for capital expenditures related to transportation improvements;
- 8. Review grants, budgets, facility developments and designs, and transportation programs;
- 9. Advise the Council on the subject of comprehensive Citywide public transportation master planning and development;
- 10. Review, monitor, and make long-range recommendations concerning public transportation and connectivity sections of related environmental impact reports of development projects during the public review period and other similar documents;

- 11. Recommend and promote marketing strategies for community outreach programs in order to strengthen the transportation image, increase usage, and integrate its role within the community; and
- 12. Recommend to the City Council, after public input, the adoption, amendment or repeal of ordinances, resolutions, or requirements pertaining to public transportation within the City.

#### B. ROLE AND RESPONSIBILITIES

The role of the Transportation Advisory Commission is to provide citizen and community perspective and input on the development of public transportation planning, facilities and programs. As a Commission established by the City Council, the Transportation Advisory Commission will provide input to Council for their consideration and action. This would ideally be done after receiving public deliberation and achieving consensus through partnering with staff. It is intended that the Transportation Advisory Commission not take an advocacy role, but an advisory role, in providing input to City Council. Additionally, the Transportation Advisory Commission is expected to advise City Council on transportation matters brought to them by the community.

#### C. <u>MEMBERSHIP GUIDELINES</u>

- 1. **Membership.** The Transportation Advisory Commission shall consist of nine (9) members. Preferably, the composition of a Transportation Advisory Commission will include nine (9) residents with desirable background and expertise in specified areas of public transportation, such as the airport, buses, rail or bikes as outlined below:
  - a. Three (3) members: general aviation, or possess an active pilot's license, or work experience in operations of a public airport;
  - b. Two (2) members: bus transportation services;
  - c. One (1) member: rail transportation services;
  - d. One (1) member: bicycle transportation services;
  - e. One (1) member: user of public transit; and
  - f. One (1) member: community member at large.

Although a diverse Commission composition is preferred, the composition of the Commission may vary based on: (1) the expertise available at any one time in the community; and (2) on the community interest; therefore, flexibility on composition may be necessary.

2. **Term.** Each member shall serve a four- year term; commencing in May. To provide for Commissioner's terms to expire in a staggered manner, for the appointments of the initial Commissioners on the Transportation Advisory Commission only, the City Council at its discretion will appoint three Commissioners for a two-year term and three Commissioners for a three-year term. The remaining three Commissioners will be appointed for the full four-year term. Upon expiration of the two-year and three-year terms, the terms will be four years for all Commissioners.

3. **Attendance**<sup>1</sup>. If a member of the Transportation Advisory Commission fails to attend four (4) regular meetings in any calendar year, his or her position on the Transportation Advisory Commission shall automatically become vacant and the staff liaison shall so inform the City Clerk. Absences may not be excused; however, a commissioner may request a leave of absence as outlined in the bylaws.

For quorum confirmation, a member who is unable to attend a meeting shall inform the staff liaison designated by the relevant City Department at least 48 hours before the meeting.

- 4. **Leave of Absence.** A Transportation Advisory Commission member may submit a written request to the City Council for a leave of absence of up to six months which may be approved at the City Council's discretion.
- 5. **AB 1234 Training and Form 700 Completion**<sup>2</sup>. If a member of the Transportation Advisory Commission who is required to complete AB 1234 training (State Mandated Ethics Training) and/or is required to complete form 700 (Statement of Economic Interest), does not do so in a timely manner, the City Clerk's Office will send two written notices at least 10 days apart to the member. If the member does not complete the required training and/or form, and provide proof of compliance to the City Clerk's Office, within 30 days of receiving the second written notice, his or her appointment will automatically terminate.

#### D. QUORUM

A quorum of the Transportation Advisory Commission shall consist of a majority of the members (five members). A quorum must be present in order for the Transportation Advisory Commission to hold a meeting.

#### E. OFFICERS AND DUTIES

- 1. The officers of the Transportation Advisory Commission shall be:
  - a. The Chairperson and
  - b. The Vice-Chairperson.
- 2. The Chairperson shall:
  - a. Preside at all regular and special meetings.
  - b. Rule on all points of order and procedure during the meetings.
  - c. Provide recommendations to staff liaison regarding agenda items.
- 3. The Vice Chairperson shall assume all duties of the Chairperson in his or her absence or disability.
- 4. In case of the absence of both the Chairperson and Vice Chairperson from any meeting, an Acting Chairperson shall be elected from among the members present.

<sup>&</sup>lt;sup>1</sup> Per Council Resolution 2009-191

<sup>&</sup>lt;sup>2</sup> Per Council Resolution 2010-022

#### F. <u>TERMS AND VACANCIES</u>

The officers will be selected by the membership for a one-year term. The annual election of officers shall take place at the last regular meeting in June of each year. The terms of officers shall commence as of July 1st following the election and shall continue through June 30th of the following year. In the first year of formation, the election of officers shall take place at the first regular meeting.

#### G. <u>MEETINGS</u>

- 1. Regular meetings of the Transportation Advisory Commission shall be held on the 2<sup>nd</sup> Thursday of each month and shall begin at 7:00 PM.
- 2. If the scheduled date of a regular meeting conflicts with a holiday period, staff shall reschedule that meeting to be conducted within that month.
- 3. Any regular meeting may be adjourned, or any item on the agenda continued to the next or any subsequent regular meeting of the Transportation Advisory Commission by a majority of the quorum. If a meeting is adjourned or an item is continued to a special meeting to be held on a date other than a regular meeting date, the time, place, and date of such special meeting shall be specified in the motion for adjournment or continuance.
- 4. All meetings are subject to the Brown Act as set forth in Government Code sections 54950 and following. Accordingly, all meetings shall be noticed and agendas for all meetings shall be prepared and posted in accordance with the current City Council meeting procedures.
- 5. All meetings shall be conducted in accordance with the current City Council meeting procedures.
- 6. All agendas shall be prepared and distributed in accordance with City Council meeting procedures and the Brown Act.

#### H. **FUNDING**

Any funding necessary for operation of the Transportation Advisory Commission shall be included in the City of Tracy budget, which shall be approved by the City Council.

#### I. ADMINISTRATIVE PROCEDURES AND POLICIES

City Boards and Commissions shall follow all applicable City fiscal administrative policies and procedures.

#### J. SUBCOMMITTEES

The Transportation Advisory Commission may form ad hoc subcommittees in accordance with the Brown Act, and make appointments to that subcommittee, as it deems necessary. A quorum of Transportation Advisory Commission members may not be appointed to

serve on a single subcommittee. Before forming a subcommittee, the Transportation Advisory Commission shall establish a specific charge and term for the subcommittee.

#### K. STAFF LIAISON

The Transportation Advisory Commission shall have a staff liaison designated by the relevant City Department. The staff liaison shall:

- 1. Receive and record all exhibits, petitions, documents, or other material presented to the Transportation Advisory Commission in support of, or in opposition to, any question before the Transportation Advisory Commission.
- 2. Sign all meetings minutes and resolutions upon approval.
- 3. Prepare and distribute agendas and agenda packets.

#### L. <u>ADOPTION</u>

This document, as adopted and amended by City Council on June 5, 2007, by Resolution **2007-120**, and shall serve as the Bylaws for the Transportation Advisory Commission.

#### **RESOLUTION 2017-063**

AMENDING THE TRANSPORTATION ADVISORY COMMISSION BYLAWS TO CHANGE THE MAKE-UP OF THE COMMISSION FROM NINE TO SEVEN MEMBERS AND ADDING THE REQUIREMENT TO REPORT TO THE CITY COUNCIL ANNUALLY

WHEREAS, The Transportation Advisory Commission is a nine-seat advisory Commission serving at the pleasure of the City Council, and

WHEREAS, Currently the Commission has nine members and has had difficulty maintaining more than seven members for the past several years, and

WHEREAS, The City Council has also requested that each commission present an annual report to the Council, and

WHEREAS, To reduce the number of commissioners from nine to seven, and add the requirement for an annual report, the City Council would need to amend the Transportation Advisory Commissions Bylaws;

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby approves amending the Transportation Advisory Commission bylaws as follows:

- (1) The following subsection 13 is hereby added to section A, entitled PURPOSE, of the bylaws:
  - "13. Provide an annual report to the City Council on the Commission's efforts during the previous year."
- (2) Subsection 1 of section C, entitled MEMBERSHIP GUIDELINES, of the bylaws is amended to read, in its entirety, as follows:
  - "1. Membership. The Transportation Advisory Commission shall consist of seven (7) members. Preferably, the composition of a Transportation Advisory Commission will include seven (7) residents with desirable background and expertise in specified areas of public transportation, such as the airport, buses, rail or bikes as outlined below:
    - a. Two commissioners with knowledge of or interest in general aviation, or who possess an active pilot's license or with work experience in operations of a public airport.
    - b. Two commissioners with knowledge of or interest in public transportation services, or who are users of public transportation services such as bus and/or rail.
    - c. Two commissioners with knowledge of or interest in bikeways, or are active in the bicycling community.
    - d. One commissioner who is a community member at large.
- (3) Section D, entitled QUORUM, is hereby amended to read, in its entirety, as follows"

#### "D. QUORUM

A quorum of the Transportation Advisory Commission shall consist of a majority of the members (four members). A quorum must be present in order for the Transportation Advisory Commission to hold a meeting."

\* \* \* \* \* \* \* \* \* \* \* \* \*

The foregoing Resolution 2017-063 was passed and adopted by the Tracy City Council on the 4<sup>th</sup> day of April, 2017, by the following vote:

AYES:

COUNCIL MEMBERS: DEMENT, RANSOM, YOUNG, VARGAS, RICKMAN

NOES:

COUNCIL MEMBERS: NONE

ABSENT:

COUNCIL MEMBERS: NONE

ABSTAIN:

COUNCIL MEMBERS: NONE

MAYOR

#### BYLAWS OF THE Youth Advisory Commission CITY OF TRACY, CALIFORNIA

WHEREAS, the City Council has established a Youth Advisory Commission for the purpose of providing opportunities for youth to lead and plan recreation and community service activities, with emphasis on youth development, to enhance leadership skills and self esteem of people, ages 12 to 18 years; and

WHEREAS, the Youth Advisory Commission is advisory to the City Council, Parks and Community Services Commission, , and staff on matters relating to the welfare of youth in Tracy.

NOW, THEREFORE, these Bylaws govern the conduct of the meetings and the transaction of its affairs.

#### A. PURPOSE

The purpose of the Youth Advisory Commission is to provide youth with an opportunity to make a positive impact in their communities.

#### B. ROLE AND RESPONSIBILITIES

The role of the Youth Advisory Commission is to foster increased involvement of youth in the affairs of municipal government. The responsibilities of the Youth Advisory Commission are to:

- 1. Study problems, issues, activities, and concerns of youth, especially as they relate to municipal programs and projects of the City of Tracy.
- 2. Hold forums on health, safety, recreation, employment and school issues and concerns of youth.
- 3. Make recommendations to Parks and Community Services Department regarding the planning and implementation of the programs.
- 4. Participate in Youth Advisory Commission Activities.

#### C. MEMBERSHIP GUIDELINES

#### 1. Membership

- a. Youth
  - i. The Youth Advisory Commission shall consist of a minimum of 8 members and a maximum of 14; to include two representatives from each high school in the Tracy area.
  - ii. Youth Commissioners shall be, ages 14 to 18 years and/or attending a school in grades 9-12.
  - iii. The youth may reside within the jurisdiction of any school district within the *City's Urban Management Plan Area*.

#### b. Adult

i. The Youth Advisory Commission shall include a maximum of three (3) non-voting adult commissioners.

Bylaws of the Youth Advisory Commission City of Tracy Page 2 of 4

- ii. The adult commissioners shall reside within the jurisdiction of any school district with the *City's Urban Management Plan Area, consisting of:*.
  - 1. One (1) Commissioner who is a member of the School District.
  - 2. Two (2) Commissioners who are community members who desire to work with youth.

#### 2. Term.

- a. Each member shall serve a 2- year term.
- 3. Attendance. If a member of the Parks and Community Services Commission fails to attend four regular meetings in any calendar year, his or her position on the Parks and Community Services Commission shall automatically become vacant and the staff liaison shall so inform the City Clerk. Absences may not be excused; however, a commissioner may request a leave of absence as outlined in these Bylaws. For quorum confirmation, a member who is unable to attend a meeting shall inform the staff liaison designated by the relevant City Department at least 48 hours before the next meeting.
- 4. Leave of Absence. A Youth Advisory Commission member may submit a written request to the City Council, for a leave of absence of up to six-months, which may be approved in its discretion.
- 5. Appointment. An interview process will be conducted in May by a panel of (3) members. One (1) member from the Parks and Community Services staff; One (1) Adult Advisor and One (1) Parks and Community Services Commissioner. The panel shall make recommendations for appointment to the City Council to be considered annually in June. Additional interviews may be conducted through out the year to fill vacant positions when they become available.

#### D. QUORUM

A quorum of the Youth Advisory Commission shall consist of a majority of the members appointed. A quorum must be present in order for the Youth Advisory Commission to hold a meeting.

#### E. OFFICERS AND DUTIES

- 1. The officers of the Youth Advisory Commission shall be:
  - a. The Chairperson and
  - b. The Vice-Chairperson.
- 2. The Chairperson shall:
  - a. Preside at all regular and special meetings.
  - b. Rule on all points of order and procedure during the meetings.
  - c. Provide recommendations to staff liaison regarding agenda items.
- 3. The Vice Chairperson shall assume all duties of the Chairperson in his or her absence or disability.

Bylaws of the Youth Advisory Commission City of Tracy Page 3 of 4

4. In case of the absence of both the Chairperson and Vice Chairperson from any meeting, an Acting Chairperson shall be elected from among the members present.

#### F. <u>TERMS AND VACANCIES</u>

The officers will be selected by the membership for a one-year term. The annual election of officers shall take place at the last regular meeting in July of each year. The terms of officers shall commence as of August 1st following the election and shall continue through July 30th of the following year. In the first year of formation, the election of officers shall take place at the first regular meeting.

#### G. MEETINGS

- 1. Regular meetings of the Youth Advisory Commission shall be held on the 2nd Wednesday of each month and shall begin at 6:00pm.
- 2. If the scheduled date of a regular meeting conflicts with a holiday period, staff shall reschedule that meeting to be conducted within that month.
- 3. Any regular meeting may be adjourned, or any item on the agenda continued to the next or any subsequent regular meeting of the Youth Advisory Commission by a majority of the quorum. If a meeting is adjourned or an item is continued to a special meeting to be held on a date other than a regular meeting date, the time, place, and date of such special meeting shall be specified in the motion for adjournment or continuance.
- 4. All meetings are subject to the Brown Act as set forth in Government Code sections 54950 and following. Accordingly, all meetings shall be noticed and agendas for all meetings shall be prepared and posted in accordance with the current City Council meeting procedures.
- 5. All meetings shall be conducted in accordance with the current City Council meeting procedures.
- 6. All agendas shall be prepared and distributed in accordance with City Council meeting procedures and the Brown Act.

#### H. FUNDING

Any funding necessary for operation of the Youth Advisory Commission shall be included in the City of Tracy budget, which shall be approved by the City Council.

#### I. ADMINISTRATIVE PROCEDURES AND POLICIES

City Boards and Commissions shall follow all applicable City fiscal administrative policies and procedures.

#### J. <u>SUBCOMMITTEES</u>

The Youth Advisory Commission may form ad hoc subcommittees in accordance with the Brown Act, and make appointments to that subcommittee, as it deems necessary. If a proposed subcommittee will consist of Commission members, a quorum of Commission members may not be appointed to serve on a subcommittee. Before forming a subcommittee, the Youth Advisory Commission shall establish a specific charge and term

Bylaws of the Youth Advisory Commission City of Tracy Page 4 of 4

for the subcommittee. Membership in subcommittees may include non-commission members.

#### K. STAFF LIAISON

The Youth Advisory Commission shall have a staff liaison designated by the relevant City Department. The staff liaison shall:

- Receive and record all exhibits, petitions, documents, or other material presented to the Commission in support of, or in opposition to, any question before the Commission.
- 2. Sign all meetings minutes and resolutions upon approval.
- 3. Prepare and distribute agendas and agenda packets.

#### L. <u>ADOPTION</u>

This document, as adopted and amended by City Council resolution, shall serve as the Bylaws for the Youth Advisory Commission.

#### BYLAWS OF THE TRACY ARTS COMMISSION CITY OF TRACY, CALIFORNIA

#### A. PURPOSE

The purpose of the seven-member Tracy Arts Commission (TAC) is to preserve and cultivate the expression and appreciation of the Arts in Tracy.

#### B. ROLE AND RESPONSIBILITIES

The role and responsibilities of the Tracy Arts Commission are to:

- 1. Maintain the Civic Art Plan, adopted by City Council (Resolution 2003- 002) on January 7, 2003 and as City Council may revise from time to time; pursuant to current and future Council adopted policy to achieve the following;
  - a. Contribute to the quality of life of the residents of Tracy through the high quality civic spaces and access to a broad array of artistic experiences;
  - b. Expand the knowledge and understanding of the community's history and culture;
  - c. Support the economic vitality of the city through increased property values and cultural tourism;
  - d. Reinforce downtown as a cultural destination;
- 2. Advise the City Council on the subject of citywide public art; including private development and public/private partnerships.
- 3. Foster public/private partnerships for the creation of civic art;
- 4. Support individuals and organizations involved in the arts by promoting their events, offering resources, educational tools, and advising on policies to city council that will support those endeavors;
- 5. Commit to nourishing artistic vision, honoring diversity, supporting creativity and promoting cooperative partnerships through the re-granting program;
- 6. Appoint one commissioner for a term of two years, to review applications, interview applicants, and select Advisory committee members for the Grand Theatre Center for the Arts advisory committees;
- 7. Appoint two commissioners, for a term of two years, to the Arts Education Advisory Committee (AEAC) to assist staff in evaluating and ranking proposals for the arts education programming;
- 8. Appoint two commissioners, for a term of two years, to the Grand Galleries Advisory Committee (GGAC) as advisory to staff to assist in evaluating and ranking proposals for the exhibition season;
- 9. Appoint two commissioners, for a term of two years, to the Grand Presenting Advisory Committee (GPAC), as advisory to staff in evaluating and ranking performers for the Presenting season.
- 10. Advise staff on approved Arts Commission activities such as Music in the Park and the Multi Cultural Festival subject to the annual budget;

#### C. MEMBERSHIP GUIDELINES

- 1. **Membership.** The Tracy Arts Commission shall consist of seven members who reside within the city limits of Tracy, but not City officials or employees of the City. Preferably, the composition of the Tracy Arts Commission will include seven residents with desirable background and expertise in the arts or related field(s).
  - **a.** Three members: arts patron, architectural/ engineering, historical preservation, and/or interior/graphic design.
  - **b.** One Member: Arts Administration/ arts organization
  - c. One Member: Arts Education/ Education administration
  - d. One Member: Visual Arts or Gallery/museum curator
  - e. One Member: Performing Arts/ Producer/presenting/agent

Although a diverse Commission composition is preferred, the composition of the Commission may vary based on: (1) the applicants available at any one time in the community; and (2) the community interest; therefore, flexibility on composition may be necessary.

- 2. Term. Each member shall serve a four-year term; commencing in July.
- 3. Attendance. If a member of the Tracy Arts Commission fails to attend four regular meetings in any calendar year, his or her position on the Tracy Arts Commission shall become vacant and the staff liaison shall so inform the City Clerk. There are no excused absences, however a Commissioner may request a leave of absence as outlined in section 4

For quorum confirmation, a member who is unable to attend a meeting shall inform the staff liaison designated by the relevant City Department at least 48 hours before the meeting.

Arts Commission Subcommittee meetings shall be set as needed to complete assignments. Members appointed to a Council mandated program(Civic Art, Re-Granting, Grand Advisory Selection, Grand Presenting, Grand Galleries and Grand Arts Education, are required to attend all scheduled meetings. Should a member fail to attend three subcommittee meetings in a term year, they will be removed from the subcommittee and the three absences on the subcommittee will count as one absence on the regular scheduled commission meetings.

- **4.** Leave of Absence. A Tracy Arts Commission member may submit a written request to the City Council for a leave of absence of up to six months which may be approved at the City Council's discretion.
- 5. AB 1234 Training and Form 700 Completion. If a member of the Parks and Community Services Commission who is required to complete AB 1234 training (State Mandated Ethics Training) and/or is required to complete form 700 (Statement of Economic Interest), does not do so in a timely manner, the City Clerk's Office will send two written notices at least 10 days apart to the member. If the member does not complete the required training and/or form, and provide proof of compliance to the City Clerk's Office, within 30 days of receiving the second written notice, his or her appointment will automatically terminate

#### D. QUORUM

A quorum of the Tracy Arts Commission shall consist of a majority of the members (four members). A quorum must be present in order for the Tracy Arts Commission to hold a meeting.

#### E. OFFICERS AND DUTIES

- 1. The officers of the Tracy Arts Commission shall be:
  - a. The Chairperson and
  - b. The Vice-Chairperson
- The Chairperson shall:
  - a. Preside at all regular and special meetings.
  - b. Rule on all points of order and procedure during the meetings.
  - c. Provide recommendations to staff liaison regarding agenda items.
- 3. The Vice-Chairperson shall assume all duties of the Chairperson in his or her absence or disability.
- 4. In case of the absence of both the Chairperson and Vice-Chairperson from any meeting, an Acting Chairperson shall be elected from among the members present.

#### F. TERMS AND VACANCIES

The officers will be selected by the membership for a one-year term. The annual election of officers shall take place at the last regular meeting in June of each term year. The terms of officers shall commence as of July1<sup>st</sup> following the election and shall continue through June 30<sup>th</sup> of the following year. Officers may be re-elected for no more than one additional successive term of office.

#### G. MEETINGS

- 1. Regular meetings of the Tracy Arts Commission shall be held on the second Tuesday of each month and shall begin at 7:00 p.m.
- If the scheduled date of a regular meeting conflicts with a holiday period or for other reasons, the Tracy Arts Commission shall reschedule that meeting to be conducted within that month.
- 3. Any regular meeting may be adjourned, or any item on the agenda continued to the next or any subsequent regular meeting of the Tracy Arts Commission by a majority of the quorum. If a meeting is adjourned or an item is continued to a special meeting to be held on a date other than a regular meeting date, the time, place, and date of such special meeting shall be specified in the motion for adjournment or continuance.
- 4. All meetings are subject to the Brown Act as set forth in Government Code sections 54950 and following. Accordingly, all meetings shall be noticed and agendas for all

- meetings shall be prepared and posted in accordance with the current City Council meeting procedures.
- 5. All meetings shall be conducted in accordance with the current City Council meeting procedures and the Brown Act.
- 6. All agendas shall be prepared and distributed in accordance with City Council meeting procedures and the Brown Act.

#### H. ADMINISTRATIVE PROCEDURES AND POLICIES

City Boards and Commissions shall follow all applicable City administrative policies and procedures.

#### I. AD HOC SUBCOMMITTEES

The Tracy Arts Commission may form ad hoc subcommittees in accordance with the Brown Act, and make appointments to that subcommittee, as it deems necessary. A quorum of Tracy Arts Commission members may not be appointed to serve on a single ad hoc subcommittee. Before forming an ad hoc subcommittee, the Tracy Arts Commission shall establish a specific charge and term for the subcommittee.

The Council has outlined mandated subcommittees, which include the following:

- 1. <u>Committee to Select Advisory Members:</u> Appointment of one commissioner, for a term of two years, to review applications, interview applicants, and select Advisory committee members for the Grand Theatre Center for the Arts advisory committees;
- 2. <u>Arts Education Advisory Committee (AEAC):</u> Appointment of two commissioners, for a term of two years, to the (AEAC) to assist staff in evaluating and ranking proposals for the arts education programming;
- 3. <u>Grand Galleries Advisory Committee (GGAC):</u> Appointment of two commissioners, for a term of two years, to the (GGAC) as advisory to staff to assist in evaluating and ranking proposals for the exhibition season;
- 4. <u>Grand Presenting Advisory Committee (GPAC):</u> Appointment of two commissioners, for a term of two years, to the (GPAC), as advisory to staff in evaluating and ranking performers for the Presenting season.
- 5. <u>Civic Art Subcommittee</u>: Appointment of three commissioners, for a term of one year, to the Civic Art Subcommittee to serve the TAC and work with staff. The TAC advised City Council on priority projects for civic art, reviews capital improvement projects for artistic enhancement, evaluates artist's concepts and proposals, and serves as ambassadors to the community-at-large regarding the Civic Art Program.
- 6. **Re-Granting Subcommittee:** Appointment of two commissioners, for a term of one year, to the Re-Granting Subcommittee to serve on the grant selection panel. Evaluating the applicants on the approved criteria and made recommendations on funding awards to the Arts Commission.

Given the large number of standing committees, the Tracy Arts Commission shall limit the number of adhoc subcommittees to only those reasonably necessary to increase the efficiency of conducting Commission business. Under the Brown Act, ad hoc subcommittees may only be formed for matters of limited duration, not likely to reoccur and within the subject matter jurisdiction of the Tracy Arts Commission.

#### J. STAFF LIAISON

The Tracy Arts Commission shall have a staff liaison designated by the relevant City Department. The staff liaison shall:

- 1. Receive and record all exhibits, petitions, documents, or other materials presented to the Commission in support of, or in opposition to, any question before the Commission.
- 2. Sign all meetings minutes and resolutions upon approval.
- 3. Prepare and distribute agendas and agenda packets.

#### K. ADOPTION

Community Cultural Arts Commission Established by Ordinance 501 on March 5, 1991 (Bylaws included in Ordinance)

Bylaws Adopted by Resolution 92-005 on January 7, 1992

Ordinance 1031 repealed Ordinance 501 on December 4, 2001

Resolution 2001-431 Established the Community Cultural Arts Commission on December 4, 2001

Bylaws Amended by Resolution 2002-003 on January 15, 2002

Bylaws Amended by Resolution 2006-291 on December 19, 2006

Bylaws Amended by Resolution 2007-114 on June 5, 2007 (Name changed to Tracy Arts Commission)

Bylaws Amended by Resolution 2009-191 on October 20, 2009

Bylaws Amended by Resolution 2009-198 on October 20, 2009

Bylaws Amended by Resolution 2010-022 on March 2, 2010

This document, as adopted and amended by City Council on October 20, 2009, by Resolution 2009-198, shall serve as the Bylaws for the Tracy Arts Commission.

On March 2, 2010, the Council adopted Resolution 2010-022 which amended the bylaws of the City's various boards and commissions to include new regulation related to AB 1234 training and Form 700 filings.

## BYLAWS OF THE BUILDING BOARD OF APPEALS CITY OF TRACY, CALIFORNIA

WHEREAS, Pursuant to Tracy Municipal Code Chapter 9.44, the City Council has established a Building Board of Appeals for the purpose of hearing appeals by persons aggrieved by any administrative decisions in the application of the Uniform Housing, Building, Mechanical, Electrical, Plumbing, Abatement of Dangerous Buildings, and Fire Codes, or regulations adopted pursuant thereto; and

WHEREAS, the Building Board of Appeals desires to adopt Bylaws consistent with those set forth by the City Council for the operation of the Board and the conduct of its meetings; and

WHEREAS, administrative appeal hearing procedures, adopted by the Building Board of Appeals pursuant to Tracy Municipal Code section 9.44.040, shall prevail over any inconsistency with these Bylaws.

NOW, THEREFORE, unless otherwise provided in the Building Board of Appeals adopted hearing procedures, these Bylaws govern the conduct of the meetings and the transaction of its affairs.

#### A. PURPOSE

Pursuant to Tracy Municipal Code Chapter 9.44, the City Council has established a Building Board of Appeals for the purpose of hearing appeals by persons aggrieved by any administrative decisions in the application of the Uniform Housing, Building, Mechanical, Electrical, Plumbing, Abatement of Dangerous Buildings, and Fire Codes, or regulations adopted pursuant thereto.

#### B. ROLE AND RESPONSIBILITIES

The role of the Building Board of Appeals is set forth in Tracy Municipal Code Chapter 9.44.

#### C. MEMBERSHIP GUIDELINES

- 1. <u>Membership.</u> The Building Board of Appeals shall consist of five (5) members with qualifications established in the Tracy Municipal Code.
- 2. <u>Term.</u> Each member shall serve a four-year term.
- 3. <u>Attendance</u>. If a member of Building Board of Appeals fails to attend four regular meetings in any calendar year, his or her position on the Board shall automatically become vacant and the staff liaison shall so inform the City Clerk. Absences may not be excused; however, a Board member may request a leave of absence as outlined in these bylaws. For quorum confirmation, a member who needs to miss a meeting shall inform the staff liaison designated by the relevant City Department at least 48 hours before the next meeting.
- 4. <u>Leave of Absence.</u> A member may submit a written request to the City Council, for a leave of absence of up to six-months, which may be approved in its discretion.

#### D. QUORUM

A quorum of the Building Board of Appeals shall consist of a majority of the members (including any vacancies). A quorum must be present in order for the Building Board of Appeals to hold a meeting.

#### E. OFFICERS AND DUTIES

- 1. The officers shall be:
  - a. The Chairperson and
  - b. The Vice-Chairperson.
- 2. The Chairperson shall:
  - a. Preside at all regular and special meetings.
  - b. Rule on all points of order and procedure during the meetings.
  - c. Provide recommendations to staff liaison regarding agenda items.
- 3. The Vice Chairperson shall assume all duties of the Chairperson in his or her absence or disability.
- 4. In case of the absence of both the Chairperson and Vice Chairperson from any meeting, an Acting Chairperson shall be elected from among the members present.

#### F. TERMS AND VACANCIES

The officers will be selected by the membership for a one-year term. The election of officers shall take place each year at annual meeting to be held within the first quarter of the calendar year. The terms of officers shall commence as of the date of that meeting and shall continue until the annual meeting in the following year.

#### G. MEETINGS

- 1. Other than the annual meeting, meetings of the Building Board of Appeals shall be as needed to hear appeals filed pursuant to Tracy Municipal Code Chapter 9.44.
- 2. All meetings are subject to the Brown Act as set forth in Government Code sections 54950 and following. Accordingly, all meetings shall be noticed and agendas for all meetings shall be prepared and posted in accordance with the current City Council meeting procedures. All agendas shall be prepared and distributed in accordance with City Council meeting procedures and the Brown Act.
- 3. Except as otherwise provided in the Building Board of Appeals adopted hearing procedures, all meetings shall be conducted in accordance with the current City Council meeting procedures.

#### H. <u>STATEMENTS OF ECONOMIC</u> INTEREST (Form 700)

1. The City Clerk's Office will monitor compliance with state and City Form 700 filing requirements.

Bylaws of the Building Board of Appeals Page 3 of 3

- 2. If a member of a City board, commission, or committee, who is required to file a Form 700, does not do so in a timely manner, the City Clerk's Office will send two written notices at least 10 days apart to the member.
- 3. If the member does not file a Form 700 with the City Clerk's Office within 30 days of receiving the second written notice, his or her appointment will automatically terminate.

#### I. FUNDING

Any funding necessary for operation of the Building Board of Appeals shall be included in the City of Tracy budget, which shall be approved by the City Council.

#### J. <u>ADMINISTRATIVE PROCEDURES AND POLICIES</u>

City Boards and Commissions shall follow all applicable City fiscal administrative policies and procedures.

#### K. STAFF LIAISON

The Building Board of Appeals shall have a staff liaison designated by the relevant City Department. The staff liaison shall:

- 1. Receive and record all exhibits, petitions, documents, or other material presented to the Board in support of, or in opposition to, any question before the Board.
- 2. Sign all meetings minutes and resolutions upon approval.
- 3. Prepare and distribute agendas and agenda packets.

#### L. <u>ADOPTION</u>

This document, as adopted and amended by City Council resolution, shall serve as the Bylaws for the Building Board of Appeals.

Established by Ordinance 602 on May 1, 1984 Amended by Ordinance 1111 on August 21, 2007 Amended by Ordinance 1157 on April 5, 2011

#### **AGENDA ITEM 3.E**

#### **REQUEST**

DISCUSS POTENTIAL AMENDMENTS TO THE CITY COUNCIL MEETING PROTOCOLS AND RULES OF PROCEDURE TO ADDRESS COUNCIL'S REQUESTS AND PROVIDE DIRECTION TO STAFF

#### **EXECUTIVE SUMMARY**

On November 5, 2019, the City Council adopted revised Council Meeting Protocols and Rules of Procedures ("Council Protocols") via Resolution No. 2019-240. The Council Protocols were amended on June 16, 2020 by Resolution No. 2020-112 (Attachment A) to require the inclusion of "Council Items and Comments" on the agendas of Council special meetings.

On September 1, 2020, Council Member Veronica Vargas and then-Mayor Robert Rickman requested an agenda item to discuss establishing speaker time limits for Council Members. On January 19, 2021, Mayor Nancy D. Young with a second from Mayor Pro Tem Veronica Vargas requested an agenda item to discuss amending Section 5.11.1. regarding "Council Items and Comments."

This staff report provides Council with an opportunity to discuss the aforementioned proposed amendments to the Council Protocols, as well as any other amendments Council may have, and to provide direction to staff. Following Council's direction, staff will prepare an amendment that will return to Council for action at a later date.

#### **DISCUSSION**

Government Code section 36813 authorizes legislative bodies to establish rules for the conduct of their proceedings. These rules must comport with the Ralph M. Brown Act ("Brown Act"; Government Code sections 54950 et seq.) which applies to all meetings of "legislative bodies" within California, including the Tracy City Council and advisory boards and commissions.

Section 5.15 of the Council Protocols states that Council shall conduct meetings in accordance with Rosenberg's Rules of Order ("Rosenberg's Rules") (See Appendix A of Attachment A). Rosenberg's Rules allow legislative bodies to establish time limits for debates, which limits the amount of time the body debates a motion and requires that members be concise with their comments.

On January 19, 2021, Mayor Young requested to discuss amending Sections 5.11 and 5.11.1. of the Council Protocols which address "Council Items and Comments." Mayor Pro Tem Vargas seconded Mayor Young's request to discuss an amendment to Section 5.11.1. There was no second for Mayor Young's request to discuss amending Section 5.11.

Section 5.11 of the Council Protocols currently reads as follows:

"5.11. Council Items and Comments. This portion of the agenda is for each member of the City Council to provide brief reports on any intergovernmental agency meetings, conferences, community meetings, meetings of other legislative bodies, or other events of interest to the community that they attended. as well as meetings attended at the City's expense. This portion of the agenda is also for the City Council to provide guidance and direction to staff concerning items to be included on future agendas and information to be provided in response to questions raised during "Items from the Audience/Public Comment." Under this portion of the agenda, two Council members may request staff to provide information, perform studies, or undertake other action. If the requested action is routine in nature, the City Manager will direct staff to proceed. However, if the request cannot be accomplished within the approved budget or City Council priorities, or if it will involve substantial staff resources, the City Manager will report to the City Council at a subsequent City Council meeting and request further direction. At that time, the consensus of a majority of the City Council will be required to proceed.

5.11.1. Agendas for regular and special meetings, except for Workshops as defined by Section 3.3, of the Council shall include a "Council Items and Comments" section. (Reso No. 2020-112)"

The City Attorney's Office will prepare language to amend the Council Protocols as directed by Council. Any proposed amendment to the Council Protocols will be presented to Council for approval at a future Council meeting.

#### **STRATEGIC PLAN**

This item address the Council's Strategic Priority of Governance that encourages the development of good governance policies.

#### FISCAL IMPACT

There is no fiscal impact.

#### **RECOMMENDATION**

That the City Council discuss potential amendments to the Council Meeting Protocols and Rules of Procedure and provide direction to staff.

Prepared by: Leticia Ramirez, City Attorney

Reviewed by: Adrianne Richardson, City Clerk

Midori Lichtwardt. Assistant City Manager

Karin Schnaider, Finance Director

Approved by: Jenny Haruyama, City Manager

#### <u>ATTACHMENT</u>

A – Council Meeting Protocols and Rules of Procedure (revised by Resolution No. 2020-112)

#### **RESOLUTION 2020-112**

AMENDING COUNCIL MEETING PROTOCOLS AND RULES OF PROCEDURE TO REQUIRE AGENDAS FOR SPECIAL MEETINGS TO INCLUDE A "COUNCIL ITEMS AND COMMENTS" SECTION

WHEREAS, Government Code section 36813 authorizes legislative bodies to establish rules for the conduct of their proceedings. These rules must comport with the Ralph M. Brown Act ("Brown Act"; Government Code sections 54950 et seq.) which applies to all meetings of "legislative bodies" within California, including the Tracy City Council and advisory boards and commissions, and

WHEREAS, On November 5, 2019, Council adopted Council Meeting Protocols and Rules of Procedures ("Council Protocols") by Resolution No. 2019-240, and

WHEREAS, On June 16, 2020, Council discussed amending the Council Protocols to require that agendas for special meetings of the Council include a "Council Items and Comments" section;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby amends the Council Meeting Protocols and Rules of Procedure to include the language contained in Attachment B to the staff report accompanying this Resolution.

\* \* \* \* \* \* \* \* \* \* \* \* \* \*

The foregoing Resolution 2020-112 was adopted by the Tracy City Council on the 16th day of June, 2020, by the following vote:

AYES:

COUNCIL MEMBERS: ARRIOLA, RANSOM, VARGAS, YOUNG, RICKMAN

NOES:

COUNCIL MEMBERS: NONE

ABSENT:

COUNCIL MEMBERS: NONE

ABSTAIN:

**COUNCIL MEMBERS: NONE** 

MAYOR

etty Clerk

ATTEAST:



# COUNCIL MEETING PROTOCOLS AND RULES OF PROCEDURE

Adopted by Resolution No. 2019-240 Revised by Resolution No. 2020-112

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#### Section 1 - Purpose and Applicability

#### 1. Purpose and Applicability

- 1.1. The purpose of these Council Meeting Protocols and Rules of Procedures ("Protocols") are to provide clear guidelines to assist the City Council, staff and the public to conduct meetings in an efficient and transparent manner and in accordance with the Ralph M. Brown Act ("Brown Act"; Government Code sections 54950-54963) and all applicable laws.<sup>1</sup> These Protocols are adopted pursuant to Section 36813. In the event of a conflict between the Brown Act and these Protocols, the Brown Act shall control.
- 1.2. These Protocols shall apply to the City Council, the Successor Agency to the Community Development Agency, the Tracy Public Facilities Corporation, the Tracy Industrial Development Authority, and all City Boards, Commissions, and Committees.
- 1.3. Suspension of Protocols. Any rule set forth herein may be suspended by a supermajority vote of Council.
- 1.4. Review and Changes to Protocols. These Protocols shall be reviewed by December 31<sup>st</sup> of every odd numbered year. A majority vote of the Council shall be necessary to amend these Protocols.
- 1.5. A copy of these Protocols shall be available for public review at the City Clerk's Office and City's website (www.cityoftracy.org).

<sup>&</sup>lt;sup>1</sup> All references to statutes are to the California Government Code unless otherwise specified.

Section 2 – Duties (Roles and Responsibilities)

#### 2. Roles and Responsibilities' at Council Meetings

- 2.1. Mayor. The Mayor is the Presiding Officer of all meetings of the Council. The Presiding Officer is the primary, but not the only, person responsible for ensuring that the Council, staff, and members of the public adhere to these Protocols during Council meetings. (Section 36802). The Chair of a City board or commission shall act as the Presiding Officer.
- 2.2. Mayor Pro Tem. The Mayor Pro Tem shall serve as the Presiding Officer in the absence of the Mayor. Upon arrival of the Mayor, the Mayor Pro Tem shall immediately relinquish the role of Presiding Officer at the conclusion of the business then before Council. (Section 36802) The Vice Chair of a City board or commission shall act as the Presiding Officer in the absence of the Chair.
- 2.3. Council. All members of Council shall comply with the Council Code of Conduct at meetings. Newly elected Council members shall be sworn in and seated at the first regular Council meeting after receipt of the certified election results from the County Registrar of Voters.
- 2.4. Sergeant-at-Arms. The Sergeant-at-arms is the law enforcement official charged with maintaining security during meetings of the Council. The Sergeant-at-arms of the Council shall be a police officer assigned by the Police Chief. There shall be at least one member so assigned and present at each meeting of the Council. The officer shall maintain order and enforce the orders of the Council and Presiding Officer.
- 2.5. City Manager. Pursuant to the Council-Manager form of government established by Chapter 2.08 of the Tracy Municipal Code, the City Manager sets the Council agenda and once published, may withdraw an item(s). The City Manager may consult with the Mayor regarding the development of the agenda.
- 2.6. City Clerk. The City Clerk shall attend all meetings of the Council unless excused. The Deputy City Clerk shall attend Council meetings in the City Clerk's absence. The City Clerk shall record, prepare, and maintain the official records of the Council and perform other duties as directed by the City Manager. (Section 36804)
  - 2.6.1. Minutes. The City Clerk's office shall be responsible for the preparation and distribution of the Council minutes. The minutes shall include a public report on any action taken and the vote or abstention on such action of each Council Member present for the action. Unless a reading of the minutes is requested by a Council Member, the minutes may be approved as a Consent Calendar item.
    - 2.6.1.1. No minutes or written record of closed sessions of the City Council shall be kept, except as required by state law or as directed by the majority vote of the City Council. The Council shall report at a public meeting any action taken in closed session, as required by Section 54957.1.

- 2.6.1.2. The City Clerk shall include a report on posting of the agenda in the minutes.
- 2.7. City Staff. City staff shall (a) prepare balanced staff reports and provide accompanying documents on all agenda items in accordance with the agenda preparation schedule; (b) be available for questions from Council in accordance with the Brown Act prior to and during meetings; and (c) respond to questions from the public during meetings only when requested to do so by the Council or the City Manager.
- 2.8. City Attorney. The City Attorney shall attend all meetings of the Council unless excused. The Assistant City Attorney shall attend Council meetings in the City Attorney's absence. The City Attorney shall give opinions upon request from Council, either in writing or verbally, on questions of law. The City Attorney shall advise the Council at meetings on legal issues, including these Protocols.

#### Section 3 – Meeting Types

#### 3. Council Meeting Types

- 3.1. Regular Meetings. Regular Council meetings are held on the first and third Tuesdays of the month at 7:00 p.m. at City Hall Council Chambers, 333 Civic Center Plaza, Tracy, California 95376, unless otherwise noticed and as allowed under Section 54954. No meeting shall be held on a holiday as defined by Section 6700. (Section 36805)
- 3.2. Special Meetings. The City Manager, Mayor, or a majority of the members of Council may call a special meeting. (Section 54956). The City Attorney is also authorized to call a special meeting for the sole purpose of convening a closed session in accordance with the Brown Act. (Section 36807)
- 3.3. Workshops. The purpose of a workshop is to inform Council of complex issues and provide an opportunity for the Council to review documents and request additional information. However, no final Council action shall be taken during the workshop on workshop items. Workshops are open to the public and are meetings for the purpose of the Brown Act.

#### 3.4. Closed Sessions.

- 3.4.1. Closed sessions shall be held in accordance with the Brown Act. Non-agendized matters shall not be discussed in closed session. Closed sessions may precede or follow a Council meeting.
- 3.4.2. All closed session information, verbal or written, is privileged and confidential and shall not be shared with any person not at the closed session. Any member sharing information in violation of this rule may be subject to censure by the Council or other legal remedies as set forth in Section 54963.
- 3.4.3. The public may speak regarding any closed session item prior to the closed session as required by the Brown Act.
- 3.4.4. The Presiding Officer shall report out in public session any reportable actions there taken by Council and the vote on such actions in accordance with the Brown Act.
- 3.5. Teleconferenced Meetings. The City Council may hold a meeting by teleconference, meaning a meeting of the Council in which members are in different locations and connected by electronic means, through either audio or video, or both. Any teleconference meeting of the Council must be comply with the requirements under Section 54953, including but not limited to the requirement that all votes taken shall be by roll call.
- 3.6. Emergency Meetings. In the case of an emergency as defined by Section 54956.5, as may be amended from time to time, a majority of Council may call a meeting and dispense

City of Tracy – Council Meeting Protocols and Rules of Procedures		
with the special meeting notice and posting requirements under the Brown Act. Any emergency meeting held shall comply with the applicable Brown Act provisions.		
3.7. The City Clerk shall ensure that the applicable noticing and posting requirements under the Brown Act are followed for all meetings of the Council.		
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#### Section 4 – Meeting Agendas

#### 4. Meetings Agendas

- 4.1. Purpose of Agenda. The Council meeting agenda documents serve four purposes:
  - To communicate and inform City Council, City staff, the public and the press about City business.
  - To comply with mandated state laws.
  - To facilitate the decision-making process by including sufficient background information so that the City Council can obtain a full understanding of the issues and staff's analysis and recommendation prior to their consideration and action.
  - To serve as a historical reference that can be kept as a record of proceedings and actions as needed for future actions and/or litigation.

As set forth above, the purpose of the agenda is to provide a framework within which Council meetings can be conducted and to effectively implement the approved Council programs, goals and budget. The agenda shall contain a brief general description of each item of business to be transacted or discussed at the meeting.

- 4.2. Posting and Distribution of Agendas. At a minimum the posting and distribution of all agendas shall be done in accordance with the Brown Act. Agendas for regular meetings shall be posted not less than 72 hours prior to the meeting (Section 54954.2(a)(1)); special meeting agendas shall be posted not less than 24 hours prior to the meeting (Section 54956).
  - 4.2.1. All agendas shall be posted in the following locations: City Hall, the Tracy Library, the City's website, and other locations as may be required by the bylaws of a particular Board or Commission. Posting of agendas at City Hall shall be the official location for purposes of Brown Act compliance.
  - 4.2.2. Agenda packets are provided electronically to City Council Members on the Thursday prior to a City Council meeting unless technical difficulties occur. If technical difficulties occur, the City Clerk will endeavor to provide Council with hard copies of the agenda as soon as reasonably possible. Distribution to the staff, public and media shall occur immediately after distribution to the City Council. Members of the public may sign up to receive notification that a Council meeting agenda has been posted on the City's website (<a href="www.cityoftracy.org">www.cityoftracy.org</a>). The City Clerk will mail copies of the agenda or particular agenda items to any person submitting a request. (Section 54954.1) Said requests will be valid for one year. Copies of the agenda, and of individual agenda items, are available at costs established in the City's Master Fee Schedule. Copies of the agenda are also available for inspection at the Tracy Library and City Clerk's office. Agendas for Council meetings are posted on the City's website (www.cityoftracy.org).

#### 4.3. Agenda Item Submission

- 4.3.1. Council Member Request for Agenda Items. Council Members wishing to have a matter discussed by the City Council may request that it be placed on a future City Council agenda during a Council meeting, under "Council Items and Comments." A time sensitive item may be requested by contacting the City Manager, or their designee, via telephone, email or in person. Upon the request of a Council Member, the item will be placed on a future City Council agenda as long as one other Council Member concurs with the request. In the interest of transparency and Brown Act compliance, Council shall limit discussions outside of Council meetings about requests to support agenda items to a maximum of two Council Members.
  - 4.3.1.1. In the event of a time sensitive request, the City Manager shall notify the rest of Council when two Council Members request an item to be placed on the agenda. The City Manager will determine when to place the item on a future agenda based on time necessary to complete the research and staff workload considerations.
- 4.3.2. Other Public Agencies. Agenda items such as presentations and proposals from other public entities must be sponsored for agenda placement by two Council members or the City Manager.

### Section 5 – Conduct of Meetings

# 5. Conduct of Meetings

- 5.1. Order of Business. The suggested order of business of Council meetings shall be as follows. However, the Mayor may reorder the items unless a majority of Council members object.
  - 1. Call to Order
  - 2. Roll Call
  - 3. Pledge of Allegiance
  - 4. Invocation
  - 5. Presentations/Proclamations and Awards
  - 6. Consent Calendar
  - 7. Items from the Audience/Public Comment
  - 8. Continued Public Hearings
  - 9. Public Hearings
  - 10. Regular Items
  - 11. Items from the Audience/Public Comment
  - 12. Staff Items
  - 13. Council Items and Comments
  - 14. Adjournment
- 5.2. Call to Order. The Presiding Officer shall take the chair at the hour appointed for the meeting and shall immediately call the meeting to order.
- 5.3. Roll Call. A majority of the members of the Council then in office shall constitute a quorum. (Section 36810)
- 5.4. Invocations. Any member of the public who wishes to offer an invocation prior to the opening of a regular Council meeting shall contact the City Clerk. The City Clerk shall select a mutually agreeable City Council meeting date for the invocation.
- 5.5. Presentations/Proclamations and Awards. This portion of the Agenda is dedicated for presentations, such as proclamations and awards, employee of the month recognitions, board and commission recognitions, and employee swearing-ins, and shall be limited to a 15-minute maximum period.
- 5.6. Consent Calendar. All items listed on the Consent Calendar are considered to be routine matters or consistent with previous City Council direction, such as resolutions confirming action from a previous meeting or the adoption of an ordinance previously introduced by Council. 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.
- 5.7. Items from the Audience/Public Comment. It is the policy of the City Council that members of the public be allowed to address the Council on any item of interest to the

public, before or during its consideration of that item, that is within the Council's subject matter jurisdiction. (Section 54954.3(a)).

- 5.7.1. Agendas for regular meetings will have two opportunities for "Items from the Audience/Public Comment." (Section 54954.3(a)). In the interest of allowing Council to have adequate time to address the agendized items of business, the first public comment opportunity will be limited to a 15-minute maximum period. (Section 54954.3(b)). The second opportunity will not have a maximum time limit. A five-minute maximum time limit per speaker will apply to all individuals speaking during the "Items from the Audience/Public Comment" portion of the agenda. The City Clerk shall be the timekeeper. Speakers may not concede any part of their allotted time to another speaker.
  - 5.7.1.1. However, 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
- 5.7.2. Each speaker shall avoid repetition of the remarks of the prior speakers, and when speaking under a specific agenda item, shall speak only to that agenda item. 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.
- 5.7.3. Speaker Cards. 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. (Section 54953.3)
- 5.8. Public Hearings. Public hearings are required for a variety of City Council actions such as changes to the Tracy Municipal Code, zoning revisions, some annexations, street vacations, weed abatement, liens, fee increases, etc. Whenever the law provides that publication of a notice shall be made, such notice shall be published in a newspaper of general circulation for the period prescribed, the number of times, and in the manner required. Each speaker will be allowed a maximum of five minutes for public input or testimony. However, in the event there are 15 or more individuals wishing to speak regarding a public hearing item, the maximum amount of time allowed per speaker will be three minutes. The City Clerk shall be the timekeeper.
  - 5.8.1. Public Hearings for Land Use and Other Matters. The Presiding Officer may designate individuals as the "Proponent/Appellant" or "Opponent" and provide each with additional time for comments and the opportunity to present a rebuttal.

- 5.9. Regular Items. This portion of the Agenda is for non-public hearing agenda items that require Council action or direction such as status or informational reports from staff and Council requests for agenda items.
- 5.10. Staff Items. This portion of the agenda provides an opportunity for the City Manager, City Attorney, and City staff to provide information of community interest to the City Council.
- 5.11. Council Items and Comments. This portion of the agenda is for each member of the City Council to provide brief reports on any intergovernmental agency meetings, conferences, community meetings, meetings of other legislative bodies, or other events of interest to the community that they attended, as well as meetings attended at the City's expense. This portion of the agenda is also for the City Council to provide quidance and direction to staff concerning items to be included on future agendas and information to be provided in response to questions raised during "Items from the Audience/Public Comment." Under this portion of the agenda, two Council members may request staff to provide information, perform studies, or undertake other action. If the requested action is routine in nature, the City Manager will direct staff to proceed. However, if the request cannot be accomplished within the approved budget or City Council priorities, or if it will involve substantial staff resources, the City Manager will report to the City Council at a subsequent City Council meeting and request further direction. At that time, the consensus of a majority of the City Council will be required to proceed.
  - 5.11.1. Agendas for regular and special meetings, except for Workshops as defined by Section 3.3, of the Council shall include a "Council Items and Comments" section. (Reso No. 2020-112)
- 5.12. Adjournment. If a Council meeting is still in session at 11:00 p.m., the Presiding Officer shall ask the question of whether Council desires to consider any new items after 11:00 p.m. Council shall determine, by motion, which specific items will be considered or continued. City Manager shall inform Council of any time sensitive items. Any item continued due to the lateness of the hour shall automatically be placed on the agenda for the next regularly scheduled City Council meeting unless otherwise scheduled by motion action of the Council.
- 5.13. Non-Agendized Items. The Brown Act prohibits Council from discussing or acting upon any non-agendized matter, unless an exception under Section 54954.2 applies. 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 person; or request that the matter be placed on a future agenda or that staff provide additional information to Council. However, items may be added to the agenda (such as emergency matters) as permitted in the Brown Act. Brief announcements, brief responses, or questions seeking clarifications, may be made to statements or questions raised on items not on the agenda (Section 54954.2(a)(3)). Action on any item not on the agenda shall be deferred until the item is properly listed on the agenda for a subsequent Council meeting unless added due to an immediate need if permitted under state law.

- 5.14. Voting Requirements. All ordinances, resolutions, and orders for payment of money require a majority vote of the total membership of the Council in accordance with Section 36939, unless otherwise required by state law.
  - 5.14.1. It is a best practice that all Council members vote on every item of business unless prevented from doing so by virtue of an actual or potential conflict of law or other valid abstention under applicable laws. Council Members are encouraged to disclose the reason for that abstention prior to Council engaging in discussion on that item.
- 5.15. Parliamentary Procedures. Council meetings shall be conducted in accordance with the Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21<sup>st</sup> Century unless otherwise specified herein. (Appendix A Rosenberg's Rules of Order, Revised 2011, as may be amended).
  - 5.15.1. Point of Order. Any Council member may ask for a point of order, at which time the Presiding Officer will ask for an explanation. Points of order relate to matters that a Council member considers inappropriate conduct for the meeting, such as the failure to adhere to these Protocols. The Presiding Officer shall rule on matter. Any member can move to appeal the Presiding Officer's ruling, with a second from another Council member. Following debate, the ruling of the Presiding Officer may be reversed by a majority vote.
- 5.16. Written Communications from the City and the Public. The City Clerk shall manage communications to members regarding meeting topics to ensure compliance with the Brown Act.
  - 5.16.1. Except for records exempt from disclosure under the California Public Records Act and otherwise by law, agendas or any other writings distributed to all or a majority of the members of a legislative body for discussion or consideration at a public meeting are disclosable to the public, and shall be made available upon request without delay.
  - 5.16.2. Materials distributed to the members during the meeting shall be available for viewing by the public during the meeting if the materials were prepared by the City or a Council member, or posted on the City's website within 48 hours the conclusion of the meeting if prepared by another person.
- 5.17. Written Materials after the Council Agenda has been Distributed. On occasion, Council may receive written materials either after the Agenda has been posted or at a Council meeting. These written materials are typically related to an agendized item or handed out during "Items from the Audience/Public Comment." Upon the Council receiving these written materials they become a public record. For materials related to an agendized item, a copy will be kept on file at the City Clerk's Office and will typically be posted on the City's website under "Materials Distributed at Council Meetings" 48 hours after the Council meeting.

- 5.17.1. Any materials about an agendized item that are received less than 72 hours before a Council meeting that are distributed to a majority of Council will be made available at the Council meeting for the public to review.
- 5.17.2. Interested parties or their authorized representatives may address the Council by written communications regarding agenda items.
  - 5.17.2.1. Documents (6 copies are recommended) that members of the public submit to the City Council at the meeting shall be given directly to the City Clerk for distribution and shall not be given directly to the Council. The documents will be available to the public on the City's website within 48 hours of the conclusion of the meeting.
- 5.18. Compliance with the Americans with Disabilities Act (ADA). The City of Tracy is in compliance with the Americans with Disabilities Act and will make all reasonable accommodations for the disabled. To allow for such reasonable accommodations, persons requiring assistance or auxiliary aids to participate at a City meeting, should contact the City Clerk's Office at (209) 831-6105 at least 24 hours prior to the meeting.

### Section 6 - Conduct of the Public

### 6. Conduct of the Public

- 6.1. Purpose of Public Comment. The City, in accordance with the Brown Act, provides the public the opportunity to address the Council body as a whole and express their opinions regarding agendized items and non-agendized matters within the subject matter jurisdiction of the City Council. (Section 54954.3) Items are generally considered to be within the Council's subject matter jurisdiction if they are within the City Council's scope of influence.
  - 6.1.1. Nothing in these Protocols shall be construed as prohibiting public criticism of the City's policies, procedures, programs or services, or the acts or omissions of the Council. However, these Protocols are not intended to confer any privilege or protection for expression beyond that otherwise provided by law. (Section 54954.3(c)).
  - 6.1.2. Public comments should not be addressed to individual Council members nor City staff, but rather to the Council as a whole.
  - 6.1.3. While members of the public may speak their opinions on City business, personal attacks on members and City officials, use of swear words, and verbal or nonverbal signs or displays of disrespect for individuals are discouraged as they impede good communication with the Council.
  - 6.1.4. Consistent with the Brown Act, the Council is limited in its ability to respond to public comments regarding non-agendized matters. The limited circumstances under which members may respond to public comments are set out in Rule 5.13.
- 6.2. In the interest of conducting an efficient meeting, the Presiding Officer may stop a member of the public whose comments are not confined to the agendized item being heard. In addition, during the "Items from the Audience/Public Comment" portion of the agenda, the Presiding Officer may stop a member of the public whose comments are not within the subject matter jurisdiction of the City.
- 6.3. Rules of Decorum. While the Council is in session, no person in the audience at a Council meeting shall engage in conduct that disrupts the orderly conduct of a Council meeting, including, but not limited to, the utterance of loud, threatening or abusive language, refusing to abide speaker time limits and leave the podium when directed; whistling, clapping, stamping of feet, yelling or shouting or interrupting a speaker who is addressing the Council; repeated waiving of arms; or other disruptive acts.
- 6.4. Any person who disrupts the orderly course of the meeting may be issued a criminal citation pursuant to Penal Code section 403 and/or called out of order by the Presiding Officer and barred from further participation during that session of the Council in accordance with the Brown Act.

- 6.4.1. All persons attending a Council meeting shall obey any lawful order or direction of the Presiding Officer or Sergeant-at-Arms.
- 6.4.2. The Sergeant-at-arms shall assist the Presiding Officer in enforcing these rules of decorum at Council meetings, including but not limited, removing disruptive audience members. Additionally, any Council member may at any time call for a point of order, to request the timely enforcement of these rules of decorum.
- 6.5. Location of Speaker. Members of the public wishing to address the Council must approach the podium when recognized by the Presiding Officer and shall speak only from the podium.

### Section 7 - Miscellaneous

### 7. Miscellaneous

- 7.1. Conflicts of Interests. It is the responsibility of every Council member to disclose conflicts of interest in accordance with state and local conflict of interest laws.
- 7.2. Proclamations. The Mayor issues proclamations to provide special recognition by the City to an individual, event, issue etc. Proclamations are not statements of policy and do not require the official approval or action of Council.
- 7.3. Broadcasting of Council Meetings. Generally Council meetings are broadcast live on Channel 26 and the City's website (<a href="www.cityoftracy.org">www.cityoftracy.org</a>), unless technical difficulties make that infeasible. Reruns of the preceding Council meeting are shown every Wednesday at 8:00 p.m., every Thursday at 10:00 a.m., and every Saturday at 9:00 a.m. on Channel 26.
  - 7.3.1. Recordings of Council meetings shall be accessible on the City's website (www.cityoftracy.org) by the end of the following business day. DVD recordings of Council meetings are available at costs established in the City's Master Fee Schedule.

City of Tracy – Council Meeting Protocols and Rules of Procedures
Appendices
<ul> <li>Rosenberg's Rules of Order, revised 2011, Simple Rules of Parliamentary Procedure for the 21<sup>st</sup> Century. Judge Dave Rosenberg</li> </ul>
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# Rosenberg's Rules of Order

**REVISED 2011** 

Simple Rules of Parliamentary Procedure for the 21st Century

By Judge Dave Rosenberg



# MISSION AND CORE BELIEFS

To expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

## VISION

To be recognized and respected as the leading advocate for the common interests of California's cities.

## **About the League of California Cities**

Established in 1898, the League of California Cities is a member organization that represents California's incorporated cities. The League strives to protect the local authority and automony of city government and help California's cities effectively serve their residents. In addition to advocating on cities' behalf at the state capitol, the League provides its members with professional development programs and information resources, conducts education conferences and research, and publishes Western City magazine.

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## ABOUT THE AUTHOR

Dave Rosenberg is a Superior Court Judge in Yolo County. He has served as presiding judge of his court, and as presiding judge of the Superior Court Appellate Division. He also has served as chair of the Trial Court Presiding Judges Advisory Committee (the committee composed of all 58 California presiding judges) and as an advisory member of the California Judicial Council. Prior to his appointment to the bench, Rosenberg was member of the Yolo County Board of Supervisors, where he served two terms as chair. Rosenberg also served on the Davis City Council, including two terms as mayor. He has served on the senior staff of two governors, and worked for 19 years in private law practice. Rosenberg has served as a member and chair of numerous state, regional and local boards. Rosenberg chaired the California State Lottery Commission, the California Victim Compensation and Government Claims Board, the Yolo-Solano Air Quality Management District, the Yolo County Economic Development Commission, and the Yolo County Criminal Justice Cabinet. For many years, he has taught classes on parliamentary procedure and has served as parliamentarian for large and small bodies.

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# Introduction

The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that has not always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules — Robert's Rules of Order — which are embodied in a small, but complex, book. Virtually no one I know has actually read this book cover to cover. Worse yet, the book was written for another time and for another purpose. If one is chairing or running a parliament, then Robert's Rules of Order is a dandy and quite useful handbook for procedure in that complex setting. On the other hand, if one is running a meeting of say, a five-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order.

Hence, the birth of Rosenberg's Rules of Order.

What follows is my version of the rules of parliamentary procedure, based on my decades of experience chairing meetings in state and local government. These rules have been simplified for the smaller bodies we chair or in which we participate, slimmed down for the 21st Century, yet retaining the basic tenets of order to which we have grown accustomed. Interestingly enough, *Rosenberg's Rules* has found a welcoming audience. Hundreds of cities, counties, special districts, committees, boards, commissions, neighborhood associations and private corporations and companies have adopted *Rosenberg's Rules* in lieu of *Robert's Rules* because they have found them practical, logical, simple, easy to learn and user friendly.

This treatise on modern parliamentary procedure is built on a foundation supported by the following four pillars:

- Rules should establish order. The first purpose of rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.
- 2. Rules should be clear. Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate; and those who do not fully understand and do not fully participate.
- **3. Rules should be user friendly.** That is, the rules must be simple enough that the public is invited into the body and feels that it has participated in the process.
- 4. Rules should enforce the will of the majority while protecting the rights of the minority. The ultimate purpose of rules of procedure is to encourage discussion and to facilitate decision making by the body. In a democracy, majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself, but not dominate, while fully participating in the process.

# **Establishing a Quorum**

The starting point for a meeting is the establishment of a quorum. A quorum is defined as the minimum number of members of the body who must be present at a meeting for business to be legally transacted. The default rule is that a quorum is one more than half the body. For example, in a five-member body a quorum is three. When the body has three members present, it can legally transact business. If the body has less than a quorum of members present, it cannot legally transact business. And even if the body has a quorum to begin the meeting, the body can lose the quorum during the meeting when a member departs (or even when a member leaves the dais). When that occurs the body loses its ability to transact business until and unless a quorum is reestablished.

The default rule, identified above, however, gives way to a specific rule of the body that establishes a quorum. For example, the rules of a particular five-member body may indicate that a quorum is four members for that particular body. The body must follow the rules it has established for its quorum. In the absence of such a specific rule, the quorum is one more than half the members of the body.

### The Role of the Chair

While all members of the body should know and understand the rules of parliamentary procedure, it is the chair of the body who is charged with applying the rules of conduct of the meeting. The chair should be well versed in those rules. For all intents and purposes, the chair makes the final ruling on the rules every time the chair states an action. In fact, all decisions by the chair are final unless overruled by the body itself.

Since the chair runs the conduct of the meeting, it is usual courtesy for the chair to play a less active role in the debate and discussion than other members of the body. This does not mean that the chair should not participate in the debate or discussion. To the contrary, as a member of the body, the chair has the full right to participate in the debate, discussion and decision-making of the body. What the chair should do, however, is strive to be the last to speak at the discussion and debate stage. The chair should not make or second a motion unless the chair is convinced that no other member of the body will do so at that point in time.

### The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, often published agenda. Informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon roadmap for the meeting. Each agenda item can be handled by the chair in the following basic format:

*First*, the chair should clearly announce the agenda item number and should clearly state what the agenda item subject is. The chair should then announce the format (which follows) that will be followed in considering the agenda item.

**Second**, following that agenda format, the chair should invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.

*Third*, the chair should ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.

**Fourth**, the chair should invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of public speakers. At the conclusion of the public comments, the chair should announce that public input has concluded (or the public hearing, as the case may be, is closed).

*Fifth,* the chair should invite a motion. The chair should announce the name of the member of the body who makes the motion.

**Sixth**, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member of the body who seconds the motion. It is normally good practice for a motion to require a second before proceeding to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and vote on a motion even when there is no second. This is a matter left to the discretion of the chair.

**Seventh**, if the motion is made and seconded, the chair should make sure everyone understands the motion.

This is done in one of three ways:

- 1. The chair can ask the maker of the motion to repeat it;
- 2. The chair can repeat the motion; or
- **3.** The chair can ask the secretary or the clerk of the body to repeat the motion.

*Eighth*, the chair should now invite discussion of the motion by the body. If there is no desired discussion, or after the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

**Ninth**, the chair takes a vote. Simply asking for the "ayes" and then asking for the "nays" normally does this. If members of the body do not vote, then they "abstain." Unless the rules of the body provide otherwise (or unless a super majority is required as delineated later in these rules), then a simple majority (as defined in law or the rules of the body as delineated later in these rules) determines whether the motion passes or is defeated.

**Tenth**, the chair should announce the result of the vote and what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members of the body, if any, who voted in the minority on the motion. This announcement might take the following form: "The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring a 10-day notice for all future meetings of this body."

#### **Motions in General**

Motions are the vehicles for decision making by a body. It is usually best to have a motion before the body prior to commencing discussion of an agenda item. This helps the body focus.

Motions are made in a simple two-step process. First, the chair should recognize the member of the body. Second, the member of the body makes a motion by preceding the member's desired approach with the words "I move ..."

A typical motion might be: "I move that we give a 10-day notice in the future for all our meetings."

The chair usually initiates the motion in one of three ways:

- 1. Inviting the members of the body to make a motion, for example, "A motion at this time would be in order."
- 2. Suggesting a motion to the members of the body, "A motion would be in order that we give a 10-day notice in the future for all our meetings."
- **3. Making the motion.** As noted, the chair has every right as a member of the body to make a motion, but should normally do so only if the chair wishes to make a motion on an item but is convinced that no other member of the body is willing to step forward to do so at a particular time.

### The Three Basic Motions

There are three motions that are the most common and recur often at meetings:

**The basic motion.** The basic motion is the one that puts forward a decision for the body's consideration. A basic motion might be: "I move that we create a five-member committee to plan and put on our annual fundraiser."

The motion to amend. If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: "I move that we amend the motion to have a 10-member committee." A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

The substitute motion. If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: "I move a substitute motion that we cancel the annual fundraiser this year."

"Motions to amend" and "substitute motions" are often confused, but they are quite different, and their effect (if passed) is quite different. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way. A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it. The decision as to whether a motion is really a "motion to amend" or a "substitute motion" is left to the chair. So if a member makes what that member calls a "motion to amend," but the chair determines that it is really a "substitute motion," then the chair's designation governs.

A "friendly amendment" is a practical parliamentary tool that is simple, informal, saves time and avoids bogging a meeting down with numerous formal motions. It works in the following way: In the discussion on a pending motion, it may appear that a change to the motion is desirable or may win support for the motion from some members. When that happens, a member who has the floor may simply say, "I want to suggest a friendly amendment to the motion." The member suggests the friendly amendment, and if the maker and the person who seconded the motion pending on the floor accepts the friendly amendment, that now becomes the pending motion on the floor. If either the maker or the person who seconded rejects the proposed friendly amendment, then the proposer can formally move to amend.

### **Multiple Motions Before the Body**

There can be up to three motions on the floor at the same time. The chair can reject a fourth motion until the chair has dealt with the three that are on the floor and has resolved them. This rule has practical value. More than three motions on the floor at any given time is confusing and unwieldy for almost everyone, including the chair.

When there are two or three motions on the floor (after motions and seconds) at the same time, the vote should proceed *first* on the *last* motion that is made. For example, assume the first motion is a basic "motion to have a five-member committee to plan and put on our annual fundraiser." During the discussion of this motion, a member might make a second motion to "amend the main motion to have a 10-member committee, not a five-member committee to plan and put on our annual fundraiser." And perhaps, during that discussion, a member makes yet a third motion as a "substitute motion that we not have an annual fundraiser this year." The proper procedure would be as follows:

*First,* the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passed,* it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions.

**Second**, if the substitute motion *failed*, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would then move to consider the main motion (the first motion) as *amended*. If the motion to amend *failed*, the chair would then move to consider the main motion (the first motion) in its original format, not amended.

*Third*, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or if *amended*, would be in its amended format (10-member committee). The question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

### To Debate or Not to Debate

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

**Motion to adjourn.** This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

**Motion to recess.** This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

**Motion to fix the time to adjourn.** This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: "I move we adjourn this meeting at midnight." It requires a simple majority vote.

Motion to table. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on "hold." The motion can contain a specific time in which the item can come back to the body. "I move we table this item until our regular meeting in October." Or the motion can contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

Motion to limit debate. The most common form of this motion is to say, "I move the previous question" or "I move the question" or "I call the question" or sometimes someone simply shouts out "question." As a practical matter, when a member calls out one of these phrases, the chair can expedite matters by treating it as a "request" rather than as a formal motion. The chair can simply inquire of the body, "any further discussion?" If no one wishes to have further discussion, then the chair can go right to the pending motion that is on the floor. However, if even one person wishes to discuss the pending motion further, then at that point, the chair should treat the call for the "question" as a formal motion, and proceed to it.

When a member of the body makes such a motion ("I move the previous question"), the member is really saying: "I've had enough debate. Let's get on with the vote." When such a motion is made, the chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body.

**NOTE:** A motion to limit debate could include a time limit. For example: "I move we limit debate on this agenda item to 15 minutes." Even in this format, the motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item*. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

### **Majority and Super Majority Votes**

In a democracy, a simple majority vote determines a question. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super majority) to pass:

**Motion to limit debate**. Whether a member says, "I move the previous question," or "I move the question," or "I call the question," or "I move to limit debate," it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

**Motion to close nominations.** When choosing officers of the body (such as the chair), nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers and it requires a two-thirds vote to pass.

**Motion to object to the consideration of a question.** Normally, such a motion is unnecessary since the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

Motion to suspend the rules. This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to suspend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

### **Counting Votes**

The matter of counting votes starts simple, but can become complicated.

Usually, it's pretty easy to determine whether a particular motion passed or whether it was defeated. If a simple majority vote is needed to pass a motion, then one vote more than 50 percent of the body is required. For example, in a five-member body, if the vote is three in favor and two opposed, the motion passes. If it is two in favor and three opposed, the motion is defeated.

If a two-thirds majority vote is needed to pass a motion, then how many affirmative votes are required? The simple rule of thumb is to count the "no" votes and double that count to determine how many "yes" votes are needed to pass a particular motion. For example, in a seven-member body, if two members vote "no" then the "yes" vote of at least four members is required to achieve a two-thirds majority vote to pass the motion.

What about tie votes? In the event of a tie, the motion always fails since an affirmative vote is required to pass any motion. For example, in a five-member body, if the vote is two in favor and two opposed, with one member absent, the motion is defeated.

Vote counting starts to become complicated when members vote "abstain" or in the case of a written ballot, cast a blank (or unreadable) ballot. Do these votes count, and if so, how does one count them? The starting point is always to check the statutes.

In California, for example, for an action of a board of supervisors to be valid and binding, the action must be approved by a majority of the board. (California Government Code Section 25005.) Typically, this means three of the five members of the board must vote affirmatively in favor of the action. A vote of 2-1 would not be sufficient. A vote of 3-0 with two abstentions would be sufficient. In general law cities in

California, as another example, resolutions or orders for the payment of money and all ordinances require a recorded vote of the total members of the city council. (California Government Code Section 36936.) Cities with charters may prescribe their own vote requirements. Local elected officials are always well-advised to consult with their local agency counsel on how state law may affect the vote count.

After consulting state statutes, step number two is to check the rules of the body. If the rules of the body say that you count votes of "those present" then you treat abstentions one way. However, if the rules of the body say that you count the votes of those "present and voting," then you treat abstentions a different way. And if the rules of the body are silent on the subject, then the general rule of thumb (and default rule) is that you count all votes that are "present and voting."

Accordingly, under the "present and voting" system, you would **NOT** count abstention votes on the motion. Members who abstain are counted for purposes of determining quorum (they are "present"), but you treat the abstention votes on the motion as if they did not exist (they are not "voting"). On the other hand, if the rules of the body specifically say that you count votes of those "present" then you **DO** count abstention votes both in establishing the quorum and on the motion. In this event, the abstention votes act just like "no" votes.

# How does this work in practice? Here are a few examples.

Assume that a five-member city council is voting on a motion that requires a simple majority vote to pass, and assume further that the body has no specific rule on counting votes. Accordingly, the default rule kicks in and we count all votes of members that are "present and voting." If the vote on the motion is 3-2, the motion passes. If the motion is 2-2 with one abstention, the motion fails.

Assume a five-member city council voting on a motion that requires a two-thirds majority vote to pass, and further assume that the body has no specific rule on counting votes. Again, the default rule applies. If the vote is 3-2, the motion fails for lack of a two-thirds majority. If the vote is 4-1, the motion passes with a clear two-thirds majority. A vote of three "yes," one "no" and one "abstain" also results in passage of the motion. Once again, the abstention is counted only for the purpose of determining quorum, but on the actual vote on the motion, it is as if the abstention vote never existed — so an effective 3-1 vote is clearly a two-thirds majority vote.

Now, change the scenario slightly. Assume the same five-member city council voting on a motion that requires a two-thirds majority vote to pass, but now assume that the body **DOES** have a specific rule requiring a two-thirds vote of members "present." Under this specific rule, we must count the members present not only for quorum but also for the motion. In this scenario, any abstention has the same force and effect as if it were a "no" vote. Accordingly, if the votes were three "yes," one "no" and one "abstain," then the motion fails. The abstention in this case is treated like a "no" vote and effective vote of 3-2 is not enough to pass two-thirds majority muster.

Now, exactly how does a member cast an "abstention" vote? Any time a member votes "abstain" or says, "I abstain," that is an abstention. However, if a member votes "present" that is also treated as an abstention (the member is essentially saying, "Count me for purposes of a quorum, but my vote on the issue is abstain.") In fact, any manifestation of intention not to vote either "yes" or "no" on the pending motion may be treated by the chair as an abstention. If written ballots are cast, a blank or unreadable ballot is counted as an abstention as well.

Can a member vote "absent" or "count me as absent?" Interesting question. The ruling on this is up to the chair. The better approach is for the chair to count this as if the member had left his/her chair and is actually "absent." That, of course, affects the quorum. However, the chair may also treat this as a vote to abstain, particularly if the person does not actually leave the dais.

#### The Motion to Reconsider

There is a special and unique motion that requires a bit of explanation all by itself; the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to consider is made and passed.

A motion to reconsider requires a majority vote to pass like other garden-variety motions, but there are two special rules that apply only to the motion to reconsider.

First, is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body — including a member who voted in the minority on the original motion — may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.

# **Courtesy and Decorum**

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. At the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focuses on the item and the policy in question, not the personalities of the members of the body. Debate on policy is healthy, debate on personalities is not. The chair has the right to cut off discussion that is too personal, is too loud, or is too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body.

Can a member of the body interrupt the speaker? The general rule is "no." There are, however, exceptions. A speaker may be interrupted for the following reasons:

**Privilege.** The proper interruption would be, "point of privilege." The chair would then ask the interrupter to "state your point." Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person's ability to hear.

**Order.** The proper interruption would be, "point of order." Again, the chair would ask the interrupter to "state your point." Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting. For example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

**Appeal.** If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded, and after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

Call for orders of the day. This is simply another way of saying, "return to the agenda." If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair's determination may be appealed.

Withdraw a motion. During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

### **Special Notes About Public Input**

The rules outlined above will help make meetings very publicfriendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

Rule One: Tell the public what the body will be doing.

Rule Two: Keep the public informed while the body is doing it.

**Rule Three:** When the body has acted, tell the public what the body did.



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